

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 797

By: Howard

6 AS INTRODUCED

7 An Act relating to apportionment of tax collections;
8 amending 68 O.S. 2011, Sections 1353, 1403 and 2352,
9 as last amended by Sections 1, 2 and 3, Chapter 15,
10 O.S.L. 2020 (68 O.S. Supp. 2020, Sections 1353, 1403
11 and 2352), which relate to apportionment of sales and
12 use tax collections and apportionment of income tax
13 collections; modifying apportionment for certain
14 funds; and providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1353, as
17 last amended by Section 1, Chapter 15, O.S.L. 2020 (68 O.S. Supp.
18 2020, Section 1353), is amended to read as follows:

19 Section 1353. A. It is hereby declared to be the purpose of
20 the Oklahoma Sales Tax Code to provide funds for the financing of
21 the program provided for by the Oklahoma Social Security Act and to
22 provide revenues for the support of the functions of the state
23 government of Oklahoma, and for this purpose it is hereby expressly
24 provided that, revenues derived pursuant to the provisions of the
25 Oklahoma Sales Tax Code, subject to the apportionment requirements
26 for the Oklahoma Tax Commission and Office of Management and

Enterprise Services Joint Computer Enhancement Fund provided by
Section 265 of this title, shall be apportioned as follows:

1. Except as provided in subsection C of this section, the
following amounts shall be paid to the State Treasurer to be placed
to the credit of the General Revenue Fund to be paid out pursuant to
direct appropriation by the Legislature:

Fiscal Year	Amount
FY 2003 and FY 2004	86.04%
FY 2005	85.83%
FY 2006	85.54%
FY 2007	85.04%
FY 2008 through FY 2022	83.61%
FY 2023 through FY 2027	83.11%
FY 2028 and each fiscal year thereafter	83.61%;

2. The following amounts shall be paid to the State Treasurer
to be placed to the credit of the Education Reform Revolving Fund of
the State Department of Education:

- a. for FY 2003, FY 2004 and FY 2005, ten and forty-two
one-hundredths percent (10.42%),
- b. for FY 2006 through FY 2020, ten and forty-six one-
hundredths percent (10.46%),
- c. for FY 2021:

- (1) for the month beginning July 1, 2020, through the month ending August 31, 2020, ten and forty-six one-hundredths percent (10.46%), and
- (2) for the month beginning September 1, 2020, through the month ending June 30, 2021, eleven and ninety-six one-hundredths percent (11.96%),
- d. for FY 2022, eleven and seventy-one one-hundredths percent (11.71%), and
- e. for FY 2023 ~~and each fiscal year thereafter, ten and forty-six one-hundredths percent (10.46%)~~ through FY 2027, twelve and twenty-one one-hundredths percent (12.21%), and
- f. for FY 2028 and each fiscal year thereafter, eleven and seventy-one one-hundredths percent (11.71%);

3. The following amounts shall be paid to the State Treasurer to be placed to the credit of the Teachers' Retirement System Dedicated Revenue Revolving Fund:

Fiscal Year	Amount
FY 2003 and FY 2004	3.54%
FY 2005	3.75%
FY 2006	4.0%
FY 2007	4.5%
FY 2008 through FY 2020	5.0%
FY 2021:	

- 1 a. for the month beginning July
2 1, 2020, through the month
3 ending August 31, 2020 5.0%
- 4 b. for the month beginning
5 September 1, 2020, through
6 the month ending June 30,
7 2021 3.5%

8 FY 2022 and each fiscal year thereafter 3.75%

9 ~~FY 2023 through FY 2027~~ ~~5.5%~~

10 ~~FY 2028 and each fiscal year thereafter~~ ~~5.0%~~

11 4. a. except as otherwise provided in subparagraph b of this
12 paragraph, for the fiscal year beginning July 1, 2015,
13 and for each fiscal year thereafter, eighty-seven one-
14 hundredths percent (0.87%) shall be paid to the State
15 Treasurer to be further apportioned as follows:

16 (1) thirty-six percent (36%) shall be placed to the
17 credit of the Oklahoma Tourism Promotion
18 Revolving Fund, but in no event shall such
19 apportionment exceed Five Million Dollars
20 (\$5,000,000.00) in any fiscal year, and

21 (2) sixty-four percent (64%) shall be placed to the
22 credit of the Oklahoma Tourism Capital
23 Improvement Revolving Fund, but in no event shall
24

1 such apportionment exceed Nine Million Dollars
2 (\$9,000,000.00) in any fiscal year, and

3 b. any amounts which exceed the limitations of
4 subparagraph a of this paragraph shall be placed to
5 the credit of the General Revenue Fund; and

6 5. For the fiscal year beginning July 1, 2015, and for each
7 fiscal year thereafter, six one-hundredths percent (0.06%) shall be
8 placed to the credit of the Oklahoma Historical Society Capital
9 Improvement and Operations Revolving Fund, but in no event shall
10 such apportionment exceed the total amount apportioned pursuant to
11 this paragraph for the fiscal year ending on June 30, 2015. Any
12 amounts which exceed the limitations of this paragraph shall be
13 placed to the credit of the General Revenue Fund.

14 B. Provided, for the fiscal year beginning July 1, 2007, and
15 every fiscal year thereafter, an amount of revenue shall be
16 apportioned to each municipality or county which levies a sales tax
17 subject to the provisions of Section 1357.10 of this title and
18 subsection F of Section 2701 of this title equal to the amount of
19 sales tax revenue of such municipality or county exempted by the
20 provisions of Section 1357.10 of this title and subsection F of
21 Section 2701 of this title. The Oklahoma Tax Commission shall
22 promulgate and adopt rules necessary to implement the provisions of
23 this subsection.

1 C. From the monies that would otherwise be apportioned to the
2 General Revenue Fund pursuant to subsection A of this section, there
3 shall be apportioned the following amounts:

4 1. For the month ending August 31, 2019:

5 a. Nine Million Six Hundred Thousand Dollars
6 (\$9,600,000.00) to the credit of the State Highway
7 Construction and Maintenance Fund created in Section
8 1501 of Title 69 of the Oklahoma Statutes, and

9 b. Two Million Dollars (\$2,000,000.00) to the credit of
10 the Oklahoma Railroad Maintenance Revolving Fund
11 created in Section 309 of Title 66 of the Oklahoma
12 Statutes;

13 2. For the month ending September 30, 2019:

14 a. Twenty Million Dollars (\$20,000,000.00) to the credit
15 of the State Highway Construction and Maintenance Fund
16 created in Section 1501 of Title 69 of the Oklahoma
17 Statutes, and

18 b. Two Million Dollars (\$2,000,000.00) to the credit of
19 the Oklahoma Railroad Maintenance Revolving Fund
20 created in Section 309 of Title 66 of the Oklahoma
21 Statutes;

22 3. For the month ending October 31, 2019:

23 a. Twenty Million Dollars (\$20,000,000.00) to the credit
24 of the State Highway Construction and Maintenance Fund

1 created in Section 1501 of Title 69 of the Oklahoma
2 Statutes, and

- 3 b. Two Million Dollars (\$2,000,000.00) to the credit of
4 the Oklahoma Railroad Maintenance Revolving Fund
5 created in Section 309 of Title 66 of the Oklahoma
6 Statutes;

7 4. For the month ending November 30, 2019:

- 8 a. Twenty Million Dollars (\$20,000,000.00) to the credit
9 of the State Highway Construction and Maintenance Fund
10 created in Section 1501 of Title 69 of the Oklahoma
11 Statutes, and

- 12 b. Two Million Dollars (\$2,000,000.00) to the credit of
13 the Oklahoma Railroad Maintenance Revolving Fund
14 created in Section 309 of Title 66 of the Oklahoma
15 Statutes; and

16 5. For the month ending December 31, 2019:

- 17 a. Twenty Million Dollars (\$20,000,000.00) to the credit
18 of the State Highway Construction and Maintenance Fund
19 created in Section 1501 of Title 69 of the Oklahoma
20 Statutes, and

- 21 b. Two Million Dollars (\$2,000,000.00) to the credit of
22 the Oklahoma Railroad Maintenance Revolving Fund
23 created in Section 309 of Title 66 of the Oklahoma
24 Statutes.

SECTION 2. AMENDATORY 68 O.S. 2011, Section 1403, as last amended by Section 2, Chapter 15, O.S.L. 2020 (68 O.S. Supp. 2020, Section 1403), is amended to read as follows:

Section 1403. A. It is hereby declared to be the purpose of Section 1401 et seq. of this title to provide for the support of the functions of the state and local government of Oklahoma; and for this purpose and to this end, it is hereby expressly provided that the revenues derived hereunder, subject to the apportionment provided in subsection B of this section and to the apportionment requirements for the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund provided by Section 265 of this title, are hereby apportioned as follows:

1. The following amounts shall be paid by the Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature:

Fiscal Year	Amount
FY 2004	85.35%
FY 2005	85.14%
FY 2006	85.54%
FY 2007	85.04%
FY 2008 through FY 2022	83.61%
FY 2023 through FY 2027	83.11%

FY 2028 and each fiscal year thereafter 83.61%;

2. The following amounts shall be paid to the State Treasurer to be placed to the credit of the Education Reform Revolving Fund of the State Department of Education:

a. for FY 2020, ten and forty-six one-hundredths percent (10.46%),

b. for FY 2021:

(1) for the month beginning July 1, 2020, through the month ending August 31, 2020, ten and forty-six one-hundredths percent (10.46%), and

(2) for the month beginning September 1, 2020, through the month ending June 30, 2021, eleven and ninety-six one-hundredths percent (11.96%),

c. for FY 2022, eleven and seventy-one one-hundredths percent (11.71%), and

d. for FY 2023 ~~and each fiscal year thereafter, ten and forty-six one-hundredths percent (10.46%)~~ through FY 2027, twelve and twenty-one one-hundredths percent (12.21%), and

e. for FY 2028 and each fiscal year thereafter, eleven and seventy-one one-hundredths percent (11.71%);

3. The following amounts shall be paid to the State Treasurer to be placed to the credit of the Teachers' Retirement System Dedicated Revenue Revolving Fund:

Fiscal Year	Amount
FY 2003 and FY 2004	3.54%
FY 2005	3.75%
FY 2006	4.0%
FY 2007	4.5%
FY 2008 through FY 2020	5.0%
FY 2021:	
a. for the month beginning July	
1, 2020, through the month	
ending August 31, 2020	5.0%
b. for the month beginning	
September 1, 2020, through	
the month ending June 30,	
2021	3.5%
FY 2022 <u>and each fiscal year thereafter</u>	3.75%
FY 2023 through FY 2027	5.5%
FY 2028 and each fiscal year thereafter	5.0%
4. a. except as otherwise provided in subparagraph b of this	
paragraph, for the fiscal year beginning July 1, 2015,	
and for each fiscal year thereafter, eighty-seven one-	
hundredths percent (0.87%) shall be paid to the State	
Treasurer to be further apportioned as follows:	
(1) thirty-six percent (36%) shall be placed to the	
credit of the Oklahoma Tourism Promotion	

1 Revolving Fund, but in no event shall such
2 apportionment exceed the total amount apportioned
3 pursuant to this division for the fiscal year
4 ending on June 30, 2015, and

5 (2) sixty-four percent (64%) shall be placed to the
6 credit of the Oklahoma Tourism Capital
7 Improvement Revolving Fund, but in no event shall
8 such apportionment exceed the total amount
9 apportioned pursuant to this division for the
10 fiscal year ending on June 30, 2015, and

11 b. any amounts which exceed the limitations of
12 subparagraph a of this paragraph shall be placed to
13 the credit of the General Revenue Fund; and

14 5. For the fiscal year beginning July 1, 2015, and for each
15 fiscal year thereafter, six one-hundredths percent (0.06%) shall be
16 placed to the credit of the Oklahoma Historical Society Capital
17 Improvement and Operations Revolving Fund, but in no event shall
18 such apportionment exceed the total amount apportioned pursuant to
19 this paragraph for the fiscal year ending on June 30, 2015. Any
20 amounts which exceed the limitations of this paragraph shall be
21 placed to the credit of the General Revenue Fund.

22 B. Prior to the apportionments otherwise provided in this
23 section, there shall be apportioned to the Education Reform
24

Revolving Fund of the State Department of Education the following amounts in the following state fiscal years:

FY 2019 \$19,600,000.00; and

FY 2020 and each year thereafter	\$20,500,000.00.
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SECTION 3. AMENDATORY 68 O.S. 2011, Section 2352, as last amended by Section 3, Chapter 15, O.S.L. 2020 (68 O.S. Supp. 2020, Section 2352), is amended to read as follows:

Section 2352. It is hereby declared to be the purpose of Section 2351 et seq. of this title to provide revenue for general governmental functions of state government; and, for that purpose and to that end, it is expressly declared that the revenue derived herefrom and penalties and interest thereon, subject to the apportionment requirements for the Rebuilding Oklahoma Access and Driver Safety Fund, the Oklahoma Tourism and Passenger Rail Revolving Fund, the Public Transit Revolving Fund, and the Education Reform Revolving Fund to be derived from income tax revenue that would otherwise be apportioned to the General Revenue Fund as provided by Section 1521 of Title 69 of the Oklahoma Statutes, subject to the apportionment requirements for the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund provided by Section 265 of this title, and subject to the apportionment requirements for the Oklahoma State Capitol Building Repair and Restoration Fund provided by Section 19

of Title 73 of the Oklahoma Statutes, shall be distributed as follows:

1. For the fiscal year beginning July 1, 2002, the first Five Million Eight Hundred Thousand Dollars (\$5,800,000.00) of revenue derived pursuant to the provisions of subsections A, B and E of Section 2355 of this title shall be apportioned to the Education Reform Revolving Fund. The remainder of such revenue for the fiscal year beginning July 1, 2002, and all such revenue for each fiscal year thereafter shall be apportioned monthly as follows:

a. the following amounts shall be paid to the State Treasurer to be placed to the credit of the General Revenue Fund of the state for such fiscal year for the support of the state government to be paid out only pursuant to appropriation by the Legislature:

Fiscal Year	Amount
FY 2003 and FY 2004	87.12%
FY 2005	86.91%
FY 2006	86.66%
FY 2007	86.16%
FY 2008 through FY 2022	85.66%
FY 2023 through FY 2027	85.16%
FY 2028 and each fiscal year thereafter	85.66%,

b. the following amounts shall be paid to the State Treasurer to be placed to the credit of the Education

Reform Revolving Fund of the State Department of
Education:

(1) for FY 2003 through FY 2020, eight and thirty-
four one-hundredths percent (8.34%),

(2) for FY 2021:

(a) for the month beginning July 1, 2020,
through the month ending August 31, 2020,
eight and thirty-four one-hundredths percent
(8.34%), and

(b) for the month beginning September 1, 2020,
through the month ending June 30, 2021, nine
and eighty-four one-hundredths percent
(9.84%),

(3) for FY 2022, nine and fifty-nine one-hundredths
percent (9.59%), ~~and~~

(4) for FY 2023 ~~and each fiscal year thereafter,~~
~~eight and thirty-four one-hundredths percent~~
~~(8.34%)~~ through FY 2027, ten and nine one-

hundredths percent (10.09%) shall be paid to the
State Treasurer to be placed to the credit of the
Education Reform Revolving Fund, and

(5) for FY 2028 and each fiscal year thereafter, nine
and fifty-nine one-hundredths percent (9.59%),

c. the following amounts shall be paid to the State
Treasurer to be placed to the credit of the Teachers'
Retirement System Dedicated Revenue Revolving Fund:

Fiscal Year	Amount
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FY 2003 and FY 2004	3.54%
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FY 2005	3.75%
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FY 2006	4.0%
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FY 2007	4.5%
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FY 2008 through FY 2020	5.0%
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FY 2021:

(1) for the month beginning

July 1, 2020, through

the month ending August

31, 2020	5.0%
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(2) for the month beginning

September 1, 2020,

through the month ending

June 30, 2021	3.5%
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FY 2022 and each fiscal

<u>year thereafter</u>	3.75%
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FY 2023 through FY 2027	5.5%
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~~FY 2028 and each fiscal~~

year thereafter	5.0%
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1 d. for FY 2003 and each fiscal year thereafter, one
2 percent (1%) shall be placed to the credit of the Ad
3 Valorem Reimbursement Fund;

4 2. Beginning July 1, 2003, for any period of time as certified
5 by the Oklahoma Development Finance Authority and the Oklahoma
6 Department of Commerce to be necessary for the repayment of
7 obligations issued by the Oklahoma Development Finance Authority
8 pursuant to Section 3654 of this title if the other sources of
9 revenue paid to or apportioned to the Quality Jobs Program Incentive
10 Leverage Fund are not adequate, including the proceeds from payment
11 pursuant to the guaranty required by subsection M of Section 3654 of
12 this title, an amount certified by the Oklahoma Development Finance
13 Authority to the Oklahoma Tax Commission shall be apportioned to the
14 Quality Jobs Program Incentive Leverage Fund before any other
15 apportionments are made as otherwise authorized by this paragraph.
16 The Oklahoma Development Finance Authority shall certify to the
17 Oklahoma Tax Commission the time as of which the revenue authorized
18 for apportionment pursuant to this paragraph is no longer required.
19 After the certification, the revenue derived from the income tax
20 shall be apportioned in the manner otherwise provided by this
21 section. Except as otherwise provided by this paragraph, for the
22 fiscal year beginning July 1, 2002, the first Forty-one Million One
23 Hundred Ninety Thousand Eight Hundred Dollars (\$41,190,800.00) of
24 revenue derived pursuant to the provisions of subsections D and E of

Section 2355 of this title shall be apportioned to the Education Reform Revolving Fund. The remainder of such revenue for the fiscal year beginning July 1, 2002, and all such revenue for each fiscal year thereafter, subject to the apportionment requirements for the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund provided by Section 265 of this title, shall be apportioned monthly as follows:

- a. the following amounts shall be paid to the State Treasurer to be placed to the credit of the General Revenue Fund of the state for such fiscal year for the support of the state government to be paid out only pursuant to appropriation by the Legislature:

Fiscal Year	Amount
FY 2003 and FY 2004	78.96%
FY 2005	78.75%
FY 2006	78.50%
FY 2007	78.0%

- (1) (a) FY 2018 through FY 2022
until the apportionment to
the General Revenue Fund
equals the moving five-
year average amount for
corporate income tax as

prescribed by paragraph 3
of this section 77.50%

(b) FY 2023 through FY 2027
until the apportionment to
the General Revenue Fund
equals the moving five-
year average amount for
corporate income tax as
prescribed by paragraph 3
of this section 77.00%

(c) FY 2028 and each fiscal
year thereafter until the
apportionment to the
General Revenue Fund
equals the moving five-
year average amount for
corporate income tax as
prescribed by paragraph 3
of this section 77.50%

(2) there shall be apportioned from the tax levy
imposed on corporate income tax to the Revenue
Stabilization Fund created by Section 34.102 of
Title 62 of the Oklahoma Statutes, or to the
Constitutional Reserve Fund, as provided by

Section 34.102 of Title 62 of the Oklahoma Statutes, the amount of revenue, if any, which exceeds the moving five-year average amount as defined pursuant to paragraph 3 of this section,

b. the following amounts shall be paid to the State Treasurer to be placed to the credit of the Education Reform Revolving Fund of the State Department of Education:

(1) for FY 2003 through FY 2020, sixteen and five-tenths percent (16.5%),

(2) for FY 2021:

(a) for the month beginning July 1, 2020, through the month ending August 31, 2020, sixteen and five-tenths percent (16.5%), and

(b) for the month beginning September 1, 2020, through the month ending June 30, 2021, eighteen percent (18%),

(3) for FY 2022, seventeen and seventy-five one-hundredths percent (17.75%), ~~and~~

(4) for FY 2023 ~~and each fiscal year thereafter,~~
~~sixteen and five-tenths percent (16.5%)~~ through
FY 2027, eighteen and twenty-five one-hundredths
percent (18.25%), and

(5) for FY 2028 and each fiscal year thereafter,
eighteen and seventy-five one-hundredths percent
(18.75%),

c. the following amounts shall be paid to the State
Treasurer to be placed to the credit of the Teachers'
Retirement System Dedicated Revenue Revolving Fund:

Fiscal Year	Amount
FY 2003 and FY 2004	3.54%
FY 2005	3.75%
FY 2006	4.0%
FY 2007	4.5%
FY 2008 through FY 2020	5.0%
FY 2021:	
(1) for the month beginning July 1, 2020, through the month ending August 31, 2020	5.0%
(2) for the month beginning September 1, 2020, through the month ending June 30, 2021	3.5%
FY 2022 <u>and each fiscal year thereafter</u>	3.75%
FY 2023 through FY 2027	5.5%

~~FY 2028 and each fiscal~~

~~year thereafter 5.0%~~

d. for FY 2003 and each fiscal year thereafter, one percent (1%) shall be placed to the credit of the Ad Valorem Reimbursement Fund; and

3. "Moving five-year average for corporate income tax" means, for purposes of the apportionments prescribed by this section, the amount of income tax on corporations, as determined by the State Board of Equalization in the manner prescribed by Section 34.103 of Title 62 of the Oklahoma Statutes.

SECTION 4. This act shall become effective November 1, 2021.

58-1-721 QD 1/21/2021 2:45:05 PM