

An Act

ENROLLED HOUSE
BILL NO. 2780

By: Pfeiffer of the House

and

Rader of the Senate

An Act relating to state revenue administration; amending 68 O.S. 2011, Section 227, as last amended by Section 1, Chapter 358, O.S.L. 2016 (68 O.S. Supp. 2020, Section 227), which relates to claims for refunds; providing specified exception to authorization for refund of taxes paid erroneously; amending 68 O.S. 2011, Section 253, as amended by Section 1, Chapter 273, O.S.L. 2014 (68 O.S. Supp. 2020, Section 253), which relates to liability for payment of taxes; adding unpaid mixed beverage gross receipts tax to those taxes for which certain individuals may be personally liable; authorizing collection contracts with respect to certain excise tax; amending 68 O.S. 2011, Section 254, which relates to hearings before the Oklahoma Tax Commission; prescribing procedures related to garnishment; defining term; providing for liability based upon willful actions; prescribing procedures; authorizing forms and rules; amending 68 O.S. 2011, Section 255, which relates to debt collection for unpaid taxes; modifying time period; amending 68 O.S. 2011, Section 1361.2, which relates to procedure for claiming specified sales tax exemption for certain disabled veterans; specifying conditions under which certain refund may be claimed and establishing related requirement; updating statutory language; amending 68 O.S. 2011, Section 1501, which relates to definitions; modifying definition to exclude certain devices; amending Sections 5, 6 and 7, Chapter 260, O.S.L. 2018 (68 O.S. Supp. 2020, Sections 2947.1, 2947.2 and 2947.3), which relate to the County Government Education-Technical Revolving Fund; authorizing direct apportionment of revenue to specified entities by changing nature of specified

fund; modifying start date for certain apportionments; conforming references; eliminating requirement for specified reserve account; updating reference; requiring Oklahoma Tax Commission to distribute certain revenue under specified circumstances; amending 68 O.S. 2011, Section 3204, as amended by Section 4, Chapter 260, O.S.L. 2018 (68 O.S. Supp. 2020, Section 3204), which relates to documentary stamp tax; conforming language; modifying start date for certain apportionment; specifying statutory authority; providing for transfer of specified funds; amending 68 O.S. 2011, Section 3624, as last amended by Section 3, Chapter 313, O.S.L. 2019 (68 O.S. Supp. 2020, Section 3624), which relates to the Oklahoma Film Enhancement Rebate Program; clarifying certain payments; limiting liability for payments to balance of specified fund; updating statutory reference; providing for noncodification; providing for codification; and providing an effective date.

SUBJECT: State Revenue Administration

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 227, as last amended by Section 1, Chapter 358, O.S.L. 2016 (68 O.S. Supp. 2020, Section 227), is amended to read as follows:

Section 227. ~~(a)~~ Any A. Except as provided in subsection B of Section 1361.2 of this title, any taxpayer who has paid to the State of Oklahoma, through error of fact, or computation, or misinterpretation of law, any tax collected by the Tax Commission may, as hereinafter provided, be refunded the amount of such tax so erroneously paid, without interest.

~~(b)~~ (1) B. 1. Except as otherwise provided by ~~division (2)~~ paragraph 2 of this subsection, any taxpayer who has so paid any such tax may, within three (3) years from the date of payment thereof file with the Tax Commission a verified claim for refund of such tax so erroneously paid. The Tax Commission may accept an amended withholding tax or other report or return as a verified

claim for refund if the amended report or return establishes a liability less than the original report or return previously filed.

~~(2)~~ 2. Upon ~~the effective date of this act~~ August 26, 2016, with respect to the sales tax imposed by Section 1354 of this title and with respect to the use tax imposed by Section 1402 of this title, any taxpayer who has so paid such sales or use tax may, within two (2) years from the date of payment thereof file with the Tax Commission a verified claim for refund of such tax so erroneously paid. The Tax Commission may accept an amended sales or use tax report or return as a verified claim for refund if the amended report or return establishes a liability less than the original report or return previously filed.

~~(c)~~ C. The claim so filed with the Tax Commission, except for an amended report or return, shall specify the name of the taxpayer, the time when and period for which ~~said~~ the tax was paid, the nature and kind of tax so paid, the amount of the tax which ~~said~~ the taxpayer claimed was erroneously paid, the grounds upon which a refund is sought, and such other information or data relative to such payment as may be necessary to an adjustment thereof by the Tax Commission. It shall be the duty of the Commission to determine what amount of refund, if any, is due as soon as practicable after such claim has been filed and advise the taxpayer about the correctness of his claim and the claim for refund shall be approved or denied by written notice to the taxpayer.

~~(d)~~ D. If the claim for refund is denied, the taxpayer may file a demand for hearing with the Commission. The demand for hearing must be filed on or before the sixtieth day after the date the notice of denial was mailed. If the taxpayer fails to file a demand for hearing, the claim for refund shall be barred.

~~(e)~~ E. Upon the taxpayer's timely filing of a demand for hearing, the Commission shall set a date for hearing upon the claim for refund which date shall not be later than sixty (60) days from the date the demand for hearing was mailed. The taxpayer shall be notified of the time and place of the hearing. The hearing may be held after the sixty-day period provided by this subsection upon agreement of the taxpayer.

~~(f)~~ F. The provisions of this section shall not apply: ~~(1)~~ ~~to~~

1. To refunds of income tax erroneously paid, refunds of which tax shall be payable out of the income tax adjustment fund as provided by law; ~~(2) to~~

2. To estate tax because the payment of such tax is covered by an order of the Tax Commission and the estate and interested parties are given notice that Commission's position and computation of the tax will become final unless they protest and resist the payment thereof as provided by statute; nor, ~~(3) in~~

3. In any case where the tax was paid after an assessment thereof was made by the Tax Commission which assessment became final under the law.

SECTION 2. AMENDATORY 68 O.S. 2011, Section 253, as amended by Section 1, Chapter 273, O.S.L. 2014 (68 O.S. Supp. 2020, Section 253), is amended to read as follows:

Section 253. A. When the Oklahoma Tax Commission files a proposed assessment against corporations, limited liability companies or other legal entities for unpaid sales taxes, mixed beverage gross receipts tax collected pursuant to Section 5-105 of Title 37A of the Oklahoma Statutes, withheld income taxes or motor fuel taxes collected pursuant to Article 5, 6 or 7 of this title, the Commission shall file such proposed assessments against the individuals personally liable for the tax.

B. Any individual shall be liable for the payment of sales tax, mixed beverage gross receipts tax, withheld income tax or motor fuel tax if, during the period of time for which the assessment was made, the individual was responsible for withholding or collection and remittance of taxes or had direct control, supervision or responsibility for filing returns and making payments of the tax due the State of Oklahoma.

C. Personal liability for sales tax, mixed beverage gross receipts tax, withheld income tax or motor fuel tax shall be determined in accordance with the standards for determining liability for payment of federal withholding tax pursuant to the Internal Revenue Code of 1986, as amended, or regulations promulgated pursuant to such section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 255.1A of Title 68, unless there is created a duplication in numbering, reads as follows:

In order to facilitate and expedite the collection of any state tax as authorized to be assessed and collected by any state agency, the Oklahoma Tax Commission may enter into a contract with any state agency to assist in the collection of any state tax, penalties or interest in which that agency has the authority to collect and enforce. For providing such collection assistance, the Tax Commission shall charge the state agency a fee not in excess of ten percent (10%) of the total amount actually collected. All funds retained by the Tax Commission for collection services shall be deposited in the Tax Commission Reimbursement Fund in the State Treasury. The Oklahoma Tax Commission and the Oklahoma Employment Security Commission may enter into a contract whereby the Tax Commission shall have authority to collect and enforce the unemployment tax, penalties and interest thereon. Such collection and enforcement authority shall apply to any unemployment tax, penalties or interest where a determination that an employer owes delinquent contributions, penalties or interest has become final, and therefore, the Oklahoma Employment Security Commission shall be entitled to proceed by levy to collect any delinquent contribution and to collect any penalty or interest due and owing as a result of the delinquency. The contract shall provide for the collection and enforcement of the unemployment tax, interest and penalties in the same manner as the collection and enforcement of any state tax payable by any taxpayer subject to taxation under any state tax law.

SECTION 4. AMENDATORY 68 O.S. 2011, Section 254, is amended to read as follows:

Section 254. A. Upon a hearing with notice the Oklahoma Tax Commission shall be entitled to proceed by garnishment to collect any delinquent tax and to collect any penalty or interest due and owing as a result of a tax delinquency. Provided, that upon proper application under the procedures outlined herein, the court may issue an order continuing the garnishment for the collection of delinquent taxes, penalties or interest until the total amount of such delinquent taxes, penalties or interest have been collected.

B. The Oklahoma Tax Commission may garnish the accrued earnings of a delinquent taxpayer employee by sending notice to the taxpayer's employer. For the purpose of this section, "earnings" means any form of payment to an individual including, but not limited to, salary, wages, commission or other compensation, but does not include reimbursements for travel expenses for state employees. Such notice may be served by mail or by delivery by a

field agent of the Tax Commission to the taxpayer's employer along with a copy to the delinquent taxpayer. Upon receipt of such notice of delinquency, the employer shall withhold from compensation due, or to become due to the employee, the total amount shown by the notice. The Tax Commission may direct the employer to withhold part of the amount due, not to exceed twenty-five percent (25%) of earnings per pay period, until the total amount as shown by the notice, plus interest and penalty, has been withheld and remitted to the Tax Commission. The employer's response and calculation of amounts withheld shall be on a form prescribed by the Tax Commission.

C. Within seven (7) days after the end of each pay period, or if the delinquent taxpayer does not have regular pay periods, within thirty (30) days from the date of the notice, the employer shall withhold amounts due or provide an explanation to the Tax Commission why amounts due will not be withheld and remitted to the Tax Commission. In any case in which the employee ceases to be employed by the employer before the full amount set forth in the notice of delinquency, plus delinquent penalty and interest, has been withheld by the employer, the employer shall immediately notify the Tax Commission in writing the date the employee resigned or was terminated. Any employer who knowingly and willfully refuses to respond by any means to the notice as provided in subsection B of this section may be liable for the total amount as set forth in the notice. The employer may not terminate the delinquent taxpayer employee based upon the notice of administrative wage garnishment.

D. An administrative wage garnishment may be issued after ninety (90) days in which the tax has become delinquent, notice has been sent to the taxpayer of the delinquency and possible remedies to resolve the delinquency have been provided to the taxpayer, and a tax warrant has been issued and filed pursuant to Section 231 of this title. The taxpayer shall have ten (10) days after the issuance of the notice to the employer to provide any additional information to the Tax Commission for the garnishment of wages to be withdrawn or released by the Tax Commission. The Tax Commission shall withdraw or adjust the garnishment for wages upon proof to the satisfaction of the Tax Commission that the delinquent tax, interest and penalty referred to in the notice have been paid or the taxpayer can show the wages subject to garnishment are exempt pursuant to state or federal law.

E. The Tax Commission shall prescribe or approve forms and promulgate rules and regulations for implementing the provisions of this section.

SECTION 5. AMENDATORY 68 O.S. 2011, Section 255, is amended to read as follows:

Section 255. A. In order to facilitate and expedite the collection of taxes more than ninety (90) days overdue from any taxpayer, the Oklahoma Tax Commission may enter into a contract with a debt collection agency doing business in the State of Oklahoma or in any other state for the collection of such delinquent taxes in addition to all other taxes accrued or accruing, including penalties and interest thereon, from the taxpayer. The contract shall only authorize the debt collection agency to collect tax liabilities which are already established and the Tax Commission shall not refer accounts to the debt collection agency unless the Tax Commission has notified the taxpayer, by first class mail, of the liability and has made additional efforts to collect the debt. Provided, if a sales tax permit holder fails to file two or more sales tax returns, as required under Section 1365 of this title, or a taxpayer required to remit withholding taxes fails to file two or more withholding tax returns, as required under Section 2385.3 of this title, the Tax Commission may refer the accounts to the debt collection agency prior to the establishment of the tax liability, but only after the Commission has notified the taxpayer as required under this subsection.

B. If an account has been referred to a debt collection agency, the Tax Commission shall review all payments posted by the collection agency prior to commencing any further collection activity against the taxpayer. Further, the collection agency shall review all payments posted by the Tax Commission prior to commencing any collection activity. The Tax Commission or the collection agency shall, within ten (10) business days, provide the taxpayer with a written confirmation of all payments received and any balance due. In addition, the contract shall not authorize the debt collection agency to conduct audits or examine the books and records of a taxpayer in any manner. The Tax Commission may also enter into a contract with a person doing business in the State of Oklahoma or in any other state for the purpose of identifying and locating the assets of such delinquent taxpayer. Such contracts authorized by this section shall be subject to the provisions of the Oklahoma Central Purchasing Act.

C. In addition to the authority provided in subsection A of this section, the Tax Commission may enter into a contract for the purpose of identifying nonresident businesses and individuals who are required by law to file and pay Oklahoma state taxes and who are presently unknown to the Tax Commission.

D. Prior to entering into such a contract with a debt collection agency, the Tax Commission shall require that the debt collection agency file a bond in the amount of One Hundred Thousand Dollars (\$100,000.00). The bond shall be a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bonds, as the Tax Commission may deem necessary to guarantee compliance with the terms of the contract.

E. Each contract entered into by the Tax Commission with a debt collection agency, pursuant to the provisions of this section, shall specify that fees for services rendered, reimbursements or other remuneration shall be based on the total amount of delinquent taxes, including accrued penalties and interest, which is actually collected. No costs shall be reimbursed unless authorized in the contract. Each contract entered into between the Tax Commission and a debt collection agency shall provide for the payment of fees for such services, reimbursements or other remuneration not in excess of thirty-five percent (35%) of the total amount of delinquent taxes, penalty and interest actually collected. The debt collection agency contract fee shall be added to the amount of the delinquent taxes, accrued penalties and interest collected from the taxpayer. The total amount of the delinquent tax, accrued penalties and interest, and the debt collection agency contract fee shall be owed and collected from the taxpayer.

F. Each contract entered into by the Tax Commission with a person for the purpose of identifying and locating assets of delinquent taxpayers shall specify the amount of money to be paid for the performance of such services. No costs shall be reimbursed unless authorized in the contract.

G. All such funds collected by a debt collection agency, including the fees for collection services as provided for in such contract, shall be remitted to the Tax Commission within ~~five (5)~~ fifteen (15) days from the date of collection from a taxpayer. The Tax Commission shall pay from such remitted fees the amount of fees to which such debt collecting agency is entitled for services performed pursuant to the provisions of such contract. All assets

of such delinquent taxpayers which are identified and located shall be reported to the Tax Commission within ~~five (5)~~ fifteen (15) days from the date of identification and location. Forms to be used for such remittances and reports shall be prescribed by the Tax Commission.

H. A debt collection agency entering into a contract with the Tax Commission or a person entering into a contract with the Tax Commission for asset location purposes pursuant to this section shall agree that it is receiving income from sources within this state or doing business in this state for purposes of the Oklahoma tax laws. Debt collection agency employees and/or their agents shall not disclose confidential tax information except as authorized by Section 205 of this title, subject to the penalties contained therein.

SECTION 6. AMENDATORY 68 O.S. 2011, Section 1361.2, is amended to read as follows:

Section 1361.2 A. In order to claim the exemption authorized by paragraph 34 of Section 1357 of ~~Title 68 of the Oklahoma Statutes~~ this title, the person to whom the sale is made shall be required to furnish the vendor proof of eligibility for the exemption as issued by the Oklahoma Tax Commission. All vendors shall honor the proof of eligibility for sales tax exemption and sales for the benefit of the disabled veteran to a person providing such proof shall be exempt from the tax levied pursuant to the Oklahoma Sales Tax Code.

B. A claim for refund of sales taxes erroneously paid may only be made if a vendor refuses to honor the proof of eligibility issued by the Tax Commission for the exemption authorized pursuant to paragraph 34 of Section 1357 of this title and the person eligible for the exemption submits to the Tax Commission a signed notification of the vendor's denial of exemption on a form prescribed by the Commission.

SECTION 7. AMENDATORY 68 O.S. 2011, Section 1501, is amended to read as follows:

Section 1501. As used in Sections 1501 through 1512 of this title:

1. "Person" means any individual, partnership, association, limited liability company or corporation;

2. "Music device" means any and all mechanical devices which render, cause to sound, or release music where the same may be heard by one or more public patrons, and each separate loudspeaker, phonograph, juke box, or outlet from which such music emits shall each be construed to be a separate "music device" as herein defined; except in the case where the music emits from more than one speaker transmitting from the same music-producing mechanism, in which case the several outlets or speakers in each place of business shall be collectively considered one such music device;

3. "Coin-operated music device" means any such music device which is operated, motivated, released, or played by or upon the payment or insertion of a coin, token or similar object, whether there is one or more boxes or devices in the premises for the reception of such coin, tokens, or similar objects; coin-operated radio or television receiving sets in hotels, motels, or tourist cabins for the use and benefit of the guests and visitors of such hotels, motels, or tourist rooms or cabins shall be included in such definition;

4. "Coin-operated amusement device" means any and all nongambling mechanical or electronic machines which, upon the payment or insertion of a coin, token, or similar object, provide music, amusement or entertainment, including, but not limited to, such games as pool, phonographs, video television, shooting galleries, pinball, foosball, bowling, shuffle board, or any other amusement device with or without a replay feature which can be legally shipped interstate according to federal law;

5. "Coin-operated vending device" means any and all machines or devices which, upon the payment or insertion of a coin, token or similar object, dispenses tangible personal property, including but not limited to cigarettes, candies, gum, cold drinks, hot drinks, sandwiches, or chips. It shall not mean vending machines or devices used exclusively for the purpose of selling services, such as pay telephone booths, parking meters, gas and electric meters or other distribution of needful service;

6. "Coin-operated bulk vending device" means a machine or device which, upon the payment or insertion of a coin, token or similar object dispenses to the purchaser ballpoint pens, combs, cigarette lighters, prophylactics, filled capsules, peanuts, gum balls, mints, perfume or novelties; and

7. "Coin-operated devices" means coin-operated music devices, coin-operated amusement devices, coin-operated vending devices and coin-operated bulk vending devices. Coin-operated devices shall not include any device dispensing tangible personal property or providing amusement where payment is made solely through the use of a credit or debit card or other electronic or digital payment process.

SECTION 8. AMENDATORY Section 5, Chapter 260, O.S.L. 2018 (68 O.S. Supp. 2020, Section 2947.1), is amended to read as follows:

Section 2947.1 There is hereby created in the State Treasury a ~~revolving fund~~ an agency special account for the Oklahoma Tax Commission ~~to be designated the "County Government Education-Technical Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Tax Commission from the apportionment for the collection and distribution of documentary stamp revenues as provided by Section 3204 of Title 68 of the Oklahoma Statutes. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma State University Center for Local Government Technology and the Oklahoma Cooperative Extension Service County Training Program for the purpose of education, training, research, software and computer modernization. The fund shall be subject to the oversight of the Commission on County Government Personnel Education and Training. Amounts deposited in any fiscal year shall be distributed by the Oklahoma Tax Commission as provided in Section 6 of this act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law~~ Sections 2947.2 and 2947.3 of this title.

SECTION 9. AMENDATORY Section 6, Chapter 260, O.S.L. 2018 (68 O.S. Supp. 2020, Section 2947.2), is amended to read as follows:

Section 2947.2 A. For the fiscal year ending ~~June 30, 2020~~ June 30, 2022, and for each fiscal year thereafter, ten percent (10%) ~~deposited to the County Government Education-Technical Revolving Fund in any fiscal year shall be distributed of the revenue collected pursuant to Section 3204 of this title shall be apportioned~~ by the Oklahoma Tax Commission monthly to the Oklahoma Cooperative Extension Service for duties imposed on the Extension Service pursuant to Sections 130.1 through 130.7 and Section 1500 of

Title 19 of the Oklahoma Statutes and Section 3006 of ~~Title 68 of the Oklahoma Statutes~~ this title.

B. For the fiscal year ending ~~June 30, 2020~~ June 30, 2022, and for each fiscal year thereafter, eighty-eight and five-tenths percent (88.5%) ~~deposited to the County Government Education-Technical Revolving Fund in any fiscal year shall be distributed of~~ the revenue collected pursuant to Section 3204 of this title shall be apportioned by the Oklahoma Tax Commission monthly to the Oklahoma State University Center for Local Government Technology for duties imposed pursuant to Sections 2816 and 2862 of ~~Title 68 of the Oklahoma Statutes~~ this title related to any training, support, professional development, and additional software necessary for county assessors, treasurers and boards of equalization, and the acquisition and administration of a computer-assisted mass appraisal software system for county governments; provided, the Oklahoma State University Center for Local Government Technology may delay the acquisition of such software until such time as sufficient funds are available.

C. After the computer-assisted mass appraisal software acquisition is complete and associated costs are paid, any county which elects not to participate in the Oklahoma State University Center for Local Government Technology's computer-assisted mass appraisal software system may apply to the Center for Local Government Technology for a refund up to ten percent (10%) of such county's ~~deposit to the revolving fund annually~~ annual documentary stamp tax revenue apportionment received by the Center for Local Government Technology; provided, if available funds are insufficient for a ten-percent rebate, the percentage shall be adjusted so that rebates may be paid.

SECTION 10. AMENDATORY Section 7, Chapter 260, O.S.L. 2018 (68 O.S. Supp. 2020, Section 2947.3), is amended to read as follows:

Section 2947.3 A. ~~Within the County Government Education-Technical Revolving Fund there shall be established a reserve account. The reserve account shall consist of any~~ Any revenue not otherwise apportioned pursuant to the provisions of subsection A or ~~subsection B of Section 6 of this act~~ Section 2947.2 of this title shall be deposited and maintained in the special agency account created in Section 8 of this act subject to the procedures provided in this section.

B. The maximum balance for the ~~reserve~~ agency special account shall never exceed Two Million Dollars (\$2,000,000.00) at the end of each fiscal year.

C. The Oklahoma State University Center for Local Government Technology and the Oklahoma Cooperative Extension Service County Training Program may request permission to expend funds in the reserve account from the Commission on County Government Personnel Education and Training. The Oklahoma Tax Commission shall, upon written notification of expenditure approval from the Commission on County Government Personnel Education and Training, distribute from the agency special account the approved amount, if available, to the Oklahoma State University Center for Local Government Technology or the Oklahoma Cooperative Extension Service County Training Program, as applicable.

D. The balance in the ~~reserve account of the County Government Education Technical Revolving Fund~~ special agency account shall serve as a contingency for adverse conditions if the distributions provided for in subsections A and B of ~~Section 6 of this act~~ Section 2947.2 of this title are insufficient to support the purposes of education training, research, software and computer modernization of county governments.

E. For any fiscal year ending June 30, the Oklahoma Tax Commission shall transfer any amount of revenue in excess of Two Million Dollars (\$2,000,000.00) remaining in the ~~reserve account of the County Government Education Technical Revolving Fund~~ special agency account to the General Revenue Fund of the State Treasury.

SECTION 11. AMENDATORY 68 O.S. 2011, Section 3204, as amended by Section 4, Chapter 260, O.S.L. 2018 (68 O.S. Supp. 2020, Section 3204), is amended to read as follows:

Section 3204. A. The Oklahoma Tax Commission shall design such stamps in such denominations as in its judgment it deems necessary for the administration of this tax. The Oklahoma Tax Commission shall distribute the stamps to the county clerks of the counties of this state, and the county clerks shall have the responsibility of selling these stamps and shall have the further duty of accounting for the stamps to the Oklahoma Tax Commission on the last day of each month. Stamp metering machines or rubber stamps as prescribed by the Oklahoma Tax Commission may be used by the county clerk, and the expenses thereof shall be paid by the county concerned. The use

of meters or rubber stamps shall be governed by the Oklahoma Tax Commission.

B. The county clerks shall account for all collections from the sales of such stamps to the Oklahoma Tax Commission, on the last day of each month. The first fifty-five cents (\$0.55) of each seventy-five cents (\$0.75) collected shall be apportioned as follows:

1. The county clerks shall retain five percent (5%) of all monies collected for such stamps as their cost of administration; and

2. Of the remaining ninety-five percent (95%) the Oklahoma Tax Commission shall ~~transfer monthly to the County Government Education-Technical Revolving Fund created by Section 5 of this act~~ apportion for the fiscal year ending June 30, 2020 June 30, 2022, and for each fiscal year thereafter, Five Hundred Thousand Dollars (\$500,000.00) plus three percent (3%) of the remainder as provided in Sections 2947.2 and 2947.3 of this title. The remainder of the collections shall be transferred by the Oklahoma Tax Commission to the General Revenue Fund of the State Treasury to be expended pursuant to legislative appropriation.

C. The remaining twenty cents (\$0.20) of each seventy-five cents (\$0.75) collected shall be paid into the county general fund.

SECTION 12. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

On the effective date of this act, all monies remaining in the County Government Education-Technical Revolving Fund shall be transferred to the agency special account created in Section 8 of this act.

SECTION 13. AMENDATORY 68 O.S. 2011, Section 3624, as last amended by Section 3, Chapter 313, O.S.L. 2019 (68 O.S. Supp. 2020, Section 3624), is amended to read as follows:

Section 3624. A. There is hereby created the Oklahoma Film Enhancement Rebate Program. A rebate in the amount of up to seventeen percent (17%) of documented expenditures made in Oklahoma directly attributable to the production of a film, television production, or television commercial, as defined in Section 3623 of this title, in this state, may be paid to the production company responsible for the production. Provided, for documented

expenditures made after July 1, 2009, the rebate amount shall be thirty-five percent (35%), except as provided in subsection B of this section.

B. The amount of rebate paid to the production company as provided for in subsection A of this section shall be increased by an additional two percent (2%) of documented expenditures if a production company spends at least Twenty Thousand Dollars (\$20,000.00) for the use of music created by an Oklahoma resident that is recorded in Oklahoma or for the cost of recording songs or music in Oklahoma for use in the production.

C. The rebate program shall be administered by the Office of the Oklahoma Film and Music Commission and the Oklahoma Tax Commission, as provided in the Compete with Canada Film Act.

D. To be eligible for a rebate payment:

1. The production company responsible for a film, television production, or television commercial, as defined in Section 3623 of this title, made in this state shall submit documentation to the Office of the Oklahoma Film and Music Commission of the amount of wages paid for employment in this state to residents of this state directly relating to the production and the amount of other production costs incurred in this state directly relating to the production;

2. The production company has filed or will file any Oklahoma tax return or tax document which may be required by law;

3. Except major studio productions, the production company shall provide the name of the completion guarantor and a copy of the bond guaranteeing the completion of the project or if a film has not secured a completion bond, the production company shall provide evidence that all Oklahoma crew and local vendors have been paid and there are no liens against the production company pending in the state;

4. The minimum budget for the film shall be Fifty Thousand Dollars (\$50,000.00) of which not less than Twenty-five Thousand Dollars (\$25,000.00) shall be expended in this state;

5. The production company shall provide evidence of financing for production prior to the commencement of principal photography; and

6. The production company shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars (\$1,000,000.00) and a workers' compensation policy pursuant to state law, which shall include coverage of employer's liability.

E. A production company shall not be eligible to receive both a rebate payment pursuant to the provisions of ~~this act~~ Section 3621 et seq. of this title and an exemption from sales taxes pursuant to the provisions of paragraph 23 of Section 1357 of this title. If a production company has received such an exemption from sales taxes and submits a claim for rebate pursuant to the provisions of the Compete with Canada Film Act, the company shall be required to fully repay the amount of the exemption to the Tax Commission. A claim for a rebate shall include documentation from the Tax Commission that repayment has been made as required herein or shall include an affidavit from the production company that the company has not received an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title.

F. The Office shall approve or disapprove all claims for rebate and shall notify the Tax Commission. The Tax Commission shall, upon notification of approval from the Office of the Film and Music Commission, issue payment for all approved claims from funds in the Oklahoma Film Enhancement Rebate Program Revolving Fund created in Section 3625 of this title. Excluding any rebate payments to high impact productions as provided for in subsection G of this section, the amount of payments in claims prequalified and approved by the Office for any single fiscal year shall not exceed Eight Million Dollars (\$8,000,000.00). If the amount of approved claims exceeds the amount specified in this subsection in a fiscal year, payments shall be made in the order in which the claims are approved by the Office. If an approved claim is not paid in whole or in part, the unpaid claim or unpaid portion may be paid in the following fiscal year subject to the limitations specified in this subsection. The liability of the State of Oklahoma to make incentive payments pursuant to this act shall be limited to the balance of the Oklahoma Film Enhancement Rebate Program Revolving Fund.

G. 1. At the time the Office of the Film and Music Commission issues a conditional prequalification for a production, such prequalification may include a proposed designation as a high impact production, as defined in Section 3623 of this title.

2. The proposed designation must be approved by the Cabinet Secretary for Commerce and Tourism.

3. If the high impact production otherwise meets all of the requirements of the Compete With Canada Act and the Office gives final approval to rebate claims, such rebate claims shall not be subject to the Eight Million Dollar (\$8,000,000.00) cap provided for in subsection F of this section.

4. The payment of a rebate claim approved by the Office for a production designated as a high impact production by the Cabinet Secretary may be made as follows:

- a. by special appropriation to the Oklahoma Film Enhancement Rebate Program Revolving Fund, if the claim is approved during a regular or special session of the Oklahoma Legislature, or
- b. by payment from the Oklahoma Quick Action Closing Fund pursuant to Section 48.2 of Title 62 of the Oklahoma ~~Statutes~~ Statutes, if the claim is approved when the Oklahoma Legislature is not in session.

SECTION 14. This act shall become effective November 1, 2021.

Passed the House of Representatives the 8th day of March, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 8th day of April, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____