

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 3346

6 By: Pfeiffer

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to revenue and taxation; amending 68
9 O.S. 2021, Sections 265 and 1364, as last amended by
10 Section 3, Chapter 359, O.S.L. 2023 (68 O.S. Supp.
11 2023, Section 1364), which relate to state revenue
12 administration; modifying provisions related to
13 certain employee of the Tax Commission; modifying
14 requirements related to position; modifying
15 authorized expenditures from the Oklahoma Tax
16 Commission and Office of Management and Enterprise
17 Services Joint Computer Enhancement Fund; modifying
18 provisions related to revocation of sales tax permit
19 with respect to certain places of business based upon
20 cessation of business activity; providing an
21 effective date; and declaring an emergency.

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

23 SECTION 1. AMENDATORY 68 O.S. 2021, Section 265, is
24 amended to read as follows:

25 Section 265. A. There is hereby created in the State Treasury
26 a fund for the Oklahoma Tax Commission to be known as the "Oklahoma
27 Tax Commission and Office of Management and Enterprise Services
28 Joint Computer Enhancement Fund". The fund shall be a continuing

1 fund, not subject to fiscal year limitations, and shall consist of
2 all monies deposited to the fund pursuant to law. All monies
3 accruing to the credit of said fund are hereby appropriated and may
4 be budgeted and expended for the purposes authorized by subsection B
5 of this section. Expenditures from said fund shall be made upon
6 warrants issued by the State Treasurer against claims filed as
7 prescribed by law with the Director of the Office of Management and
8 Enterprise Services for approval and payment.

9 B. Monies in the Oklahoma Tax Commission and Office of
10 Management and Enterprise Services Joint Computer Enhancement Fund
11 shall be expended for the following purposes:

12 1. To make payments on an agreement authorized by Section 5,
13 Chapter 278, O.S.L. 2008;

14 2. To make payments for Information Technology acquisitions to
15 support the responsibilities of the Oklahoma Tax Commission;

16 3. To make payments authorized by Section 34.33 of Title 62 of
17 the Oklahoma Statutes; and

18 ~~3.~~ 4. To the extent not needed for the above-listed purposes to
19 be expended on other projects as specifically authorized by the
20 Legislature.

21 C. Notwithstanding any other provision of law, there shall be
22 apportioned to the Oklahoma Tax Commission and Office of Management
23 and Enterprise Services Joint Computer Enhancement Fund from the
24 monies that would otherwise be apportioned by Section 2352 of this

1 title, the revenue received as a result of any contracts entered
2 into by the Oklahoma Tax Commission pursuant to Section 264 of this
3 title.

4 D. The Tax Commission is hereby authorized to deposit to the
5 credit of the Oklahoma Tax Commission and Office of Management and
6 Enterprise Services Joint Computer Enhancement Fund any monies in
7 excess of the amounts necessary to pay all claims presented to its
8 cash security reserve fund. When monies are deposited to the credit
9 of the Computer Enhancement Fund, the right of any person to present
10 a claim for refund of a cash security shall be preserved and the
11 value thereof shall be paid from the cash security reserve fund.

12 E. For the fiscal year beginning July 1, 2015, and thereafter a
13 portion of the revenue apportioned to the Oklahoma Tax Commission
14 and Office of Management and Enterprise Services Joint Computer
15 Enhancement Fund pursuant to Sections 1353, 1403 and 2352 of this
16 title shall be credited to the Oklahoma Tax Commission, in an amount
17 which is equal to the sum of one-half of one percent (0.5%) of gross
18 collections of sales and use tax levied by counties of this state
19 pursuant to Section 1370 of this title and one-half of one percent
20 (0.5%) of sales and use tax levied by municipalities of this state
21 pursuant to Section 2701 of this title.

22 SECTION 2. AMENDATORY 68 O.S. 2021, Section 1364, as
23 last amended by Section 3, Chapter 359, O.S.L. 2023 (68 O.S. Supp.
24 2023, Section 1364), is amended to read as follows:

1 Section 1364. Permits to do business.

2 A. Every person desiring to engage in a business within this
3 state who would be designated as a Group One or Group Three vendor,
4 pursuant to Section 1363 of this title, shall be required to secure
5 from the Oklahoma Tax Commission every three (3) years a written
6 permit for a fee of Twenty Dollars (\$20.00) prior to engaging in
7 such business in this state. Each such person shall file with the
8 Tax Commission an application for a permit to engage in or transact
9 business in this state, setting forth such information as the Tax
10 Commission may require. The application shall be signed by the
11 owner of the business or representative of the business entity and
12 as a natural person, and, in the case of a corporation, as a legally
13 constituted officer thereof. To obtain a sales tax permit, an
14 individual or sole proprietor must be at least eighteen (18) years
15 of age. A parent or legal guardian may apply for a permit on behalf
16 of an individual or sole proprietor who is not at least eighteen
17 (18) years of age, provided the parent or legal guardian will be
18 considered the authorized user responsible for remitting state tax.

19 B. Upon receipt of an initial application, the Tax Commission
20 may issue a probationary permit effective for six (6) months which
21 will automatically renew for an additional thirty (30) months unless
22 the applicant receives written notification of the refusal of the
23 Commission to renew the permit. Within twenty (20) days of the date
24 of the written notification of the notice of refusal, the applicant

1 may request a hearing to show cause why the permit should be
2 renewed. Upon receipt of a request for a hearing, the Tax
3 Commission shall set the matter for hearing and give ten (10) days'
4 notice in writing of the time and place of the hearing. At the
5 hearing, the applicant shall set forth the qualifications of the
6 applicant for a permit and proof of compliance with all state tax
7 laws.

8 C. Holders of a probationary permit as provided in subsection B
9 of this section shall not be permitted to present the permit to
10 obtain a commercial license plate for their motor vehicle as
11 provided in Section 1133.1 of Title 47 of the Oklahoma Statutes.

12 D. Upon verification that the applicant is a Group Three
13 vendor, the Tax Commission may require such applicant to furnish a
14 surety bond or other security as the Commission may deem necessary
15 to secure payment of taxes under this article, prior to issuance of
16 a permit for the place of business set forth in the application for
17 permit. Provided, the Tax Commission is hereby authorized to set
18 guidelines, by adoption of regulations, for the issuance of sales
19 tax permits. Pursuant to the guidelines the Tax Commission may
20 refuse to issue permits to any Group Three vendors, or any class of
21 vendors included in the whole classification of Group Three vendors,
22 if the Tax Commission determines that it is likely this state will
23 lose tax revenue due to the difficulty of enforcing this article for
24 any reasons stated in paragraph 21 of Section 1354 of this title.

1 E. A separate permit for each additional place of business to
2 be operated must be obtained from the Tax Commission for a fee of
3 Ten Dollars (\$10.00). Such permit shall be good for a period of
4 three (3) years. The Tax Commission shall grant and issue to each
5 applicant a separate permit for each place of business in this
6 state, upon proper application therefor and verification thereof by
7 the Tax Commission.

8 F. A permit is not assignable and shall be valid only for the
9 person in whose name it is issued and for the transaction of
10 business at the place designated therein. The permit shall at all
11 times be conspicuously displayed at the place of business for which
12 issued in a position where it can be easily seen. The permit shall
13 be in addition to all other permits required by the laws of this
14 state. Provided, if the location of the business is changed, such
15 person shall file with the Tax Commission an application for a
16 permit to engage in or transact business at the new location. Upon
17 issuance of the permit to the new location of such business, no
18 additional permit fee shall be due until the expiration of the
19 permit issued to the previous location of such business.

20 G. It shall be unlawful for any person coming within the class
21 designated as Group One or the class designated as Group Three to
22 engage in or transact a business of reselling tangible personal
23 property or services within this state unless a written permit or
24 permits shall have been issued to such person. Any person who

1 engages in a business subject to the provisions of this section
2 without a permit or permits, or after a permit has been suspended,
3 upon conviction, shall be guilty of a misdemeanor punishable by a
4 fine of not more than One Thousand Dollars (\$1,000.00). Any person
5 convicted of a second or subsequent violation hereof shall be guilty
6 of a felony and punishable by a fine of not more than Five Thousand
7 Dollars (\$5,000.00) or by a term of imprisonment in the custody of
8 the Department of Corrections for not more than two (2) years, or
9 both such fine and imprisonment.

10 H. Any person operating under a permit as provided in this
11 article shall, upon discontinuance of business by sale or otherwise,
12 return such permit to the Tax Commission for cancellation, together
13 with a remittance for any unpaid or accrued taxes. Failure to
14 surrender a permit and pay any and all accrued taxes will be
15 sufficient cause for the Tax Commission to refuse to issue a permit
16 subsequently to such person to engage in or transact any other
17 business in this state. In the case of a sale of any business, the
18 tax shall be deemed to be due on the sale of the fixtures and
19 equipment, and the Tax Commission shall not issue a permit to
20 continue or conduct the business to the purchaser until all tax
21 claims due this state have been settled.

22 I. All permits issued under the provisions of this article
23 shall expire three (3) years from the date of issuance at the close
24 of business at each place or location of the business within this

1 state. No refund of the fee shall be made if the business is
2 terminated prior to the expiration of the permit. Whenever the
3 sales tax reports required to be filed by Section 1365 of this title
4 indicate there is no business activity at a place of business for a
5 period of twelve (12) months, the Tax Commission, after giving
6 twenty (20) days' notice to the permit holder in writing of the time
7 and place of hearing to show cause why the sales tax permit for that
8 place of business should not be revoked, may revoke or suspend the
9 permit pursuant to an order of the Tax Commission after failure to
10 show cause or failure to appear by the permit holder.

11 J. Whenever a holder of a permit fails to comply with any
12 provisions of this article, the Tax Commission, after giving twenty
13 (20) days' notice in writing of the time and place of hearing to
14 show cause why the permit should not be revoked, may revoke or
15 suspend the permit pursuant to an order of the Tax Commission after
16 failure to show cause or failure to appear by the permit holder, the
17 permit to be renewed upon removal of cause or causes of revocation
18 or suspension. However, if a holder of a permit becomes delinquent
19 for a period of three (3) months or more in reporting or paying of
20 any tax due under this article, any duly authorized agent of the Tax
21 Commission may remove the permit from the taxpayer's premises and it
22 shall be returned or renewed only upon the filing of proper reports
23 and payment of all taxes due under this article.

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1 K. Permits are not required of persons coming within the
2 classification designated as Group Two. The Oklahoma Tax Commission
3 shall issue a limited permit to Group Five vendors. The permit
4 shall be in such form as the Tax Commission may prescribe.

5 L. Nothing in this article shall be construed to allow a permit
6 holder to purchase, tax exempt, anything for resale that the permit
7 holder is not regularly in the business of reselling.

8 M. All monies received pursuant to issuance of such permits to
9 do business shall be paid to the State Treasurer and placed to the
10 credit of the General Revenue Fund of the State Treasury.

11 N. Notwithstanding the provisions of Section 205 of this title,
12 the Oklahoma Tax Commission is authorized to release the following
13 information contained in the Master Sales and Use Tax File to
14 vendors:

- 15 1. Permit number;
- 16 2. Name in which permit is issued;
- 17 3. Name of business operation if different from ownership
18 (DBA);
- 19 4. Mailing address;
- 20 5. Business address;
- 21 6. Business class, North American Industry Classification
22 System (NAICS), or Standard Industrial Classification (SIC); and
- 23 7. Effective date and expiration or cancellation date of
24 permit.

1 Release of such information shall be limited to tax remitters
2 for the express purpose of determining the validity of sales permits
3 presented as evidence of purchasers' sales tax resale status under
4 this Oklahoma Tax Code.

5 The provisions of this subsection shall be strictly interpreted
6 and shall not be construed as permitting the disclosure of any other
7 information contained in the records and files of the Tax Commission
8 relating to sales tax or to any other taxes.

9 This information may be provided on a subscription basis, with
10 periodic updates, and sufficient fee charged, not to exceed One
11 Hundred Fifty Dollars (\$150.00) per year, to offset the
12 administrative costs of providing the list. All revenue received by
13 the Oklahoma Tax Commission from such fees shall be deposited to the
14 credit of the Oklahoma Tax Commission Fund. No liability
15 whatsoever, civil or criminal, shall attach to any member of the Tax
16 Commission or any employee thereof for any error or omission in the
17 disclosure of information pursuant to this subsection.

18 O. If the Tax Commission enters into the Streamlined Sales and
19 Use Tax Agreement under Section 1354.18 of this title, the Tax
20 Commission is authorized to participate in its online sales and use
21 tax registration system and shall not require the payment of the
22 registration fees or other charges provided in this section from a
23 vendor who registers within the online system if the vendor has no
24 legal requirement to register.

1 SECTION 3. This act shall become effective July 1, 2024.

2 SECTION 4. It being immediately necessary for the preservation
3 of the public peace, health or safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

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