ENROLLED SENATE
BILL NO. 911

By: Easley, Fair, Long (Ed), Kerr, Campbell and Williams (Don) of the Senate

and

Rice, Hastings, Adkins, Morgan, Thornbrugh, Kinnamon, Hager, Voskuhl, Taylor, Perry, Weaver, Smith (Dale), Stites, Smith (Bill), Mitchell, Staggs, Beutler and Hiett of the House

An Act relating to economically at-risk oil leases; amending 68 O.S. 1991, Section 1001, as last amended by Section 1, Chapter 321, O.S.L. 1995, 2353, as amended by Section 24, Chapter 278, O.S.L. 1994 and 2357.11, as last amended by Section 25, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1995, Sections 1001, 2353 and 2357.11), which relate to certain taxes; modifying definition; clarifying statutory language; defining terms; providing for certain tax exemption; stating time period; providing for tax apportionment; requiring documentation for application; stating certain calculation for determining economically at-risk oil leases; authorizing the Tax Commission to certify economically at-risk oil leases within certain time period; requiring Tax Commission to promulgate certain rules; stating procedures for operators of economically at-risk oil leases; modifying definition of taxable income; authorizing certain tax credit for Oklahoma-mined coal purchases; providing for certain tax credits to be transferable; stating transfer procedures; creating

the Energy Administration Reform Task Force; stating membership; stating certain chair and vice-chair; providing for certain agency support; providing for staff; providing for meetings and subcommittees; requiring report by certain date; stating purpose; providing for termination date; providing for codification; 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 68 O.S. 1991, Section 1001, as last amended by Section 1, Chapter 321, O.S.L. 1995 (68 O.S. Supp. 1995, Section 1001), is amended to read as follows:

Section 1001. (a) There is hereby levied upon the production of asphalt, ores bearing lead, zinc, jack, gold, silver and copper a tax equal to three-fourths of one percent (3/4 of 1%) on the gross value thereof.

(b) Except as otherwise exempted pursuant to subsections (d), (e), (f), (g), (h) and (i) of this section, there is hereby levied upon the production of oil a tax equal to seven percent (7%) of the gross value of the production of oil based on a per barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit and a tax equal to seven percent (7%) of the gross value of the production of gas.

(c) The tax hereby levied shall also attach to, and is levied on, what is known as the royalty interest; and the amount of such tax shall be a lien on such interest.

(d) (1) Any incremental production attributable to the working interest owners which results from an enhanced recovery project shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved for new enhanced recovery projects or until project payback is achieved but not to exceed a period of thirty-six (36) months for tertiary enhanced recovery projects existing on July 1, 1988. This exemption shall take effect July 1, 1988 and shall apply to enhanced recovery projects approved or having a project beginning date prior to July 1, 1993. Project payback pursuant to this paragraph for enhanced recovery projects qualifying for this exemption on or after July 1, 1990, and on or before June 30, 1993, shall be determined by appropriate payback indicators which will not include any expenses beyond the completion date of the well. Project payback pursuant to this paragraph for enhanced recovery projects qualifying for this exemption on or after October 17, 1987, and on or before June 30, 1990, shall be determined by appropriate payback indicators as previously established and allowed by the Oklahoma Tax Commission for projects qualifying during such period.

(2) For secondary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 1998, any incremental production attributable to the working interest owners which results from such secondary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved but not to exceed a period of ten (10) years. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and fifty percent (50%) of operating expenses, in determining project payback.

(3) For tertiary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 1998, any incremental production attributable to the working interest owners which results from such tertiary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved, but not to exceed a period of ten (10) years. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and operating expenses, excluding administrative expenses, in determining project payback. The capital expenses of pipelines constructed to transport carbon dioxide to a tertiary recovery project shall not be included in determining project payback pursuant to this paragraph.

(4) The provisions of this subsection shall also not apply to any enhanced recovery project using fresh water as the primary injectant, except when using steam.

(5) For purposes of this subsection:

a. "incremental production" means the amount of crude oil or other liquid hydrocarbons which is produced during an enhanced recovery project and which is in excess of the base production amount of crude oil or other liquid hydrocarbons. The base production amount shall be the average monthly amount of production for the twelve-month period immediately prior to the project beginning date minus the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the project beginning date. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the project beginning date as determined by the Corporation Commission based on the production history of the field, its current status, and sound reservoir engineering principles.

b. "project beginning date" means the date on which the injection of liquids, gases, or other matter begins on an enhanced recovery project.

(6) The Corporation Commission shall promulgate rules for the qualification for this exemption which shall include, but not be limited to, procedures for determining incremental production as defined in subparagraph a of paragraph (5) of this subsection, and the establishment of appropriate payback indicators as approved by the Oklahoma Tax Commission for the determination of project payback for each of the exemptions authorized by this subsection.

(7) For new secondary recovery projects and tertiary recovery projects approved by the Corporation Commission on or after July 1, 1993, and before July 1, 1998, such approval shall constitute qualification for an exemption.

(8) Any person seeking an exemption shall file an application for such exemption with the Oklahoma Tax Commission which, upon

determination of qualification by the Corporation Commission, shall approve the application for such exemption.

(9) The Tax Commission may require any person requesting such exemption to furnish information or records concerning the exemption as is deemed necessary by the Commission.

(10) Upon the expiration of the exemption granted pursuant to this subsection, the Tax Commission shall collect the gross production tax levied pursuant to this section.

(e) (1) The production of oil, gas or oil and gas from a horizontally drilled well producing prior to July 1, 1994, which production commenced after July 1, 1990, or producing prior to July 1, 1997, which production commenced after July 1, 1995, shall be exempt from the gross production tax levied pursuant to subsection (b) of this section from the project beginning date until project payback is achieved but not to exceed a period of twenty-four (24) months commencing with the month of initial production from the horizontally drilled well. Provided, any incremental production which results from a horizontally drilled well producing prior to July 1, 1994, shall be exempt from the gross production tax levied pursuant to subsection (b) of this section from the project beginning date until project payback is achieved but not to exceed a period of twenty-four (24) months commencing with the month of initial production from the horizontally drilled well. For purposes of subsection (d) of this section and this subsection, project payback shall be determined as of the date of the completion of the well and shall not include any expenses beyond the completion date of the well, and subject to the approval of the Oklahoma Tax Commission.

(2) As used in this subsection, "horizontally drilled well" shall mean an oil, gas or oil and gas well drilled or recompleted in a manner which encounters and subsequently produces from a geological formation at an angle in excess of seventy (70) degrees from vertical and which laterally penetrates a minimum of one hundred fifty (150) feet into the pay zone of said formation.

(f) (1) Except as otherwise provided in subsection (j) of this section, the severance or production of oil, gas or oil and gas from an inactive well shall be exempt from the gross production tax levied pursuant to subsection (b) of this section for a period of twenty-eight (28) months from the date upon which production is reestablished. This exemption shall take effect July 1, 1994, and shall apply to wells for which production is reestablished prior to July 1, 1997. For all such production, a refund against gross production taxes shall be issued as provided in subsection (k) of this section.

(2) As used in this subsection, "inactive well" means any well that has not produced oil, gas or oil and gas for a period of not less than two (2) years as evidenced by the appropriate forms on file with the Corporation Commission reflecting the well's status.

(g) (1) Except as otherwise provided in subsection (j) of this section, any incremental production which results from a production enhancement project shall be exempt from the gross production tax levied pursuant to subsection (b) of this section for a period of twenty-eight (28) months from the date of project completion of the production enhancement project. This exemption shall take effect July 1, 1994, and shall apply to production enhancement projects having a project beginning date prior to July 1, 1997. For all such production, a credit against gross production taxes shall be issued as provided in subsection (k) of this section.

(2) As used in this subsection:

a. "production enhancement project" means any workover as defined in this paragraph, recompletion as defined in this paragraph, or fracturing of a producing well,

b. "incremental production" means the amount of crude oil, natural gas or other hydrocarbons which are produced as a result of the production enhancement project in excess of the base production,

c. "base production" means the average monthly amount of production for the twelve-month period immediately prior to either the filing of the application of the production enhancement project or the commencement of the project, whichever is earlier. If the well or wells covered in the application had production for less than the full twelve-month period prior to the filing of the application for the production enhancement project, then the base production shall be the average monthly production for the months during that period that the well or wells produced,

d. "recompletion" means any downhole operation in an existing oil or gas well that is conducted to establish production of oil or gas from any geological interval not currently completed or producing in said existing oil or gas well, and

e. "workover" means any downhole operation in an existing oil or gas well that is designed to sustain, restore or increase the production rate or ultimate recovery in a geologic interval currently completed or producing in said existing oil or gas well. "Workover" includes but is not limited to acidizing, reperforating, fracture treating, sand/paraffin removal, casing repair, squeeze cementing, or setting bridge plugs to isolate water productive zones from oil or gas productive zones, or any combination thereof. "Workover" shall not mean the routine maintenance, routine repair, or like for like replacement of downhole equipment such as rods, pumps, tubing, packers, or other mechanical devices.

(h) (1) Except as otherwise provided in subsection (j) of this section, the production of oil, gas or oil and gas from wells spudded between July 1, 1994, and June 30, 1997, and drilled to a depth of fifteen thousand (15,000) feet or greater shall be exempt from the gross production tax levied pursuant to subsection (b) of this section from the date of first sales for a period of twenty-eight (28) months. For all such wells spudded, a refund against gross production taxes shall be issued as provided in subsection (k) of this section.

(2) In no case shall the total amount of gross production tax exemption provided for in paragraph (1) of this subsection exceed the total cost of drilling and completing the well.

(3) The Corporation Commission shall deliver to the Legislature a report on the number of wells as defined by paragraph (1) of this subsection that are drilled and the amount of production from those wells. The first such report shall be delivered to the Legislature no later than February 1, 1996, and each February 1, thereafter, until the conclusion of the program.

(i) (1) Except as otherwise provided in subsection (j) of this section, the production of oil, gas or oil and gas from wells spudded or re-entered between July 1, 1995, and June 30, 1997, which qualify as a new discovery pursuant to this subsection shall be exempt from the gross production tax levied pursuant to subsection (b) of this section from the date of first sales for a period of twenty-eight (28) months. For all such wells spudded or re-entered, a refund against gross production taxes shall be issued as provided in subsection (k) of this section. As used in this subsection, "new discovery" means production of oil, gas or oil and gas from:

a. a well that discovers crude oil in paying quantities that is more than one (1) mile from the nearest oil well producing from the same producing formation,

b. a well that discovers crude oil in paying quantities beneath current production in a deeper producing formation that is more than one (1) mile from the nearest oil well producing from the same deeper producing formation,

c. a well that discovers natural gas in paying quantities that is more than two (2) miles from the nearest gas well producing from the same producing formation, or

d. a well that discovers natural gas in paying quantities beneath current production in a deeper producing formation that is more than two (2) miles from the nearest gas well producing from the same deeper producing formation.

(2) In no case shall the total amount of gross production tax exemption or credit provided for in paragraph (1) of this subsection exceed the total cost of drilling and completing the well.

(3) The Corporation Commission shall deliver to the Legislature a report on the number of wells as defined by paragraph (1) of this subsection that are drilled and the amount of production from those wells. The first such report shall be delivered to the Legislature no later than February 1, 1997, and each February 1, thereafter, until the conclusion of the program.

(j) (1) The exemptions provided for in subsections (f), (g), (h) and (i) of this section shall not apply:

a. to the severance or production of oil, upon determination by the Oklahoma Tax Commission that the weighted average price of Oklahoma oil exceeds Twenty Dollars ($20.00) per barrel calculated on an annual calendar year basis, and

b. to the severance or production of gas, upon determination by the Oklahoma Tax Commission that the weighted average wellhead price of Oklahoma gas exceeds Two Dollars and fifty cents ($2.50) per Million British Thermal Units (1MM BTU) calculated on an annual calendar year basis.

(2) Notwithstanding the exemptions granted pursuant to subsections (e), (f), (g), (h) and (i) of this section, there shall continue to be levied upon the production of petroleum or other crude or mineral oil or natural gas or casinghead gas, as provided in subsection (b) of this section, from any wells provided for in subsection (e), (f), (g), (h) or (i) of this section, a tax equal to one percent (1%) of the gross value of the production of petroleum or other crude or mineral oil or natural gas or casinghead gas. The tax hereby levied shall be apportioned as follows:

a. fifty percent (50%) of the sum collected shall be apportioned to the County Highway Fund as provided in paragraph 3 of Section 1004 of this title, and

b. fifty percent (50%) of the sum collected shall be apportioned to the appropriate school district as provided in paragraph 4 of Section 1004 of this title.

Upon the expiration of the exemption granted pursuant to subsection (e), (f), (g), (h) or (i) of this section, the provisions of this paragraph shall have no force or effect.

(k) For all production exempt from gross production taxes pursuant to subsections (f), (g) and (h) of this section between July 1, 1994, and June 30, 1995, a refund against gross production taxes shall be issued to the well operator or a designee in the amount of such gross production taxes paid from the date of first sales through June 30, 1995, which shall not be claimed until after July 1, 1995. For all production exempt from gross production taxes

pursuant to subsections (e), (f), (g), (h) and (i) of this section between July 1, 1995, and June 30, 1996, a refund against gross production taxes shall be issued to the well operator or a designee in the amount of such gross production taxes paid during such period, which shall not be claimed until after July 1, 1996. For all such production between July 1, 1996, and June 30, 1997, a refund against gross production taxes shall be issued to the well operator or a designee in the amount of such gross production taxes paid during such period, which shall not be claimed until after July 1, 1997.

(l) (1) The Corporation Commission and the Oklahoma Tax Commission shall promulgate joint rules for the qualification for the exemptions provided for in subsections (e), (f), (g), (h) and (i) of this section and the rules shall contain provisions for verification of any wells from which production may be qualified for the exemptions.

(2) Any person requesting any exemption shall file an application for qualification for the exemption with the Corporation Commission which, upon finding that the well meets the requirements of subsection (e), (f), (g), (h) or (i) of this section, shall approve the application for qualification.

(3) Any person seeking an exemption shall:

a. file an application for the exemption with the Oklahoma Tax Commission which, upon determination of qualification by the Corporation Commission, shall approve the application for an exemption, and

b. provide a copy of said approved application to the remitter of the gross production tax.

(4) The Tax Commission may require any person requesting an exemption to furnish necessary financial and other information or records in order to determine and justify the refund.

(5) Upon the expiration of the exemption granted pursuant to subsection (e), (f), (g), (h) or (i) of this section, the Tax Commission shall collect the gross production tax levied pursuant to this section. If a person who qualifies for the exemption elects to remit his or her own gross production tax during the exemption period, the first purchaser shall not be liable to withhold or remit the tax until the first day of the month following the receipt of written notification from the person who is qualified for such exemption stating that such exemption has expired and directing the first purchaser to resume tax remittance on his or her behalf.

(m) All persons shall only be entitled to either the exemption granted pursuant to subsection (d) of this section or the exemption granted pursuant to subsection (e), (f), (g), (h) or (i) of this section for each oil, gas or oil and gas well drilled or recompleted in this state. However, any person who qualifies for the exemption granted pursuant to subsection (e), (f), (g), (h) or (i) of this section shall not be prohibited from qualification for the exemption granted pursuant to subsection (d) of this section, if the exemption granted pursuant to subsection (e), (f), (g), (h) or (i) of this section has expired.

(n) The Tax Commission shall have the power to require any such person engaged in mining or the production or the purchase of such asphalt, mineral ores aforesaid, oil, or gas, or the owner of any royalty interest therein to furnish any additional information by it deemed to be necessary for the purpose of correctly computing the amount of said tax; and to examine the books, records and files of such person; and shall have power to conduct hearings and compel the attendance of witnesses, and the production of books, records and papers of any person.

(o) Any person or any member of any firm or association, or any officer, official, agent or employee of any corporation who shall fail or refuse to testify; or who shall fail or refuse to produce

any books, records or papers which the Tax Commission shall require; or who shall fail or refuse to furnish any other evidence or information which the Tax Commission may require; or who shall fail or refuse to answer any competent questions which may be put to him or her by the Tax Commission, touching the business, property, assets or effects of any such person relating to the gross production tax imposed by this article or exemption authorized pursuant to this section or other laws, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or imprisonment in the jail of the county where such offense shall have been committed, for not more than one (1) year, or by both such fine and imprisonment; and each day of such refusal on the part of such person shall constitute a separate and distinct offense.

(p) The Tax Commission shall have the power and authority to ascertain and determine whether or not any report herein required to be filed with it is a true and correct report of the gross products, and of the value thereof, of such person engaged in the mining or production or purchase of asphalt and ores bearing minerals aforesaid and of oil and gas. If any person has made an untrue or incorrect report of the gross production or value or volume thereof, or shall have failed or refused to make such report, the Tax Commission shall, under the rules prescribed by it, ascertain the correct amount of either, and compute said tax.

(q) The payment of the taxes herein levied shall be in full, and in lieu of all taxes by the state, counties, cities, towns, school districts and other municipalities upon any property rights attached to or inherent in the right to said minerals, upon producing leases for the mining of asphalt and ores bearing lead, zinc, jack, gold, silver or copper, or for oil, or for gas, upon the mineral rights and privileges for the minerals aforesaid belonging or appertaining to land, upon the machinery, appliances and equipment used in and around any well producing oil, or gas, or any mine producing asphalt or any of the mineral ores aforesaid and actually used in the operation of such well or mine. The payment of gross production tax shall also be in lieu of all taxes upon the oil, gas, asphalt or ores bearing minerals hereinbefore mentioned during the tax year in which the same is produced, and upon any investment in any of the leases, rights, privileges, minerals or other property described herein. Any interest in the land, other than that herein enumerated, and oil in storage, asphalt and ores bearing minerals hereinbefore named, mined, produced and on hand at the date as of which property is assessed for general and ad valorem taxation for any subsequent tax year, shall be assessed and taxed as other property within the taxing district in which such property is situated at the time.

(r) No equipment, material or property shall be exempt from the payment of ad valorem tax by reason of the payment of the gross production tax except such equipment, machinery, tools, material or property as is actually necessary and being used and in use in the production of asphalt or of ores bearing lead, zinc, jack, gold, silver or copper or of oil or gas. It is expressly declared that no ice plants, hospitals, office buildings, garages, residences, gasoline extraction or absorption plants, water systems, fuel systems, rooming houses and other buildings, nor any equipment or material used in connection therewith, shall be exempt from ad valorem tax.

(s) The exemption from ad valorem tax set forth in subsections (q) and (r) of this section shall continue to apply to all property from which production of oil, gas or oil and gas is exempt from gross production tax pursuant to subsection (d), (e), (f), (g), (h) or (i) of this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1001.3 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. "Economically at-risk oil lease" means any lease operated at a net loss or net profit which is less than the total gross production tax remitted for such lease during the previous tax reporting year. For the purpose of this section "lease" shall be defined as in Section 1001.2 of Title 68 of the Oklahoma Statutes.

B. When certified as such pursuant to the provisions of this section, an economically at-risk oil lease shall be eligible for an exemption equaling six-sevenths (6/7) of the gross production tax levied pursuant to subsection (b) of Section 1001 of Title 68 of the Oklahoma Statutes for production on such lease during the previous calendar year. The exemption shall not apply if it is determined by the Oklahoma Tax Commission that during the previous calendar year the weighted average price of Oklahoma oil exceeds Twenty Dollars ($20.00) per barrel calculated on an annual calendar year basis. For all production exempt from gross production taxes pursuant to this section, a refund of gross production taxes paid in the previous calendar year shall be issued to the well operator or a designee. The refund shall not be claimed until after July 1 of the subsequent year.

C. Notwithstanding the exemption granted pursuant to this section, all revenue derived from the one-seventh (1/7) remaining of the tax levy imposed by Section 1001 of Title 68 of the Oklahoma Statutes as gross production tax after the exemption shall be apportioned as follows:

1. Fifty percent (50%) of the sum collected shall be apportioned to the County Highway Fund as provided in paragraph 3 of Section 1004 of Title 68 of the Oklahoma Statutes; and

2. Fifty percent (50%) of the sum collected shall be apportioned to the appropriate school district as provided in paragraph 4 of Section 1004 of Title 68 of the Oklahoma Statutes.

D. Any operator making application for an economically at-risk oil lease status under the provisions of this section shall submit documentation to the Oklahoma Tax Commission, as determined by the Oklahoma Tax Commission to be appropriate and necessary including, but not limited to, the operator's federal income tax return for the previous year for such lease.

E. For the purposes of this section, determination of the economically at-risk oil lease status shall be made by subtracting from the gross revenue of that lease for the previous calendar year severance taxes, if any, royalty, operating expenses of the lease to include expendable workover and recompletion costs for the previous calendar year, and including overhead costs up to the maximum overhead percentage allowed by the Council of Petroleum Accountants Societies (COPAS) guidelines. For the purposes of this calculation, depreciation, depletion or intangible drilling costs shall not be included as lease operating expenses.

F. The Oklahoma Tax Commission shall have sole authority to determine if an oil lease qualifies for certification as an economically at-risk oil lease and shall make the determination within sixty (60) days after an application is filed for economically at-risk oil lease status. The Oklahoma Tax Commission shall promulgate rules governing the certification process.

G. Gross production tax exemptions under the provisions of this section shall be limited to production from calendar years 1996, 1997 and 1998.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 2353, as amended by Section 24, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1995, Section 2353), is amended to read as follows:

Section 2353. For the purpose of and when used in this article unless the context otherwise requires:

1. The term "Tax Commission" means the Oklahoma Tax Commission;

2. "Internal Revenue Code" means the United States Internal Revenue Code, as the same may be amended or adopted from time to time applicable to the taxable year; and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time or from time to time applicable to the taxable year;

3. Any term used in this act shall have the same meaning as when used in a comparable context in the Internal Revenue Code, unless a different meaning is clearly required. For all taxable periods covered by this act, the tax status and all elections of all taxpayers covered by this act shall be the same for all purposes material hereto as they are for federal income tax purposes except when this act specifically provides otherwise;

4. "Resident individual" means a natural person who is domiciled in this state, and any other natural person who spends in the aggregate more than seven (7) months of the taxable year within this state shall be presumed to be a resident for purposes of this act in absence of proof to the contrary. A natural person who resides less than seven (7) months of the taxable year within this state is presumed to be a "part-year resident individual" for purposes of the Oklahoma Income Tax Code, Section 2351 et seq. of this title, in absence of proof to the contrary. A "nonresident individual" means an individual other than a resident individual or a part-year resident individual.

For all tax years beginning after December 31, 1981, a nonresident individual, with respect to foreign earned income and deductions, shall include an individual who:

a. during any period of twenty-four (24) consecutive months is out of the United States at least five hundred fifty (550) days,

b. during such period referred to in subparagraph a is not present in this state for more than ninety (90) days during any taxable year,

c. during any period of less than an entire taxable year, which period is contained within the period referred to in subparagraph a, is not present in this state for a number of days in excess of an amount which bears the same ratio to ninety (90) days as the number of days contained in the period of less than an entire taxable year bears to three hundred sixty-five (365), and

d. during such period referred to in subparagraph a does not maintain a permanent place of abode in this state at which the spouse of the individual, unless such spouse is legally separated, or minor children of the individual are present for more than one hundred eighty (180) days;

5. "Resident estate" means the estate of a decedent who at his death was domiciled in this state. "Nonresident estate" means an estate other than a resident estate;

6. "Resident trust" means (a) a trust, or a portion of a trust, consisting of property transferred by will of a decedent domiciled in this state at his death, or (b) a trust, or a portion of a trust, consisting of the property of a person domiciled in this state if such trust is not irrevocable and (c) a trust, or portion of a trust, consisting of property of a person domiciled in this state at the time such property was transferred to the trust if such trust or portion was then irrevocable or a person domiciled in this state at the time such trust or portion became irrevocable. A trust, or portion of a trust, is irrevocable if it is not subject to a power exercisable solely by the transferor of such property, at any time,

to revest title in himself. "Nonresident trust" means a trust other than a resident trust;

7. "Resident partner" means a partner who is a resident individual, a resident estate, a resident trust or a resident corporation. "Nonresident partner" means a partner other than a resident partner;

8. "Resident beneficiary" means a beneficiary of an estate or trust which beneficiary is a resident individual, a resident estate, a resident trust or a resident corporation. "Nonresident beneficiary" means a beneficiary other than a resident beneficiary;

9. "Resident corporation" means a corporation whose principal place of business is located within the State of Oklahoma. "Nonresident corporation" means any corporation other than a resident corporation;

10. "Taxable income" with respect to any taxpayer means the "taxable income", "life insurance company taxable income", "mutual insurance company taxable income", "(regulated) investment company taxable income", "real estate investment trust taxable income", and "cooperatives' taxable income" and any other "taxable income" as defined in the Internal Revenue Code as applies to such taxpayer or any other income of such taxpayer including, but not limited to, lump sum distributions as defined by the Internal Revenue Code of 1986, as amended; provided, in the case of income derived from oil and gas well production, any taxpayer, at his or her option, may deduct as an allowance for depletion, in lieu of other calculation of depletion based on the cost of the oil and gas deposit, twenty-two percent (22%) of the gross income derived from the properties during the taxable year. Provided further, for tax years beginning on or after January 1, 1997, and ending on or before December 31, 1999, for major oil companies as defined in Section 288.2 of Title 52 of the Oklahoma Statutes, such allowance shall not exceed fifty percent (50%) of the net income of the taxpayer (computed without allowance for depletion) from the property. Thereafter, for all taxpayers, such allowance shall not exceed fifty percent (50%) of the net income of the taxpayer (computed without allowance for depletion) from the property. If a depletion allowance is allowed as a deduction in arriving at the adjusted gross income in the case of an individual, or taxable income for corporations and trusts, or distributable income of partnerships by the Internal Revenue Service, the percentage depletion so calculated shall in no event be a duplication of depletion allowed on the Federal Income Tax Return;

11. "Adjusted gross income" means "adjusted gross income" as defined in the Internal Revenue Code;

12. "Oklahoma taxable income" means "taxable income" as reported (or as would have been reported by the taxpayer had a return been filed) to the federal government, and in the event of adjustments thereto by the federal government as finally ascertained under the Internal Revenue Code, adjusted further as hereinafter provided;

13. "Oklahoma adjusted gross income" means "adjusted gross income" as reported to the federal government (or as would have been reported by the taxpayer had a return been filed), or in the event of adjustments thereby by the federal government as finally ascertained under the Internal Revenue Code, adjusted further as hereinafter provided;

14. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States or any political subdivision thereof; and

15. "Taxpayer" means any person subject to a tax imposed by this Article, or whose income is, in whole or in part, subject to a tax imposed by any provision of this article.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 2357.11, as last amended by Section 25, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1995, Section 2357.11), is amended to read as follows:

Section 2357.11. A. For tax years beginning on or after January 1, 1993, and ending on or before December 31, 1999, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title for every corporation in this state furnishing water, heat, light or power to the state or its citizens, or for every corporation in this state burning coal to generate heat, light or power for use in manufacturing operations located in this state. The credit shall be in the amount of One Dollar ($1.00) per ton for each ton of Oklahoma-mined coal purchased by such corporation. Except as otherwise provided by subsection D of this section, this credit shall be prorated equally against the corporation's estimated payments for the tax year in which the coal was purchased.

B. For tax years beginning on or after January 1, 1995, and ending on or before December 31, 1999, there shall be allowed, in addition to the credit allowed pursuant to subsection A of this section, a credit against the tax imposed by Section 1803 or Section 2355 of this title for every corporation in this state furnishing water, heat, light or power to the state or its citizens, or for every corporation in this state burning coal to generate heat, light or power for use in manufacturing operations located in this state. The additional credit shall be in the amount of One Dollar ($1.00) per ton for each ton of Oklahoma-mined coal purchased by such corporation.

C. For tax years beginning on or after January 1, 1997, and ending on or before December 31, 1999, there shall be allowed, in addition to the credits allowed pursuant to subsections A and B of this section, a credit against the tax imposed by Section 1803 or Section 2355 of this title for every corporation in this state which:

1. Furnishes water, heat, light or power to the state or its citizens, or burns coal to generate heat, light or power for use in manufacturing operations located in this state; and

2. Purchases at least seven hundred fifty thousand (750,000) tons of Oklahoma-mined coal in the tax year.

The additional credit allowed pursuant to this subsection shall be in the amount of Three Dollars ($3.00) per ton for each ton of Oklahoma-mined coal purchased by such corporation. The additional credit allowed pursuant to this subsection allowed but not used shall be freely transferable by written agreement to subsequent transferees at any time during the five (5) years following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 1803 or Section 2355 of this title. The corporation originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring corporation and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit. The tax credit allowed by this subsection, upon election of the taxpayer, shall be treated and may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 1803 or Section 2355 of this title.

D. Any credits allowed but not used in any tax year may be carried over in order to each of the five (5) years following the year of qualification.

SECTION 5. A. There is hereby created a legislative task force to be known as the Energy Administration Reform Task Force. The Energy Administration Reform Task Force shall consist of thirty-three (33) members. Appointments to the Task Force shall be made by July 1, 1996. Members of the Task Force shall be as follows:

1. The Chair of the Senate Committee on Energy, Environmental Resources and Regulatory Affairs;
2. The Chair of the House Committee on Energy and Environment;
3. The Chair of the Corporation Commission;
4. The Secretary of Energy;
5. The President Pro Tempore of the Senate shall appoint fifteen members as follows:
    a. three members of the Senate, to include at least one member of the minority party,
    b. one member representing the purchasers and transporters of natural gas,
    c. one member representing the mineral bar,
    d. one member representing the citizens of the state,
    e. one member representing retail petroleum marketers,
    f. one member representing underground storage tank consultants or contractors,
    g. two members representing royalty owners, one of whom shall be an attorney,
    h. one member representing major oil companies, and
    i. four members representing independent oil and gas producers, two of whom shall be primarily oil producers and one of whom shall be primarily a natural gas producer; and
6. The Speaker of the House of Representatives shall appoint fourteen members as follows:
    a. three members of the House of Representatives, to include at least one member of the minority party,
    b. one member representing the purchasers and transporters of oil,
    c. one member representing the mineral bar,
    d. one member representing the environmental groups of the state,
    e. one member representing retail petroleum marketers,
    f. two members representing royalty owners, one of whom shall also represent the interests of surface owners,
    g. one member representing major oil companies,
    h. three members representing independent oil and gas producers, two of whom shall be primarily natural gas producers and one of whom shall be primarily an oil producer, and
    i. one member representing the liquefied petroleum gas industry.

B. The Chair of the Senate Committee on Energy, Environmental Resources and Regulatory Affairs shall serve as Chair of the Energy Administration Reform Task Force. The Chair of the House of Representatives Committee on Energy and Environment shall serve as Vice-Chair. The Corporation Commission, the Liquefied Petroleum Gas Board, the Office of Public Affairs and all other agencies of the state are directed to cooperate fully with the Task Force and to provide such support and information as the Task Force or its Chair shall request. Staffing for the Task Force shall be provided by the staffs of the State Senate and the House of Representatives.

C. The Energy Administration Reform Task Force shall meet as often as required to carry out its responsibilities. Meetings shall be called by the Chair. In addition, the Chair may establish such

subcommittees as the Chair shall deem appropriate to assist the Task Force in carrying out its responsibilities. Such subcommittees shall consist of Task Force members designated by the Chair and such other persons the Chair believes may assist a subcommittee. Subcommittees shall have duties and responsibilities as set forth by the Chair. All activities of the Task Force and its subcommittees shall be open to public participation.

D. The Task Force shall submit its report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 15, 1997. The purpose of the Task Force shall be to review Enrolled Senate Bill No. 793 of the 2nd Session of the 45th Oklahoma Legislature and issues related to the reform of energy administration and regulation activities of the state and the consolidation of energy related functions within the independent Department of Energy. Issues to be specifically addressed by the Task Force shall include, but not be limited to, maintaining exclusive regulatory jurisdiction over the oil and gas industry, streamlining the hearing and permitting process while maintaining the existing judicial review process, providing adequate and stable funding sources for the regulation of the energy industry, improving the operation and efficiency of the regulation of the energy industry, meeting the needs of the energy industry as it evolves into the 21st Century and providing strong, responsive leadership for the energy industry at the state level of government. The report of the Task Force shall provide specific recommendations for implementation by the Legislature and shall include specific legislative proposals to carry out its recommendations.

E. The Task Force shall cease to exist as of May 31, 1997.

SECTION 6. The provisions of Section 5 of this act shall not be codified in the Oklahoma Statutes.

SECTION 7. This act shall become effective July 1, 1996.

SECTION 8. 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.