

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1312

By: Enns

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2011, Sections 1353, as amended by Section 540, Chapter 304, O.S.L. 2012, 1370 and 2701 (68 O.S. Supp. 2012, Section 1353), which relate to sales tax; providing for certain apportionment of sales taxes to certain municipalities and counties under specified circumstances; exempting qualifying firearms, ammunition and hunting supplies from state sales tax under specified conditions; requiring Oklahoma Tax Commission to promulgate rules; clarifying status of certain exemptions; exempting qualifying firearms, ammunition and hunting supplies from the imposition of county sales tax under specified conditions; clarifying status of certain fund; exempting qualifying firearms, ammunition and hunting supplies from the imposition of local sales tax under specified conditions; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 1353, as amended by Section 540, Chapter 304, O.S.L. 2012 (68 O.S. Supp. 2012, Section 1353), is amended to read as follows:

Section 1353. A. It is hereby declared to be the purpose of the Oklahoma Sales Tax Code to provide funds for the financing of

1 the program provided for by the Oklahoma Social Security Act and to  
2 provide revenues for the support of the functions of the state  
3 government of Oklahoma, and for this purpose it is hereby expressly  
4 provided that, revenues derived pursuant to the provisions of the  
5 Oklahoma Sales Tax Code, subject to the apportionment requirements  
6 for the Oklahoma Tax Commission and Office of Management and  
7 Enterprise Services Joint Computer Enhancement Fund provided by  
8 Section 265 of this title, shall be apportioned as follows:

- 9 1. a. the following amounts shall be paid to the State  
10 Treasurer to be placed to the credit of the General  
11 Revenue Fund to be paid out pursuant to direct  
12 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 and each fiscal year thereafter	83.61%

- 13 b. in the event that additional monies are necessary  
14 pursuant to paragraph 6 of this subsection, such  
15 additional monies shall be deducted in the proportion  
16 determined by the State Board of Equalization pursuant  
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1 to paragraph 3 of Section 2355.1B of this title from  
2 the monies apportioned to the General Revenue Fund;

3 2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-  
4 hundredths percent (10.42%), shall be paid to the State Treasurer to  
5 be placed to the credit of the Education Reform Revolving Fund of  
6 the State Department of Education and for FY 2006 and each fiscal  
7 year thereafter, ten and forty-six one-hundredths percent (10.46%)  
8 shall be paid to the State Treasurer to be placed to the credit of  
9 the Education Reform Revolving Fund of the State Department of  
10 Education;

11 3. The following amounts shall be paid to the State Treasurer  
12 to be placed to the credit of the Teachers' Retirement System  
13 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 and each fiscal year thereafter	5.0%

21 4. For the fiscal year beginning July 1, 2010, and for each  
22 fiscal year thereafter, eighty-seven one-hundredths percent (0.87%)  
23 shall be paid to the State Treasurer to be further apportioned as  
24 follows:

- 1           a.     thirty-six percent (36%) shall be placed to the credit  
2                 of the Oklahoma Tourism Promotion Revolving Fund, and  
3           b.     sixty-four percent (64%) shall be placed to the credit  
4                 of the Oklahoma Tourism Capital Improvement Revolving  
5                 Fund; ~~and~~

6           5.    For the fiscal year beginning July 1, 2010, 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; and

10          6.    During the first fiscal year after the State Board of  
11                 Equalization has made a determination as provided in Section 2355.1B  
12                 of this title, regarding a baseline amount of revenue apportioned  
13                 pursuant to paragraph 3 of this subsection, and for each fiscal year  
14                 thereafter, in no event shall monies apportioned pursuant to  
15                 paragraph 3 of this subsection, paragraph 3 of Section 1403 of this  
16                 title and subparagraph c of paragraph 1 of Section 2352 of this  
17                 title be less than such baseline amount.

18          B.    Provided, for the fiscal year beginning July 1, 2007, and  
19                 every fiscal year thereafter, an amount of revenue shall be  
20                 apportioned to each municipality or county which levies a sales tax  
21                 subject to the provisions of Section 1357.10 of this title and  
22                 subsection F of Section 2701 of this title equal to the amount of  
23                 sales tax revenue of such municipality or county exempted by the  
24                 provisions of Section 1357.10 of this title and subsection F of

1 Section 2701 of this title. The Oklahoma Tax Commission shall  
2 promulgate and adopt rules necessary to implement the provisions of  
3 this subsection.

4 C. Provided, for the fiscal year beginning July 1, 2013, and  
5 every fiscal year thereafter, an amount of revenue shall be  
6 apportioned to each municipality or county which levies a sales tax  
7 subject to the provisions of Section 2 of this act and subsection G  
8 of Section 2701 of this title equal to the amount of sales tax  
9 revenue of such municipality or county exempted by the provisions of  
10 Section 2 of this act and subsection G of Section 2701 of this  
11 title. The Oklahoma Tax Commission shall promulgate and adopt rules  
12 necessary to implement the provisions of this subsection.

13 SECTION 2. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 68 of Title 1357.11, unless  
15 there is created a duplication in numbering, reads as follows:

16 A. The sale of qualifying firearms, ammunition and hunting  
17 supplies shall be exempt from the tax imposed by Section 1354 of  
18 Title 68 of the Oklahoma Statutes if the sale takes place during the  
19 first consecutive Friday through Sunday of September. The annual  
20 Oklahoma Second Amendment Sales Tax Holiday begins at 12:01 a.m. on  
21 that Friday and ends at 12 midnight on the following Sunday.

22 B. As used in this section:  
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1        1. "Ammunition" means any projectile with a fuse, propelling  
2 charges or primers which is fired from a firearm or gun, which may  
3 be legally sold or purchased in Oklahoma;

4        2. "Firearm" means a shotgun, rifle, pistol, revolver, or other  
5 handgun, which may be legally sold or purchased in Oklahoma; and

6        3. "Hunting supplies" means tangible personal property used for  
7 and designed for hunting. Hunting supplies include:

8            a. archery items used for hunting such as bows,  
9                    crossbows, arrows, quivers and shafts,

10          b. off-road vehicles such as all-terrain vehicles  
11                    designed and intended primarily for hunting. The  
12                    exemption does not apply to golf carts, go-carts, dirt  
13                    bikes, mini-bikes, motorcycles, tractors, motor  
14                    vehicles which may be legally driven on the streets  
15                    and highways of Oklahoma, or heavy equipment such as  
16                    cranes, forklifts, backhoes and bulldozers,

17          c. vessels such as airboats and pirogues designed and  
18                    intended for hunting,

19          d. accessories designed to be used for hunting,

20          e. animal feed that is manufactured and marketed as being  
21                    for consumption primarily by game which can be legally  
22                    hunted. This does not include food for animals kept  
23                    as pets,

- f. apparel such as safety gear, camouflage clothing, jackets, hats, gloves, mittens, face masks and thermal underwear manufactured and marketed as being primarily for wear or use while hunting,
- g. hunting shoes or boots designed and used for hunting,
- h. bags to carry game or hunting gear,
- i. float tubes only if purchased to be used for hunting,
- j. binoculars only if purchased to be used for hunting,
- k. tools that are manufactured and marketed as being primarily for use in hunting,
- l. firearm and archery cases,
- m. firearm and archery accessories,
- n. range finders,
- o. knives that are manufactured and marketed as being primarily for use in hunting. This excludes the purchase of knives by an individual to be used for household, business or other recreational use,
- p. decoys,
- q. tree stands,
- r. blinds,
- s. chairs to be used for hunting. This excludes purchases by an individual of chairs or other furniture for household, business or other recreational use,

1           t.   optics such as rifle scopes and impact resistant  
2           glasses for shooting,  
3           u.   hearing protection gear and enhancements,  
4           v.   holsters,  
5           w.   belts that are manufactured and marketed as being  
6           primarily for use in hunting,  
7           x.   slings, and  
8           y.   miscellaneous gear that is manufactured and marketed  
9           as being primarily for use in hunting. This includes  
10          other hunting-related gear or supplies not previously  
11          listed. This excludes the purchase of toy guns and  
12          vessels or off-road vehicles utilized as children's  
13          toys.

14          C. The Oklahoma Tax Commission shall promulgate any necessary  
15 rules to implement the provisions of this section.

16          SECTION 3.       AMENDATORY       68 O.S. 2011, Section 1370, is  
17 amended to read as follows:

18          Section 1370. A. Any county of this state may levy a sales tax  
19 of not to exceed two percent (2%) upon the gross proceeds or gross  
20 receipts derived from all sales or services in the county upon which  
21 a consumer's sales tax is levied by this state. Before a sales tax  
22 may be levied by the county, the imposition of the tax shall first  
23 be approved by a majority of the registered voters of the county  
24 voting thereon at a special election called by the board of county



1 commissioners or by initiative petition signed by not less than five  
2 percent (5%) of the registered voters of the county who were  
3 registered at the time of the last general election. However, if a  
4 majority of the registered voters of a county voting fail to approve  
5 such a tax, the board of county commissioners shall not call another  
6 special election for such purpose for six (6) months. Any sales tax  
7 approved by the registered voters of a county shall be applicable  
8 only when the point of sale is within the territorial limits of such  
9 county. Any sales tax levied or any change in the rate of a sales  
10 tax levied pursuant to the provisions of this section shall become  
11 effective on the first day of the calendar quarter following  
12 approval by the voters of the county unless another effective date,  
13 which shall also be on the first day of a calendar quarter, is  
14 specified in the ordinance or resolution levying the sales tax or  
15 changing the rate of sales tax.

16 B. The Oklahoma Tax Commission shall give notice to all vendors  
17 of a rate change at least sixty (60) days prior to the effective  
18 date of the rate change. Provided, for purchases from printed  
19 catalogs wherein the purchaser computed the tax based upon local tax  
20 rates published in the catalog, the rate change shall not be  
21 effective until the first day of a calendar quarter after a minimum  
22 of one hundred twenty (120) days' notice to vendors. Failure to  
23 give notice as required by this section shall delay the effective  
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1 date of the rate change to the first day of the next calendar  
2 quarter.

3 C. Initiative petitions calling for a special election  
4 concerning county sales tax proposals shall be in accordance with  
5 Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma  
6 Statutes. Petitions shall be submitted to the office of county  
7 clerk for approval as to form prior to circulation. Following  
8 approval, the petitioner shall have ninety (90) days to secure the  
9 required signatures. After securing the requisite number of  
10 signatures, the petitioner shall submit the petition and signatures  
11 to the county clerk. Following the verification of signatures, the  
12 county clerk shall present the petition to the board of county  
13 commissioners. The special election shall be held within sixty (60)  
14 days of receiving the petition. The ballot title presented to the  
15 voters at the special election shall be identical to the ballot as  
16 presented in the initiative petition.

17 D. Subject to the provisions of Section 1357.10 of this title  
18 and Section 2 of this act, all items that are exempt from the state  
19 sales tax shall be exempt from any sales tax levied by a county.

20 E. Any sales tax which may be levied by a county shall be  
21 designated for a particular purpose. Such purposes may include, but  
22 are not limited to, projects owned by the state, any agency or  
23 instrumentality thereof, the county and/or any political subdivision  
24 located in whole or in part within such county, regional

1 development, economic development, common education, general  
2 operations, capital improvements, county roads, weather modification  
3 or any other purpose deemed, by a majority vote of the county  
4 commissioners or as stated by initiative petition, to be necessary  
5 to promote safety, security and the general well-being of the  
6 people, including any authorized purpose pursuant to the Oklahoma  
7 Community Economic Development Pooled Finance Act. The county shall  
8 identify the purpose of the sales tax when it is presented to the  
9 voters pursuant to the provisions of subsection A of this section.  
10 Except as otherwise provided in this section and except as required  
11 by the Oklahoma Community Economic Development Pooled Finance Act,  
12 the proceeds of any sales tax levied by a county shall be deposited  
13 in the general revenue or sales tax revolving fund of the county and  
14 shall be used only for the purpose for which such sales tax was  
15 designated. If the proceeds of any sales tax levied by a county  
16 pursuant to this section are pledged for the purpose of retiring  
17 indebtedness incurred for the specific purpose for which the sales  
18 tax is imposed, the sales tax shall not be repealed until such time  
19 as the indebtedness is retired. However, in no event shall the life  
20 of the tax be extended beyond the duration approved by the voters of  
21 the county.

22 F. 1. Notwithstanding any other provisions of law, any county  
23 that has approved a sales tax for the construction, support or  
24 operation of a county hospital may continue to collect such tax if

1 such hospital is subsequently sold. Such collection shall only  
2 continue if the county remains indebted for the past construction,  
3 support or operation of such hospital. The collection may continue  
4 only until the debt is repaid or for the stated term of the sales  
5 tax, whichever period is shorter.

6 2. If the construction, support or operation of a hospital is  
7 funded through the levy of a county sales tax pursuant to this  
8 section and such hospital is subsequently sold, the county levying  
9 the tax may dissolve the governing board of such hospital following  
10 the sale. Upon the sale of the hospital and dissolution of any  
11 governing board, the county is relieved of any future liability for  
12 the operation of such hospital.

13 G. Proceeds from any sales tax levied that is designated to be  
14 used solely by the sheriff for the operation of the office of  
15 sheriff shall be placed in the special revenue account of the  
16 sheriff.

17 H. The life of the tax could be limited or unlimited in  
18 duration. The county shall identify the duration of the tax when it  
19 is presented to the voters pursuant to the provisions of subsections  
20 A and C of this section. The maximum duration of a levy imposed  
21 pursuant to Section ~~14~~ 891.14 of ~~this act~~ Title 62 of the Oklahoma  
22 Statutes shall be no longer than allowed pursuant to the Oklahoma  
23 Community Economic Development Pooled Finance Act.

1 I. Except for the levies imposed pursuant to Section ~~14~~ 891.14  
2 of ~~this act~~ Title 62 of the Oklahoma Statutes, there are hereby  
3 created one or more county sales tax revolving funds in each county  
4 which levies a sales tax under this section if any or all of the  
5 proceeds of such tax are not to be deposited in the general revenue  
6 fund of the county or comply with the provisions of subsection G of  
7 this section. Each such revolving fund shall be designated for a  
8 particular purpose and shall consist of all monies generated by such  
9 sales tax which are designated for such purpose. Monies in such  
10 funds shall only be expended for the purposes specifically  
11 designated as required by this section. A county sales tax  
12 revolving fund shall be a continuing fund not subject to fiscal year  
13 limitations.

14 J. In the case of a levy submitted for voter approval pursuant  
15 to Section ~~14~~ 891.14 of ~~this act~~ Title 62 of the Oklahoma Statutes,  
16 taxes levied by a county shall not become valid until the ordinance  
17 or resolution setting the rate of the levy shall have been approved  
18 by a majority vote of the registered voters of each such county  
19 voting on such question at a special election. Elections conducted  
20 pursuant to questions submitted pursuant to Section ~~14~~ 891.14 of  
21 ~~this act~~ Title 62 of the Oklahoma Statutes shall be conducted on the  
22 same date or in a sequence that provides that the last vote required  
23 for approval by all participating counties or municipalities occurs  
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1 not later than thirty (30) days after the date upon which the first  
2 vote occurs.

3 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2701, is  
4 amended to read as follows:

5 Section 2701. A. Any incorporated city or town in this state  
6 is hereby authorized to assess, levy, and collect taxes for general  
7 and special purposes of municipal government as the Legislature may  
8 levy and collect for purposes of state government, subject to the  
9 provisions of ~~subsection~~ subsections F and G of this section, except  
10 ad valorem property taxes. Provided:

11 1. Taxes shall be uniform upon the same class subjects, and any  
12 tax, charge, or fee levied upon or measured by income or receipts  
13 from the sale of products or services shall be uniform upon all  
14 classes of taxpayers;

15 2. Motor vehicles may be taxed by the city or town only when  
16 such vehicles are primarily used or located in such city or town for  
17 a period of time longer than six (6) months of a taxable year;

18 3. The provisions of this section shall not be construed to  
19 authorize imposition of any tax upon persons, firms, or corporations  
20 exempted from other taxation under the provisions of Sections 348.1,  
21 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of  
22 payment of taxes imposed under such sections;

23 4. Cooperatives and communications companies are hereby  
24 authorized to pass on to their subscribers in the incorporated city

1 or town involved, the amount of any special municipal fee, charge or  
2 tax hereafter assessed or levied on or collected from such  
3 cooperatives or communications companies;

4 5. No earnings, payroll or income taxes may be levied on  
5 nonresidents of the cities or towns levying such tax;

6 6. The governing body of any city or town shall be prohibited  
7 from proposing taxing ordinances more often than three times in any  
8 calendar year, or twice in any six-month period; and

9 7. Any revenues derived from a tax authorized by this  
10 subsection not dedicated to a limited purpose shall be deposited in  
11 the municipal general fund.

12 B. A sales tax authorized in subsection A of this section may  
13 be levied for limited purposes specified in the ordinance levying  
14 the tax. Such ordinance shall be submitted to the voters for  
15 approval as provided in Section 2705 of this title. Any sales tax  
16 levied or any change in the rate of a sales tax levied pursuant to  
17 the provisions of this section shall become effective on the first  
18 day of the calendar quarter following approval by the voters of the  
19 city or town unless another effective date, which shall also be on  
20 the first day of a calendar quarter, is specified in the ordinance  
21 levying the sales tax or changing the rate of sales tax. Such  
22 ordinance shall describe with specificity the projects or  
23 expenditures for which the limited-purpose tax levy would be made.  
24 The municipal governing body shall create a limited-purpose fund and

1 deposit therein any revenue generated by any tax levied pursuant to  
2 this subsection. Money in the fund shall be accumulated from year  
3 to year. The fund shall be placed in an insured interest-bearing  
4 account and the interest which accrues on the fund shall be retained  
5 in the fund. The fund shall be nonfiscal and shall not be  
6 considered in computing any levy when the municipality makes its  
7 estimate to the excise board for needed appropriations. Money in  
8 the limited-purpose tax fund shall be expended only as accumulated  
9 and only for the purposes specifically described in the taxing  
10 ordinance as approved by the voters.

11 C. The Oklahoma Tax Commission shall give notice to all vendors  
12 of a rate change at least sixty (60) days prior to the effective  
13 date of the rate change. Provided, for purchases from printed  
14 catalogs wherein the purchaser computed the tax based upon local tax  
15 rates published in the catalog, the rate change shall not be  
16 effective until the first day of a calendar quarter after a minimum  
17 of one hundred twenty (120) days' notice to vendors. Failure to  
18 give notice as required by this section shall delay the effective  
19 date of the rate change to the first day of the next calendar  
20 quarter.

21 D. The change in the boundary of a municipality shall be  
22 effective, for sales and use tax purposes only, on the first day of  
23 a calendar quarter after a minimum of sixty (60) days' notice to  
24 vendors.



1 E. If the proceeds of any sales tax levied by a municipality  
2 pursuant to subsection B of this section are being used by the  
3 municipality for the purpose of retiring indebtedness incurred by  
4 the municipality or by a public trust of which the municipality is a  
5 beneficiary for the specific purpose for which the sales tax was  
6 imposed, the sales tax shall not be repealed until such time as the  
7 indebtedness is retired. However, in no event shall the life of the  
8 tax be extended beyond the duration approved by the voters of the  
9 municipality. The provisions of this subsection shall apply to all  
10 sales tax levies imposed by a municipality and being used by the  
11 municipality for the purposes set forth in this subsection prior to  
12 or after July 1, 1995.

13 F. The sale of an article of clothing or footwear designed to  
14 be worn on or about the human body shall be exempt from the sales  
15 tax imposed by any incorporated city or town, in accordance with and  
16 to the extent set forth in Section ~~3~~ 1357.10 of this ~~act~~ title.

17 G. The sale of qualifying firearms, ammunition and hunting  
18 supplies shall be exempt from the tax imposed by any incorporated  
19 city or town, in accordance with and to the extent set forth in  
20 Section 2 of this act.

21 SECTION 5. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1378 of Title 68, unless there  
23 is created a duplication in numbering, reads as follows:

1       The sales tax imposed by any county or authority authorized by  
2 law to levy a sales tax shall not be imposed upon the sale of  
3 qualifying firearms, ammunition and hunting supplies in accordance  
4 with and to the extent set forth in Section 2 of this act.

5       SECTION 6. This act shall become effective July 1, 2013.

6       SECTION 7. It being immediately necessary for the preservation  
7 of the public peace, health and safety, an emergency is hereby  
8 declared to exist, by reason whereof this act shall take effect and  
9 be in full force from and after its passage and approval.

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11       54-1-6597       CJB       01/13/13

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