

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

4TH CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
SENATE BILL NO. 233

By: Easley of the Senate

and

Rice of the House

4TH CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Corporation Commission; amending Section 18a of Article IX of the Oklahoma Constitution, which relates to salaries of Corporation Commissioners; providing for Commissioners' salaries to be set by Legislature; authorizing increase in salary for certain purpose; providing for certain compensation equalization by certain date; amending Section 1, Chapter 362, O.S.L. 1992 and 17 O.S. 1991, Sections 160.1, as last amended by Section 20, Chapter 315, O.S.L. 1994 and 180.10 (17 O.S. Supp. 1994, Sections 53.3 and 160.1), which relate to ratemaking authority of the Commission; modifying jurisdiction over certain utility systems; amending 20 O.S. 1991, Section 106.9, as amended by Section 2, Chapter 340, O.S.L. 1994 (20 O.S. Supp. 1994, Section 106.9), which relates to court reporters; modifying certain salaries; amending Section 3, Chapter 315, O.S.L. 1994 (52 O.S. Supp. 1994, Section 149.2), which relates to well plugging and Oil and Gas Appellate Referees; modifying procedures for attaching certain lien; extending date for certain fund; authorizing Commission to employ Oil and Gas Appellate Referees; amending 52 O.S. 1991, Section 153, which relates to investigations; authorizing Commission employees to issue field citations to certain persons; amending 68 O.S. 1991, Sections 1101, 1102 and 1103, which relate to oil and gas taxes; extending certain levies and purpose; updating statutory references; amending 74 O.S. 1991, Section 18b, as last amended by Section 32, Chapter 349, O.S.L. 1993 and Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-5.5), and as last amended by Section 1 of Enrolled Senate Bill No. 454 of the 1st Session of the 45th Oklahoma Legislature, which relate to the classification of positions and duties of the Attorney General; modifying certain duties; modifying list; amending 85 O.S. 1991, Section 2b, which relates to workers' compensation; authorizing political subdivisions to purchase workers' compensation insurance from certain carriers; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 18a of Article IX of the Oklahoma Constitution, is amended to read as follows:

Section 18a. A. The salary of Corporation Commissioners shall be set by the Legislature and may be increased at any time during the term of their office. The purpose of this provision is to assure that all Corporation Commissioners are paid equal salaries for their service, without regard to the time of their appointment or election.

B. The Corporation Commission shall organize by electing one of its members chairman and appointing a secretary, whose salary shall be fixed by the Legislature. A majority of said Commission shall constitute a quorum, and the concurrence of the majority of said Commission shall be necessary to decide any question.

SECTION 2. The amendment set out in Section 1 of this act shall be self-executing and any existing inequality of compensation among Corporation Commissioners shall immediately cease upon the effective date of this act.

SECTION 3. AMENDATORY Section 1, Chapter 362, O.S.L. 1992 (17 O.S. Supp. 1994, Section 53.3), is amended to read as follows:

Section 53.3 A. The State of Oklahoma shall have a lien upon any abandoned oil and gas well-site equipment situated upon a lease site, including but not limited to production and storage structures, along with their contents, in an amount equal to the cost of plugging all wells associated with said lease and restoring the site. The lien created by this act shall attach only to abandoned oil and gas well-site equipment located on or affixed to an oil or gas well which has been or is required to be plugged, replugged or repaired by rules of the Commission.

B. Well-site equipment is presumed abandoned if:

1. For longer than one (1) year, the well has shown no activity in terms of production, injection, disposal or testing, and has not otherwise been maintained in compliance with plugging rules; and

2. a. the last operator of record is without valid surety as required by Section 318.1 of Title 52 of the Oklahoma Statutes and cannot be located by the Corporation Commission after diligent search, or
- b. the last operator of record has plugging liability in excess of the amount of such operator's surety as filed with the Corporation Commission.

The presumption of abandonment shall apply only for purposes of the lien created herein and shall have no effect upon the term, duration, or continued existence of any property or contract right in the premises.

C. The lien created by this section shall be perfected against the equipment when notice of the lien is filed in the office of the county clerk of the county or counties where the equipment is situated. Upon receipt, the county clerk shall record the notice in the tract index and in the mechanic's lien journal. The notice shall contain a description of each item upon which a lien is claimed, and a legal description of the site upon which the equipment is situated.

D. The lien provided for in this section shall be subject to all prior perfected liens.

E. The lien created by this section shall be assignable by the Corporation Commission.

For purposes of this act the term "abandoned well" shall mean those wells that are described and listed in a report published by the Corporation Commission identifying oil or gas wells which have been determined to be abandoned or orphaned by the Corporation Commission as a result of bankruptcy, inability to find the owner, or for other reasons.

SECTION 4. AMENDATORY 17 O.S. 1991, Section 160.1, as last amended by Section 20, Chapter 315, O.S.L. 1994 (17 O.S. Supp. 1994, Section 160.1), is amended to read as follows:

Section 160.1 A. The Corporation Commission shall have ratemaking authority and general jurisdiction over all supply systems of natural gas, steam heat and steam serving the general public notwithstanding operation thereof by a trust, authority,

cooperative and subsidiary created for the benefit or furtherance of a public function pursuant to a trust or public trust, unless the said body operating said system has financing or is in the process of financing the acquisition, improvement or extension of the said system with a loan from the United States of America and is a nonprofit trust.

B. The Corporation Commission shall also have general supervision over any person or entity to whom the function of operating a natural gas, steam heat or steam supply system has been delegated by such a trust, authority, cooperative or subsidiary. Provided nothing herein shall be construed to apply to a public trust whose Board of Trustees is composed of elected officials or is elected by the customers or a majority of which is composed of members selected by the governing bodies of municipalities in which the public trust operates, or members which it serves, and which Board of Trustees has the authority to establish and regulate its own rates.

C. The Corporation Commission shall have ratemaking authority and general jurisdiction over all supply systems of steam and chilled water serving any portion of any municipality if such system serves more than ~~five (5)~~ fifty (50) off-site commercial customers within such municipality.

D. The Corporation Commission shall have the power to fix and establish rates and to prescribe rules, requirements and regulations affecting their services, operation and the management and conduct of the business of persons and entities subject to this act, Section 160.1 et seq. of this title, and shall inquire into the management of the business thereof, and the method in which same is conducted. It shall have full visitorial and inquisitorial power to examine such operations, and keep informed as to their general conditions, their capitalization, rates, plants, equipment, apparatus and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the

Constitution and laws of this state, and with the orders of the Commission.

E. The ratemaking authority and general jurisdiction of the Corporation Commission, created under this act, shall be subject to the following exceptions:

1. The Corporation Commission shall not have ratemaking authority or general jurisdiction over:

- a. steam supply systems operated by public trusts which supply steam to customers presently served by or located within the mid-America industrial district, or
- b. an institution of higher education, or related entities, now operating such steam and chilled water facilities not for profit; and

2. The Commission shall not have authority to:

- a. compel an electric public utility to make inspections of consumer-owned facilities, or
- b. compel an electric public utility to provide electric utility service wherein the electric public utility believes such service is likely to endanger the public health and safety or the health and safety of employees of the electric public utility.

SECTION 5. AMENDATORY 17 O.S. 1991, Section 180.10, is amended to read as follows:

Section 180.10 A. There is hereby created in the State Treasury a fund for the Corporation Commission to be designated the "Corporation Commission Plugging Fund". The plugging fund shall consist of monies received by the Corporation Commission as required by law to be deposited to the credit of said fund. Said fund shall be a continuing fund not subject to fiscal year limitations and shall not be subject to legislative appropriations. Expenditures from said plugging fund shall be made pursuant to the laws of this state and the statutes relating to the Corporation Commission. In addition, expenditures from said plugging fund may be made pursuant to the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma

Statutes, for purposes of immediately responding to emergency situations, within the Commission's jurisdiction, having potentially critical environmental or public safety impact. Warrants for expenditures from said fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employee of the Corporation Commission and approved for payment by the Director of State Finance. The provisions of this act or rules or regulations promulgated pursuant thereto, shall not be construed to relieve or in any way diminish the surety bonding requirements required by Section 318.1 of Title 52 of the Oklahoma Statutes.

B. Prior to July 1, ~~1995~~ 2001, the plugging fund shall be maintained at Five Million Dollars (\$5,000,000.00). If the plugging fund falls below the five-million-dollar maintenance level, the Corporation Commission shall notify the Tax Commission that the plugging fund has fallen below the required maintenance level and that the excise tax which has been levied by subsection A of Section ~~5~~ 1101 of ~~this act~~ Title 68 of the Oklahoma Statutes and subsection A of Section ~~6~~ 1102 of ~~this act~~ Title 68 of the Oklahoma Statutes which is credited and apportioned to the Corporation Commission Plugging Fund pursuant to Section ~~7~~ 1103 of ~~this act~~ Title 68 of the Oklahoma Statutes is to be imposed. Such additional excise tax shall be imposed and collected until such time as is necessary to meet the additional five-million-dollar maintenance level. The Tax Commission shall notify the persons responsible for payment of the excise tax on oil and gas of the imposition of such tax. The provisions of this subsection shall terminate on July 1, ~~1995~~ 2001.

SECTION 6. AMENDATORY 20 O.S. 1991, Section 106.9, as amended by Section 2, Chapter 340, O.S.L. 1994 (20 O.S. Supp. 1994, Section 106.9), is amended to read as follows:

Section 106.9 A. The salaries of all court reporters shall be paid by the state, except as provided otherwise herein. Full-time official court reporters, regularly engaged by the courts including the Workers' Compensation Court and the Oklahoma Corporation Commission, who are certified shorthand reporters

shall be paid ~~Twenty-four Thousand Five Hundred Eight Dollars (\$24,508.00)~~ Twenty-five Thousand Three Hundred Eight Dollars (\$25,308.00) per annum, payable monthly. Full-time official court reporters, regularly engaged by the courts including the Workers' Compensation Court and the Oklahoma Corporation Commission, who are licensed shorthand reporters shall be paid ~~Nineteen Thousand Seven Hundred Seventy-four Dollars (\$19,774.00)~~ Twenty Thousand Five Hundred Seventy-four Dollars (\$20,574.00) per annum, payable monthly. Acting official reporters who are neither licensed nor certified, and who are acting under a temporary certificate shall be paid Fifteen Thousand Nine Hundred Ninety-five Dollars (\$15,995.00) per annum, payable monthly.

B. In addition to their base salaries, official court reporters who are certified or licensed shorthand reporters and those acting shorthand reporters referenced at Title 20, Section 106.3Bc shall be paid the sum of Four Hundred Dollars (\$400.00) per annum for each year of service in the district court, including the Workers' Compensation Court and the Corporation Commission, with a maximum of nine (9) years of service only to be used for the purpose of longevity, not to exceed Three Thousand Six Hundred Dollars (\$3,600.00) payable monthly. For the purpose of payment for longevity, "Years of Service" is defined as all years served as a certified or licensed court reporter in the district courts of Oklahoma including the Workers' Compensation Court and Oklahoma Corporation Commission after June 30, 1978. Such longevity payments shall begin on July 1 of each year following completion of one (1) year's service as defined herein.

C. In addition to their base salaries, official court reporters who are certified shorthand reporters shall be paid the following:

1. The sum of One Thousand Five Hundred Dollars (\$1,500.00) per annum to any official court reporter who is a holder of a certificate of proficiency, as certified by the State Board of Examiners of Official Shorthand Reporters. To qualify for a certificate of proficiency, an official court reporter must have a proficiency level in reporting testimony and proceedings of a

speed of not less than two hundred twenty-five (225) words per minute in taking a question-and-answer-type dictation, two hundred (200) words per minute in taking a jury charge and one hundred eighty (180) words per minute in taking literary material all as determined by an examination administered by the Board or recognized by the Board.

2. The sum of Three Thousand Dollars (\$3,000.00) per annum to any official court reporter who is a holder of a certificate of merit, as certified by the State Board of Examiners of Official Shorthand Reporters. To qualify for a certificate of merit, an official court reporter must have a proficiency level in reporting testimony and proceedings of a speed of not less than two hundred sixty (260) words per minute in taking a question-and-answer-type dictation, two hundred forty (240) words per minute in taking a jury charge and two hundred (200) words per minute in taking literary material all as determined by an examination administered by the Board or recognized by the Board.

3. Any official court reporter who is the holder of both the certificate of proficiency and the certificate of merit shall be compensated only in the additional amount of Three Thousand Dollars (\$3,000.00) per annum over and above his base salary, payable monthly.

D. Court reporters temporarily employed by the district court, Workers' Compensation Court or Corporation Commission shall be compensated by the court fund of the court which they serve at the rate of Fifty-four Dollars (\$54.00) per day. In addition, court reporters temporarily employed pursuant to this subsection who are required by the terms of their employment to travel outside their county of residence, shall receive reimbursement for mileage actually and necessarily traveled to and from the place of attendance at a rate not to exceed the rate of reimbursement specified in the State Travel Reimbursement Act for state employees. Such travel reimbursement shall be paid from the court fund of the court where the service of the temporarily employed court reporter is provided.

SECTION 7. AMENDATORY Section 3, Chapter 315, O.S.L. 1994 (52 O.S. Supp. 1994, Section 149.2), is amended to read as follows:

Section 149.2 The Corporation Commission is authorized to employ ~~an~~ Oil and Gas Appellate ~~Referee~~ Referees. Any person filling the position of Oil and Gas Appellate Referee shall be a duly licensed attorney in the State of Oklahoma and shall be familiar with the statutes and rules governing oil and gas operations in Oklahoma. The Oil and Gas Appellate ~~Referee~~ Referees shall hear all exceptions and appeals from recommendations of an Administrative Law Judge for cases on the conservation docket, except for exceptions and appeals from Administrative Law Judge recommendations of conservation docket cases which the Commission determines it will hear en banc without intermediate review. The Oil and Gas Appellate ~~Referee~~ Referees shall file a report and make recommendations to the Commission for the disposition of such exceptions and appeals. The Commission shall promulgate such rules as may be necessary to implement this section.

SECTION 8. AMENDATORY 52 O.S. 1991, Section 153, is amended to read as follows:

Section 153. The Commission shall have the authority to designate those employees in the Oil and Gas Conservation Division who shall each possess the authority to make investigations, serve orders, issue field citations, subpoenas or notices issued by the Commission or the Conservation Division, to any operator, employee or agent of said operator, and to enter upon any oil or gas lease or property where necessary in the performance of their duties.

SECTION 9. AMENDATORY 68 O.S. 1991, Section 1101, is amended to read as follows:

Section 1101. A. Prior to July 1, ~~1995~~ 2001 and as provided in Section ~~8~~ 1103.1 of this ~~act~~ title, there is hereby levied, in addition to the gross production tax, an excise tax equal to ninety-five one thousandths of one percent (.095 of 1%) of the gross value on each and every barrel of petroleum oil produced in the State of Oklahoma which is subject to gross production tax in

the State of Oklahoma. Such excise tax of ninety-five one thousandths of one percent (.095 of 1%) of the gross value shall be reported to and collected by the Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on petroleum oil. On petroleum oil sold at the time of production, the excise tax thereon shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid; provided, that in the event oil on which such tax becomes due is not sold at the time of production, but is retained by the producer, the tax on such oil not so sold shall be paid by the producer for himself, including the tax due on royalty oil not sold; and provided, further, that in settlement with royalty owner, such producer shall have the right to deduct the amount of tax so paid on royalty oil, or to deduct therefrom royalty oil equivalent in value at the time such tax becomes due with the amount of tax paid.

The provisions of this subsection shall terminate on June 30, ~~1995~~ 2001.

B. Beginning on July 1, ~~1995~~ 2001, there is hereby levied, in addition to the gross production tax, an excise tax equal to eighty-five one thousandths of one percent (.085 of 1%) of the gross value on each and every barrel of petroleum oil produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such excise tax of eighty-five one thousandths of one percent (.085 of 1%) of the gross value shall be reported to and collected by the Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on petroleum oil. On petroleum oil sold at the time of production, the excise tax thereon shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid; provided, that in the event oil on which such tax becomes due is not sold at the time of production, but is retained by the producer, the tax on such oil not so sold shall be paid by the producer for himself, including the tax due on royalty

oil not sold; and provided, further, that in settlement with royalty owner, such producer shall have the right to deduct the amount of tax so paid on royalty oil, or to deduct therefrom royalty oil equivalent in value at the time such tax becomes due with the amount of tax paid.

SECTION 10. AMENDATORY 68 O.S. 1991, Section 1102, is amended to read as follows:

Section 1102. A. Prior to July 1, ~~1995~~ 2001 and as provided in Section ~~§ 1103.1~~ of this ~~act~~ title, there is hereby levied, in addition to the gross production tax, an excise tax equal to ninety-five one thousandths of one percent (.095 of 1%) of the gross value of all natural gas and/or casinghead gas produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such excise tax of ninety-five one thousandths of one percent (.095 of 1%) of the gross value shall be reported to and collected by the Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on natural gas and/or casinghead gas, and this excise tax shall apply in all cases where the gross production tax provided for by law applies to the production of natural gas and/or casinghead gas. The excise tax shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid, provided, however, that if such natural gas and/or casinghead gas is retained by the producer, then the tax shall be paid by the producer, who shall have the right to deduct the amount of tax so paid on royalty gas at the time of settlement with the royalty owner.

The provisions of this subsection shall terminate on June 30, ~~1995~~ 2001.

B. Beginning on July 1, ~~1995~~ 2001, there is hereby levied, in addition to the gross production tax, an excise tax equal to eighty-five one thousandths of one percent (.085 of 1%) of the gross value of all natural gas and/or casinghead gas produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such excise tax of eighty-five one

thousandths of one percent (.085 of 1%) of the gross value shall be reported to and collected by the Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on natural gas and/or casinghead gas, and this excise tax shall apply in all cases where the gross production tax provided for by law applies to the production of natural gas and/or casinghead gas. The excise tax shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid, provided, however, that if such natural gas and/or casinghead gas is retained by the producer, then the tax shall be paid by the producer, who shall have the right to deduct the amount of tax so paid on royalty gas at the time of settlement with the royalty owner.

SECTION 11. AMENDATORY 68 O.S. 1991, Section 1103, is amended to read as follows:

Section 1103. A. 1. Prior to July 1, ~~1995~~ 2001 and as provided in Section ~~8~~ 1103.1 of this ~~act~~ title, all monies derived from the levy of the excise tax on petroleum oil provided for by Section 1101 of this Code shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

- a. eighty-four and five hundred fifty-three thousandths percent (84.553%) of said excise tax shall be credited and apportioned to a separate and distinct fund to be known as the "Conservation Fund", which fund is hereby created;
- b. ten and five hundred twenty-six thousandths percent (10.526%) shall be credited and apportioned to a separate and distinct fund to be known as the "Corporation Commission Plugging Fund"; and
- c. the remaining four and nine hundred twenty-one thousandths percent (4.921%) of said excise tax shall be credited and apportioned to a separate and distinct fund to be known as "The Interstate Oil Compact Fund of Oklahoma", which fund is hereby created.

2. Prior to July 1, ~~1995~~ 2001 and as provided in Section ~~8~~ 1103.1 of this ~~act~~ title, all monies derived from the levy of the excise tax on natural gas and/or casinghead gas provided for by Section 1102 of this Code shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

- a. eighty-five and four thousand sixty-six ten thousandths percent (85.4066%) of said excise tax shall be credited and apportioned to said Conservation Fund;
- b. ten and five thousand five hundred fifty-five ten thousandths percent (10.5555%) shall be credited and apportioned to the Corporation Commission Plugging Fund; and
- c. four and three hundred seventy-nine ten thousandths percent (4.0379%) of said excise tax shall be credited and apportioned to The Interstate Oil Compact Fund of Oklahoma.

3. Prior to July 1, ~~1995~~ 2001 and as provided in Section ~~8~~ 1103.1 of this ~~act~~ title, all monies to accrue to the "Conservation Fund" under the provisions of this article, together with all monies remaining unexpended in the "Conservation Fund" created under the provisions of this subsection are hereby appropriated and shall be used for the payment of salaries and expenses, including premiums on surety bonds as are required by law, of the employees of the Conservation Department, provided for by statute, and all items of office expense and office supplies, including stationery, telephone and telegraph, postage and printing and all other items of expense as fixed and authorized by law, and all expenses necessary to administer and enforce any other statutes of this state enacted to conserve oil and gas; but no monies shall be paid out of said Conservation Fund until the claim therefor has been itemized and verified by claimant and approved by the Conservation Officer and Corporation Commission, and when so approved, the State Treasurer shall draw his or her warrant therefor upon the State Treasurer and the same shall be paid out of the Conservation Fund hereby created.

4. Prior to July 1, ~~1995~~ 2001 and as provided in Section ~~8~~ 1103.1 of this ~~act~~ title, all monies to accrue to "The Interstate Oil Compact Fund of Oklahoma" under the provisions of this article, together with all monies remaining unexpended in "The Interstate Oil Compact Fund of Oklahoma" created under this subsection are hereby appropriated and shall be used for the payment of the compensation of the assistant representative of the State of Oklahoma on "The Interstate Oil Compact Commission", the compensation of such clerical, technical, and legal assistants as he may with the consent of the Governor employ; the actual and necessary traveling expenses of said assistant representative and employees, and of the Governor when traveling in his or her capacity as official representative of the State of Oklahoma on "The Interstate Oil Compact Commission"; all items of office expense, including the cost of office supplies and equipment; such contributions as the Governor shall deem necessary and proper to pay to "The Interstate Oil Compact Commission" to defray its expenses; and such other necessary expenses as may be incurred in enabling the State of Oklahoma to fully cooperate in accomplishing the objects of the Interstate Compact to conserve oil and gas. Said fund shall be disbursed by the State Treasurer upon sworn, itemized claims approved by the assistant representative and the Governor; provided, that if at the end of any fiscal year any part of said special fund shall remain unexpended, such balance shall be transferred by the State Treasurer to, and become a part of, the "Conservation Fund" of the state for the ensuing fiscal year. Provided, further, that if the State of Oklahoma withdraws from the Interstate Compact to conserve oil and gas, any unencumbered monies in "The Interstate Oil Compact Fund of Oklahoma" shall be transferred to and become a part of the "Conservation Fund" and thereafter the excise tax on petroleum oil, natural gas and/or casinghead gas levied by this article shall be levied and collected wholly for the purpose for which the "Conservation Fund" is created.

5. All monies to accrue to the Corporation Commission Plugging Fund are hereby appropriated and shall be used for payment of expenses related to the statutory purpose of said fund.

The provisions of this subsection shall terminate on June 30, ~~1995~~ 2001.

B. 1. Beginning on July 1, ~~1995~~ 2001, all monies derived from the levy of the excise tax on petroleum oil provided for by Section 1101 of this Code shall be deposited with the State Treasurer, who shall credit and apportion the same as follows: ninety-four and five tenths percent (94.5%) of said excise tax shall be credited and apportioned to a separate and distinct fund to be known as the "Conservation Fund", which fund is hereby created, and the remaining five and five-tenths percent (5.5%) of said excise tax shall be credited and apportioned to a separate and distinct fund to be known as "The Interstate Oil Compact Fund of Oklahoma", which fund is hereby created.

2. Beginning on July 1, ~~1995~~ 2001, all monies derived from the levy of the excise tax on natural gas and/or casinghead gas provided for by Section 1102 of this Code shall be deposited with the State Treasurer, who shall credit and apportion the same as follows: twenty-one twenty-seconds ($21/22$) of said excise tax shall be credited and apportioned to said Conservation Fund, and one twenty-second ($1/22$) of said excise tax shall be credited and apportioned to The Interstate Oil Compact Fund of Oklahoma.

3. Beginning on July 1, ~~1995~~ 2001, all monies to accrue to the "Conservation Fund" under the provisions of this article, together with all monies remaining unexpended in the "Conservation Fund" created under the provisions of this subsection are hereby appropriated and shall be used for the payment of salaries and expenses, including premiums on surety bonds as are required by law, of the employees of the Conservation Department, provided for by statute, and all items of office expense and office supplies, including stationery, telephone and telegraph, postage and printing and all other items of expense as fixed and authorized by law, and all expenses necessary to administer and enforce any other statutes of this state enacted to conserve oil and gas; but

no monies shall be paid out of said Conservation Fund until the claim therefor has been itemized and verified by claimant and approved by the Conservation Officer and Corporation Commission, and when so approved, the State Treasurer shall draw his or her warrant therefor upon the State Treasurer and the same shall be paid out of the Conservation Fund hereby created.

4. Beginning on July 1, ~~1995~~ 2001, all monies to accrue to "The Interstate Oil Compact Fund of Oklahoma" under the provisions of this article, together with all monies remaining unexpended in "The Interstate Oil Compact Fund of Oklahoma" created under this subsection are hereby appropriated and shall be used for the payment of the compensation of the assistant representative of the State of Oklahoma on "The Interstate Oil Compact Commission", the compensation of such clerical, technical, and legal assistants as he or she may with the consent of the Governor employ; the actual and necessary traveling expenses of said assistant representative and employees, and of the Governor when traveling in his or her capacity as official representative of the State of Oklahoma on "The Interstate Oil Compact Commission"; all items of office expense, including the cost of office supplies and equipment; such contributions as the Governor shall deem necessary and proper to pay to "The Interstate Oil Compact Commission" to defray its expenses; and such other necessary expenses as may be incurred in enabling the State of Oklahoma to fully cooperate in accomplishing the objects of the Interstate Compact to conserve oil and gas. Said fund shall be disbursed by the State Treasurer upon sworn, itemized claims approved by the assistant representative and the Governor; provided, that if at the end of any fiscal year any part of said special fund shall remain unexpended, such balance shall be transferred by the State Treasurer to, and become a part of, the "Conservation Fund" of the state for the ensuing fiscal year. Provided, further, that if the State of Oklahoma withdraws from the Interstate Compact to conserve oil and gas, any unencumbered monies in "The Interstate Oil Compact Fund of Oklahoma" shall be transferred to and become a part of the "Conservation Fund" and thereafter the excise tax on petroleum oil, natural gas and/or

casinghead gas levied by this article shall be levied and collected wholly for the purpose for which the "Conservation Fund" is created.

SECTION 12. AMENDATORY 74 O.S. 1991, Section 18b, as last amended by Section 32, Chapter 349, O.S.L. 1993 (74 O.S. Supp. 1994, Section 18b), is amended to read as follows:

Section 18b. A. The duties of the Attorney General as the chief law officer of the state shall be:

1. To appear for the state and prosecute and defend all actions and proceedings, civil or criminal, in the Supreme Court and Court of Criminal Appeals in which the state is interested as a party.

2. To appear for the state and prosecute and defend all actions and proceedings in any of the federal courts in which the state is interested as a party.

3. To initiate or appear in any action in which the interests of the state or the people of the state are at issue, or to appear at the request of the Governor, the Legislature, or either branch thereof, and prosecute and defend in any court or before any commission, board or officers any cause or proceeding, civil or criminal, in which the state may be a party or interested; and when so appearing in any such cause or proceeding, he may, if he deems it advisable and to the best interest of the state, take and assume control of the prosecution or defense of the state's interest therein.

4. To consult with and advise district attorneys, when requested by them, in all matters pertaining to the duties of their offices, when said district attorneys shall furnish the Attorney General with a written opinion supported by citation of authorities upon the matter submitted.

5. To give his opinion in writing upon all questions of law submitted to him by the Legislature or either branch thereof, or by any state officer, board, commission or department, provided, that the Attorney General shall not furnish opinions to any but district attorneys, the Legislature or either branch thereof, or

any other state official, board, commission or department, and to them only upon matters in which they are officially interested.

6. At the request of the Governor, State Auditor and Inspector, State Treasurer, or either branch of the Legislature, to prosecute any official bond or any contract in which the state is interested, upon a breach thereof, and to prosecute or defend for the state all actions, civil or criminal, relating to any matter connected with either of their Departments.

7. Whenever requested by any state officer, board or commission, to prepare proper drafts for contracts, forms and other writing which may be wanted for the use of the state.

8. To prepare drafts of bills and resolutions for individual members of the Legislature upon their written request stating the gist of the bill or resolution desired.

9. To enforce the proper application of monies appropriated by the Legislature and to prosecute breaches of trust in the administration of such funds.

10. To institute actions to recover state monies illegally expended, to recover state property and to prevent the illegal use of any state property, upon the request of the Governor or the Legislature.

11. To pay into the State Treasury, immediately upon its receipt, all monies received by him belonging to the state.

12. To keep and file copies of all opinions, contracts, forms and letters of the office, and to keep an index of all opinions, contracts and forms according to subject and section of the law construed or applied.

13. To keep a register or docket of all actions, demands and investigations prosecuted, defended or conducted by him in behalf of the state. Said register or docket shall give the style of the case or investigation, where pending, court number, office number, the gist of the matter, result and the names of the assistants who handled the matter.

14. To keep a complete office file of all cases and investigations handled by him on behalf of the state.

15. To report to the Legislature or either branch thereof whenever requested upon any business relating to the duties of his office.

16. To institute civil actions against members of any state board or commission for failure of such members to perform their duties as prescribed by the statutes and the Constitution and to prosecute members of any state board or commission for violation of the criminal laws of this state where such violations have occurred in connection with the performance of such members' official duties.

17. To respond to any request for an opinion of his office, submitted by a member of the Legislature, regardless of subject matter, by written opinion determinative of the law regarding such subject matter.

18. To convene multicounty grand juries in such manner and for such purposes as provided by law; provided, such grand juries are composed of citizens from each of the counties on a pro rata basis by county.

19. To investigate any report by the State Auditor and Inspector filed with him pursuant to Section 223 of this title and prosecute all actions, civil or criminal, relating to such reports or any irregularities or derelictions in the management of public funds or property which are violations of the laws of this state.

20. To represent and protect the collective interests of all utility consumers of this state in rate-related proceedings before the Corporation Commission or in any other state or federal judicial or administrative proceeding.

21. To represent and protect the collective interests of insurance consumers of this state in rate-related proceedings before the Insurance Property and Casualty Rate Board or in any other state or federal judicial or administrative proceeding.

22. To certify local crimestoppers programs qualified to receive repayments of rewards pursuant to Section 991a of Title 22 of the Oklahoma Statutes.

B. Nothing in this section shall be construed as requiring the Attorney General to appear and defend or prosecute in any

court any cause or proceeding for or on behalf of the Oklahoma Tax Commission, the Board of Managers of the State Insurance Fund, or the Commissioners of the Land Office.

C. In all appeals from the Corporation Commission to the Supreme Court of Oklahoma in which the state is a party, the Attorney General shall have the right to designate counsel of the Corporation Commission as his legally appointed representative in such appeals, and it shall be the duty of the said Corporation Commission counsel to act when so designated and to consult and advise with the Attorney General regarding such appeals prior to taking action therein.

SECTION 13. AMENDATORY 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-5.5) and as last amended by Section 1 of Enrolled Senate Bill No. 454 of the 1st Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 840-5.5 A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided. Provided any person unclassified pursuant to this paragraph on the effective date of this act in a capacity that does not meet the criteria listed in this paragraph may continue to be employed in such status until July 1, 1995;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and State Department of Vocational and Technical Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period. This category of employees may include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Temporary lake patrol officers, regardless of the number of hours worked, who are employed by the Department of Public Safety during the period March 16 through October 31 in any calendar year; provided, the hours worked shall be considered in determining the temporary employee's eligibility for subsequent employment in any other unclassified temporary employment category;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

a. an institution of higher learning within The Oklahoma State System of Higher Education,

b. an institution of higher learning qualified to become coordinated with said State System of Higher

Education. For purposes of this act a student shall be considered a regularly enrolled student if he or she is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, and such student is regularly attending classes during that semester of employment, or

- c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's Full-Time-Equivalent Employee Limit;

14. Employees of either the House of Representatives or the State Senate or the Legislative Service Bureau;

15. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, personnel managers and comptrollers,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist, ~~and~~
- g. Public Utility Division Deputy Director, and

h. Secretary of the Commission;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Bill Willis Community Mental Health Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director,
- d. Executive Secretary to Director, and
- e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Information Services Divisions Manager,
- c. Network Manager, and
- d. Network Technician;

19. Employees of the Oklahoma Development Finance Authority;

20. Those positions so specified in the annual business plan of the Department of Commerce;

21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

22. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and

- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

23. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;

24. Department of Labor personnel occupying the following offices and positions:

- a. Deputy Commissioner,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. Administrative Assistant, Legal;

25. The State Bond Advisor and his employees;

26. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and
- c. Assistant to the Executive Director;

27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;

28. The officers and employees of the State Banking Department;

29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the three Administrative Service Assistant positions;

31. The Oklahoma State Bureau of Investigation employee occupying the Special Investigator position; and

32. The Governor's Representative of the Oklahoma Highway Safety Office of the Oklahoma Department of Public Safety who shall be appointed by the Governor.

B. The unclassified service of the state may include, at the discretion of the appointing authority, the following regular offices, positions and personnel:

1. Licensed medical doctors, osteopathic physicians, dentists, and psychologists;
2. Certified public accountants;
3. Licensed attorneys; and
4. Licensed veterinarians.

SECTION 14. AMENDATORY 85 O.S. 1991, Section 2b, is amended to read as follows:

Section 2b. A. All public entities of this state, their agencies and instrumentalities, authorities and public trusts of which they are beneficiaries shall provide workers' compensation to their employees and elected officials engaged in either governmental or proprietary functions in accordance with this section. Such provision of compensation shall be paid for out of the funds of such public entities.

1. The state and all its institutions of higher education, departments, instrumentalities, institutions and public trusts of which they are beneficiaries shall insure against their liability for workers' compensation with the State Insurance Fund and shall not insure with any other insurance carrier unless the State Insurance Fund refuses to accept the risk when the application for insurance is made, or unless specifically authorized by law.

The state and all its institutions of higher education, departments, instrumentalities, institutions and public trusts of which they are beneficiaries may self-insure under rules and regulations promulgated by the State Insurance Fund. Such self-insurance may only be obtained through the State Insurance Fund. The state and all its institutions of higher education, departments, instrumentalities, institutions, and public trusts so electing to self-insure shall pay premiums quoted by the State Insurance Fund. The State Insurance Fund shall collect said premiums, pay all claims and provide for excess insurance. All dividends or profits accumulating from such self-insurance program

shall be refunded to the participants on a formula devised by the State Insurance Fund.

2. All counties, cities and towns, their instrumentalities and public trusts of which they are beneficiaries shall insure against their liability for workers' compensation with the State Insurance Fund; or through any combination of the following may:

- a. self-insure and make any appropriation of funds to cover their risk~~;~~;
- b. secure reinsurance or excess insurance over and above a self-insurance retention in any manner authorized by subsections B and C of Section 167 of Title 51 of the Oklahoma Statutes~~;~~;
- c. secure compensation for their employees in the manner provided in the Political Subdivision Tort Claims Act, subsection C of Section 167 of the Oklahoma Statutes, or
- d. insure with other insurance carriers licensed in the State of Oklahoma.

As used in this section, "city" or "town" includes any public trust or authority of which the city or town is beneficiary.

3. Boards of education, their instrumentalities and public trusts of which they are beneficiaries shall insure against their liability for workers' compensation with the State Insurance Fund; or through any combination of the following may:

- a. self-insure and make any appropriation of funds to cover their risk~~;~~;
- b. secure reinsurance or excess insurance over and above a self-insured retention in any manner authorized by subsection B of Section 168 of Title 51 of the Oklahoma Statutes~~;~~; or
- c. insure with other insurance carriers licensed in the State of Oklahoma.

B. In addition to any other provision of this section, city, county, city-county and public trust hospitals may insure with other insurance carriers licensed in this state if it can be demonstrated to the governing body of said hospital prior to the inception date of a workers' compensation policy each year that

such policy will result in a lower cost than one with the State Insurance Fund.

C. For purposes of the Workers' Compensation Act, all contracts of employment for state, county, municipal and state funded educational entities and public trusts will be considered to have been entered into in this state regardless of where the work is performed.

D. Where a person who is employed by the state, a municipality or a county, or by any political subdivisions thereof, and who, while off-duty from said employment, is employed by a private employer, the private employer alone shall be liable for compensation under the Workers' Compensation Act for any injury of the person or his death arising out of and in the course of employment which occurs during the hours of his actual employment by the private employer. The provisions of Section 11 of this title shall be applicable to private employers specified in this subsection. The provisions of this subsection shall not relieve the state, a municipality or a county, or any political subdivision thereof, from providing disability benefits to which a person may be entitled pursuant to a pension or retirement plan. Provided, further, the provisions of this subsection shall not preclude an employee or group of employees so employed from providing separate compensation coverage for off-duty employment by a private employer.

SECTION 15. The provisions of Section 2 of this act shall not be codified in the Oklahoma Statutes.

SECTION 16. Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of this act shall become effective July 1, 1995.

SECTION 17. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.