An Act

ENROLLED SENATE
BILL NO. 123

By: Mazzei of the Senate

and

Dank of the House

An Act relating to tax administration; amending 68 O.S. 2001, Section 113, as last amended by Section 1, Chapter 434, O.S.L. 2009 (68 O.S. Supp. 2010, Section 113), which relates to the Tax Commission Reimbursement Fund; modifying purposes for which Tax Commission Reimbursement Fund may be used; requiring Oklahoma Tax Commission to conduct certain hearings in specified number of locations and add personnel for certain purposes; requiring Tax Commission to initiate certain compliance program relating to income tax; amending 68 O.S. 2001, Section 2385.16, as amended by Section 14, Chapter 535, O.S.L. 2004 (68 O.S. Supp. 2010, Section 2385.16), which relates to income tax refunds; authorizing the use of specified procedures for issuing certain refunds; authorizing Tax Commission to enter into certain contracts; prohibiting release of specified information; providing for codification; and providing for noncodification.

SUBJECT: Tax administration

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 113, as last amended by Section 1, Chapter 434, O.S.L. 2009 (68 O.S. Supp. 2010, Section 113), is amended to read as follows:

Section 113. A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be known as the "Tax Commission Reimbursement Fund". Said revolving fund shall consist of any funds received by the Tax Commission for data processing services or equipment rental and any funds received by the Tax Commission from any incorporated city, town, or county pursuant to a contractual agreement for the augmentation of the enforcement and collection of municipal or county taxes entered into pursuant to the provisions of Sections 1371 or 2702 of this title. The Tax Commission is authorized to hire full-time-equivalent employees as necessary to perform such duties as to fulfill contractual agreements authorized pursuant to Sections 1371 and 2702 of this title, however, such employees hired to perform such contractual duties shall be supported solely by funds in the Tax Commission Reimbursement Fund which are collected by the Tax Commission from incorporated cities, towns, and counties pursuant to such contractual agreements and such employees shall be terminated upon the discontinuation of such funds or inadequate funds to support such positions. Such full-time-equivalent employees shall be in the unclassified service and shall not be subject to any provisions of the Oklahoma Personnel Act or to any of the rules or regulations promulgated by the Office of Personnel Management except leave regulations. All fees collected and apportioned to this fund under the Oklahoma Vehicle License and Registration Act, Section 1101 et seq. of Title 47 of the Oklahoma Statutes, may be used by the Motor Vehicle Division of the Oklahoma Tax Commission to pay all costs incurred in the issuance of certificates of title and inspection of vehicles, including, but not limited to, additional computer costs for the Tax Commission and motor license agents and the check verification system authorized pursuant to the provisions of paragraph 1 of subsection A of Section 1144 of Title 47 of the Oklahoma Statutes or be used for capital expenditures as authorized by the Oklahoma State Legislature. For the fiscal year beginning July 1, 2004, disbursements from the fund shall be exempt from all agency budget limits.

B. Notwithstanding any other provision in the Oklahoma Statutes except subsection F of Section 316 and subsection D of Section 418 of this title, beginning July 1, 2009, all revenue from fees and penalties collected pursuant to Sections 304, 316, 415 and 418 of this title shall be apportioned to the Tax Commission Reimbursement

Fund for administrative ~~and data processing~~ expenses incurred in connection with ~~electronic reporting requirements pursuant to~~ enforcement of the provisions of Section 301 et seq., Section 346 et seq., Section 401 et seq. and Section 424 et seq. of this title.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1364.3 of Title 68, unless there is created a duplication in numbering, reads as follows:

In order to increase the collection of sales and use taxes, the Oklahoma Tax Commission shall:

1. Conduct hearings pursuant to Section 212 of Title 68 of the Oklahoma Statutes related to permits issued under the provisions of Section 1364 of Title 68 of the Oklahoma Statutes in at least two (2) locations in the state; and

2. Add ten (10) additional sales and use tax audit and/or enforcement personnel as soon as practicable after July 1, 2011.

SECTION 3. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

On or after July 1, 2011, the Oklahoma Tax Commission shall initiate a compliance program that includes an increased assignment of audit staff to conduct audits of corporate and partnership income tax returns.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 2385.16, as amended by Section 14, Chapter 535, O.S.L. 2004 (68 O.S. Supp. 2010, Section 2385.16), is amended to read as follows:

Section 2385.16. A. All payments received by the Oklahoma Tax Commission transmitted by employers for taxes withheld from employees and all payments received by the Tax Commission from taxpayers as herein provided shall be deposited with the State Treasurer in the Tax Commission's Official Depository Clearing Account and be designated Income Tax Withholding Funds. These funds shall be under the exclusive control of the Tax Commission. The Tax Commission is empowered and directed each month to transfer the amount thereof which the Tax Commission estimates to be necessary to make tax refunds to a separate account designated as the Income Tax

Withholding Refund Account, and to make apportionments from such funds remaining in said Official Depository Clearing Account, of the amount it considers available for distribution as income taxes collected. The Tax Commission shall maintain a balance in the refund account sufficient to cover anticipated tax refunds.

All warrants drawn against such refund account as provided in the preceding subsection which are not presented for payment within ninety (90) days of issuance thereof shall be void.

Persons entitled to refunds of monies represented by warrants which are not presented for payment within ninety (90) days from the date of issuance thereof may file claims for refund at any time within three (3) years from the due date of the return. Such claims shall be filed and paid under the provisions of Section 2373 of this Code, and if allowed shall be paid under the provisions of such section. An income tax refund warrant which was not presented for payment within ninety (90) days from the date of issuance or reissued for a like amount up to three (3) years from the date of issuance of the original warrant shall be subject to reporting and remittance to the Oklahoma State Treasurer pursuant to the Uniform Unclaimed Property Act.

B. Neither the Tax Commission nor any member or employee thereof shall be held personally liable for making any refund by reason of a fraudulent withholding certificate being used as a basis for such refund.

C. The Oklahoma Tax Commission may use a direct deposit system and card-based disbursement system in lieu of checks or warrants for the purposes of issuing refunds for overpayment of individual income taxes. Notwithstanding the provisions of Section 205 of this title, the Tax Commission may enter into a contract with, and release taxpayer information to, entities deemed to be qualified by the Tax Commission to implement the card-based disbursement system. The Tax Commission shall not release to any entity contracted with pursuant to this section the full social security number of taxpayers opting to receive a refund through the card-based disbursement system.

Passed the Senate the 18th day of May, 2011.

Presiding Officer of the Senate

Passed the House of Representatives the 19th day of May, 2011.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 20th
day of May, **20** 11,
at 6:35 **o'clock** P.M.

By: Judy Copeland

Approved by the Governor of the State of Oklahoma the 26 **day of**
May, **20** 11, **at** 1:40 **o'clock** P.M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this
26th **day of** May, **20** 11,
at 6:01 **o'clock** P.M.

By: Michelle R Day