

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2140

By: Rice, Thornbrugh, Coleman,
Dank, Hastings, Hiett,
Miller, Morgan, Perry,
Pettigrew and Phillips of
the House

and

Easley of the Senate

COMMITTEE SUBSTITUTE

(oil and gas - revenue and taxation - amending 68 O.S.,
Section 1001 - gross production tax - emergency)

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

SECTION 1. AMENDATORY 52 O.S. 1991, Section 29, as amended by Section 2, Chapter 14, O.S.L. 1992 (52 O.S. Supp. 1996, Section 29), is amended to read as follows:

Section 29. A. Every corporation, joint stock company, limited copartnership, partnership or other person now or hereafter claiming or exercising the right to produce natural gas within the limits of this state, as owner, lessee, licensee, or by virtue of any other right or claim is hereby prohibited from producing from any gas well÷

~~1. During the period comprising the calendar months of March through October of any year more than the greater of:~~

~~a. seven hundred fifty thousand (750,000) cubic feet of natural gas per day, or~~

~~b. twenty-five percent (25%) of the daily natural flow of such natural gas well; or~~

~~2. During the period comprising the calendar months of November through February of any calendar year more than the greater of:~~

~~a. one million (1,000,000) cubic feet of natural gas per day, or~~

~~b. forty percent (40%) of the daily natural flow of such natural gas well;~~

~~unless and until the Corporation Commission promulgates production rules pursuant to subsection B of this section.~~

~~B. The Corporation Commission shall have the power and authority to promulgate production rules from time to time for all natural gas wells producing within this state, or for such categories of natural gas wells producing within this state as the Commission may deem appropriate, establishing different levels of production, which may be greater or lesser than those set forth herein, upon a finding that the levels of production so established will be sufficient to prevent waste as the same is defined in Section 86.3 of this title and will protect the interests of the public against production of the natural gas reserves underlying this state in amounts in excess of the reasonable market demand therefor more than twenty-five percent (25%) of the daily natural flow of any gas well or wells.~~

~~C. B.~~ The authority granted to the Corporation Commission by this section is in addition to that provided for in Section 239 of this title.

~~D. The Corporation Commission may, for good cause shown under the exigencies of a particular case and after appropriate notice and hearing, establish a production level different from the levels~~

~~provided by this section or established by rule promulgated by the Corporation Commission.~~

~~E. Production rules promulgated by the Corporation Commission pursuant to the authority granted in subsection B of this section shall be promulgated pursuant to Article I of the Administrative Procedures Act, Sections 250.3 through 308.2 of Title 75 of the Oklahoma Statutes, including the provisions contained therein prescribing the required notice and hearing for rulemaking.~~

~~F. The provisions of subsection A of this section and production rules promulgated by the Corporation Commission pursuant to subsection B of this section shall not supersede or invalidate the provisions of any rule or order of the Corporation Commission establishing production levels for natural gas from a well which has been expressly authorized by Corporation Commission order to produce at a specified rate applicable only to that well where the basis for the rate established is based upon a determination by the Corporation Commission that reasonable cause exists to expect that production below said rate would damage the well and cause waste, a so-called "hardship well", or establishing field rules under Section 239 of this title governing the taking of gas from a specified common source of supply or field.~~

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1001 of Title 52, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Energy Administration Reform Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1002 of Title 52, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Energy Administration Reform Act:

1. "Board" means the Energy Commission Board;
2. "Commission" means the Energy Commission of Oklahoma;

3. "Act" means the Oklahoma Energy Administration Reform Act;

4. "State energy agency" means the Corporation Commission, the Oklahoma Department of Mines, the Department of Central Services, and the Oklahoma Liquefied Petroleum Gas Board; and

5. "Task Force" means the Energy Administration Reform Task Force.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1003 of Title 52, unless there is created a duplication in numbering, reads as follows:

The purpose of the Oklahoma Energy Administration Reform Act is to provide for the administration of energy functions which will:

1. Eliminate agency overlap and duplication of effort;

2. Provide that energy and natural resources regulatory concerns of industry and the public shall be addressed in an expedient manner; and

3. Better utilize state financial resources for energy regulatory services.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1004 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. The Secretary of Energy shall serve as the Transition Coordinator. The Transition Coordinator shall:

1. Insofar as authorized and provided by the Oklahoma Energy Administration Reform Act in conjunction with the Department of Central Services, Office of State Finance and Office of Personnel Management, oversee and administer the orderly transfer of responsibility, liabilities, property, records, personnel and any outstanding financial obligations or encumbrances to the Energy Commission of Oklahoma;

2. During the transition planning period in conjunction with the Energy Administration Reform Task Force, investigate and review programs currently assigned or managed by each state agency insofar

as such programs relate to the areas and responsibilities transferred between the various agencies provided by this act, to determine if such program is effective and necessary, whether the program is duplicative of or overlapping other programs and whether such program should be abolished, or combined or coordinated with other programs;

3. During the transition planning period, in conjunction with the Energy Administration Reform Task Force, review statutory provisions for each state agency to determine if such provisions should be amended, repealed, or recodified to implement the provisions of the Oklahoma Energy Administration Reform Act;

4. Whenever the Transition Coordinator deems appropriate, confer with the Attorney General or an Assistant Attorney General in connection with all legal matters and questions;

5. In cooperation with the General Administrator of the Corporation Commission, determine the needs of the Corporation Commission with regards to providing services for programs remaining at the Corporation Commission; and

6. Take such other actions as may be reasonably necessary and appropriate to effectuate the orderly transition of programs and functions as provided by the Oklahoma Energy Administration Reform Act.

B. Each state energy agency transferring programs or functions pursuant to this act shall designate an employee or employees, as selected by the Transition Coordinator from their agency who shall be available to assist the Transition Coordinator and the Energy Administration Reform Task Force in developing an implementation plan for the orderly transfer of duties and responsibilities pursuant to the Oklahoma Energy Administration Reform Act.

C. Personnel transferred pursuant to the provisions of the Oklahoma Energy Administration Reform Act shall not be required to accept a lesser grade or salary than presently received. No

entrance exam shall be required for persons so transferred. All such persons shall retain leave, sick and annual time earned and any retirement benefits which have accrued during their tenure with the agency from which transferred. The transfer of personnel shall be coordinated with the Office of Personnel Management.

D. The Transition Coordinator shall submit a budget request with the Office of State Finance for fiscal year 1998 for the Energy Commission of Oklahoma pursuant to Section 41.29 of Title 62 of the Oklahoma Statutes.

E. By January 15, 1998, the Transition Coordinator in conjunction with the Energy Administration Reform Task Force shall submit a final written report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The written report shall have been approved by a majority of the members of the Energy Administration Reform Task Force and shall consist of:

1. The organizational framework of the Energy Commission of Oklahoma including, but not limited to, decisions, responsibilities and systems for complaint resolutions and permit issuance;

2. A listing of positions to be transferred to the Energy Commission of Oklahoma and job qualifications for those positions;

3. Fiscal analysis and impact to the budgets of each energy agency transferring functions or employees, or both;

4. Transfer and implementation costs for the Energy Commission of Oklahoma;

5. Implementation schedule for orderly transfer of specified functions, programs and resources to the Energy Commission of Oklahoma;

6. In conjunction and with the cooperation of each state energy agency, as applicable, implementation schedule, costs, agency framework and personnel or positions to be transferred for other

agencies receiving or losing positions or functions pursuant to the provisions of the Oklahoma Energy Administration Reform Act;

7. A proposal to stabilize funding problems historically occurring regarding the regulation of oil and gas upon the transfer of oil and gas regulation to the Energy Commission of Oklahoma; and

8. Such other information as may be deemed necessary by the Transition Coordinator and the Energy Administration Reform Task Force.

F. It is the intent of the Legislature that the merger of certain energy functions and programs into the Energy Commission of Oklahoma occur without an increase in the number of state employees or resources due to the consolidation of energy programs and functions. Resources and full-time-equivalent employees currently dedicated to support services, including, but not limited to, personnel, data processing, accounting, financial and administrative duties shall be transferred to the Energy Commission of Oklahoma from the affected state energy agencies in proportion to the energy programs and functions transferred. Any projected increase in costs as a result of the merger and transfer of programs and functions pursuant to this act shall be clearly identified as such.

G. In developing the organizational framework of the Energy Commission of Oklahoma and in carrying out the provisions of this section, the Transition Coordinator shall work in conjunction and cooperation with the Energy Administration Reform Task Force. The Transition Coordinator shall request the Chair to call such meetings of the Task Force as necessary, to receive and provide input into the development of the Energy Commission of Oklahoma. The Chair of the Task Force is authorized to require the Transition Coordinator to make reports to the Task Force as he deems necessary. A summary of the comments and explanation of changes or lack of any changes made in such development of the Energy Commission of Oklahoma as a result of comments, suggestions or testimony received at such

meetings shall be included in the report required to be submitted pursuant to subsection E of this section.

H. The chair of the Energy Administration Reform Task Force shall call a meeting or meetings at the request of the Transition Coordinator for providing assistance to, and input into, the development of the Energy Commission of Oklahoma. In addition, the chair may call such meetings as may otherwise be required to provide comments, input or advice on the completed report and transition plan of the Energy Commission of Oklahoma for approval by the Legislature during the 2nd Session of the 46th Oklahoma Legislature.

All members of the Energy Administration Reform Task Force shall be reimbursed for actual and necessary travel expenses pursuant to the State Travel Reimbursement Act as follows:

1. Legislative members shall receive reimbursement from the house in which they serve; and

2. Nonlegislative members shall receive reimbursement from their appointing authority.

- I. As applicable, each state agency shall cooperate with the Transition Coordinator and the Energy Administration Reform Task Force in providing information and such other assistance as may be requested by the Transition Coordinator or the Task Force in the orderly transition and transfers required by the provisions of the Oklahoma Energy Administration Reform Act.

J. The Legislature shall review the report developed by the Transition Coordinator in conjunction with the Energy Administration Reform Task Force, during the 2nd Session of the 46th Oklahoma Legislature. Final authority relating to the transfer or receipt of duties, responsibilities, programs, resources and personnel pursuant to the Oklahoma Energy Administration Reform Act shall reside with the Legislature.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1005 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Energy Commission Board which shall consist of nine (9) members as follows:

1. Three members to be appointed by the Governor;

2. Three members to be appointed by the President Pro Tempore of the Senate, one of whom shall represent the interests of royalty owners; and

3. Three members to be appointed by the Speaker of the House of Representatives.

Appointments to the Board shall be made by July 1, 1997.

B. To be eligible for appointment to the Board a person shall:

1. Be a citizen of the United States;

2. Be a resident of this state;

3. Be a qualified elector of this state; and

4. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state or the laws of the United States.

C. The initial terms of office shall be as follows:

1. One member's term shall expire on January 31, 1999;

2. Two members' terms shall expire on January 31, 2000;

3. Two members' terms shall expire on January 31, 2001;

4. Two members' terms shall expire on January 31, 2002; and

5. Two members' terms shall expire on January 31, 2003.

Thereafter, the term of office of a member of the Board shall be for five (5) years and until a successor is qualified and appointed.

D. 1. An appointment shall be made by the appropriate appointing authority within ninety (90) days after a vacancy has occurred due to resignation, death, or any cause resulting in an unexpired term. In the event of a vacancy on the Board due to resignation, death, or for any cause resulting in an unexpired term,

if not filled within ninety (90) days following such vacancy, the Board may appoint a provisional member to serve in the interim until the appropriate appointing authority acts.

2. A member may be reappointed to succeed himself or herself for one additional term.

E. 1. The Board shall hold meetings as necessary at a place and time to be fixed by the Board. The Board shall select, at its first meeting following the passage of the Oklahoma Energy Administration Reform Act, one of its members to serve as chair and another of its members to serve as vice-chair. At the first meeting in each calendar year thereafter, the chair and vice-chair for the ensuing year shall be elected. Special meetings may be called by the chair or by five members of the Board by delivery of written notice to each member of the Board. A majority of the Board present at the meeting shall constitute a quorum of the Board.

2. Members of the Board shall receive necessary travel expenses according to the provisions of the State Travel Reimbursement Act.

F. The Board shall:

1. Appoint and fix the compensation of the Executive Director of the Energy Commission of Oklahoma; and

2. Be the rulemaking body for the Energy Commission of Oklahoma.

Such rules shall be adopted with the advice of the councils created in this act. By February 1, 1999, the Board shall have promulgated permanent rules to implement the programs and functions within the jurisdiction of the Energy Commission of Oklahoma pursuant to the provisions of this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1006 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. On or before July 1, 1998, the Energy Commission Board shall appoint the Executive Director of the Energy Commission of Oklahoma. The Executive Director shall serve at the pleasure of the Board.

B. The Executive Director shall have experience in energy-related industry, or such other areas as may be required by the Energy Commission Board.

C. Effective July 1, 1998, the Executive Director shall provide for the administration of the Energy Commission of Oklahoma and shall:

1. Be the executive officer and supervise the activities of the Energy Commission of Oklahoma;

2. Employ, discharge, appoint or contract with, and fix the duties and compensation of such assistants, attorneys, chemists, geologists, energy professionals, engineers, administrative, clerical and technical, investigators, aides and such other personnel, either on a full-time, part-time, fee or contractual basis, as in his or her judgment and discretion shall be deemed necessary, expedient, convenient or appropriate to the performance or carrying out of any of the purposes, objectives, responsibilities or statutory provisions relating to the Energy Commission of Oklahoma, or to assist the Executive Director in the performance of his or her official duties and functions;

3. Establish internal policies and procedures for the proper and efficient administration of the Commission; and

4. Exercise all incidental powers which are necessary and proper to implement the purposes of the Commission pursuant to the Oklahoma Energy Administration Reform Act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1007 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. 1. Effective July 1, 1997, there is hereby created the Energy Commission of Oklahoma. Except as otherwise specifically

provided by the Legislature, and until July 1, 1998, the Energy Commission of Oklahoma shall:

- a. assist the Transition Coordinator in the performance of his or her duties pursuant to the provisions of this act relating to transitional authority,
- b. assist the Energy Commission Board as necessary, in the promulgation of rules necessary to implement the programs and functions within the jurisdiction of the Energy Commission of Oklahoma,
- c. initiate a search for appropriate and adequate office space needed for purposes of implementing the Oklahoma Energy Administration Reform Act to be leased at such time as provided by the Legislature. Until such time as specified by the Legislature, space shall be provided to the Energy Commission of Oklahoma to the extent necessary to implement the provisions of the Oklahoma Energy Administration Reform Act in the Jim Thorpe Office Building, and
- d. perform such other duties designated to it by the Governor.

2. For the purposes of this section, the Transition Coordinator shall serve as the Executive Director of the Commission until July 1, 1998, or until an Executive Director has been appointed by the Energy Commission Board.

B. Effective July 1, 1998, within its jurisdictional areas of responsibility, the Energy Commission of Oklahoma shall have the power and duty to:

1. Issue, renew, deny or suspend, revoke or refuse to renew licenses or permits pursuant to the provisions of the Oklahoma Energy Administration Reform Act;

2. Assess those administrative penalties as otherwise specifically authorized by law against any person or entity who

violates any of the provisions of this act or any rule promulgated thereunder;

3. Employ, direct, discharge and define the duties and set the salaries of such office personnel as deemed necessary by the Executive Director;

4. Request criminal prosecution proceedings as authorized by law against any person or entity who has violated any of the provisions of this act or any rule promulgated pursuant thereto;

5. Investigate alleged violations of the Oklahoma Energy Administration Reform Act or of the rules and orders of the Executive Director;

6. Advise, consult and cooperate with other agencies of the state, towns, cities and counties, industries, other states and the federal government and with affected groups;

7. Encourage and conduct studies, investigations and research relating to energy-related pollution and its causes, effects, prevention, control and abatement;

8. Collect and disseminate information relating to energy-related pollution, its prevention and control;

9. Enter into agreements for, accept, use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program relating to energy regulation;

10. Determine, charge and receive fees to be collected for services and permits, to file other papers, to make copies of documents, to make prints of maps and drawings, and to certify copies of documents, maps and drawings as authorized by law;

11. Provide a toll-free hot line for energy-related complaints;

12. Cause investigations, inquiries and inspections to be made.

The Executive Director or his or her representative shall have the

right of access to any premises for such purpose at any reasonable time, upon presentation of identification;

13. Authorize persons in the Energy Commission of Oklahoma to conduct investigations, inquiries, and to perform other acts that the Executive Director is authorized or required to conduct or perform;

14. Enforce the provisions of the Oklahoma Energy Administration Reform Act; and

15. Exercise all incidental powers which are necessary and proper to implement the purposes of the Oklahoma Energy Administration Reform Act.

C. Effective July 1, 1998, there is hereby created within the Energy Commission of Oklahoma:

1. The oil and gas division which shall be responsible for regulating the exploration and production of oil and gas and such other areas designated to it by the Executive Director;

2. The fuels division which shall be responsible for inspection and regulation of fuel dispensing facilities and such other areas designated to it by the Executive Director;

3. The mining division which shall be responsible for the inspection and regulation of mines and such other areas within the jurisdiction of the Commission designated to it by the Executive Director;

4. An administration and planning division which shall be responsible for interagency coordination and such other responsibilities within the jurisdiction of the Commission designated to it by the Executive Director; and

5. Such other divisions and offices as the Executive Director may determine necessary to implement programs and functions within the jurisdiction of the Commission pursuant to the Oklahoma Energy Administration Reform Act.

D. The provisions of this act shall not limit or restrict the existing exclusive jurisdiction of the Corporation Commission being transferred to the Energy Commission of Oklahoma, nor extend the existing jurisdiction of any other state agency, over oil and gas exploration and production activities.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1008 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1997, there are hereby created:

1. The Oil and Gas Council; and
2. The Fuels Council.

B. 1. Each Council created pursuant to subsection A of this section shall consist of nine (9) members. Three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives and three members shall be appointed by the President Pro Tempore of the Senate. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year; subsequent appointments shall be for three-year terms. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Five members shall constitute a quorum.

2. At the first meeting of each year, each Council shall elect a chair and a vice-chair from among its members. Each Council shall meet as required for rule development, review and recommendation and for such other purposes specified by law. Special meetings may be called by the chair or by the concurrence of any three (3) members.

C. All members of the Oil and Gas Council shall be knowledgeable of oil and gas regulation. The Council shall be composed as follows:

1. The Governor shall appoint three members as follows:

- a. one member representing the field of petroleum engineering,
- b. one member representing a statewide nonprofit environmental organization or landowner organization, and
- c. one member representing mineral owners;

2. The President Pro Tempore of the Senate shall appoint three members as follows:

- a. one member representing the independent oil and gas industry located in this state,
- b. one member representing a major oil company, and
- c. one member representing the field of petroleum geology;

3. The Speaker of the House of Representatives shall appoint three members as follows:

- a. one member representing oil producers,
- b. one member representing natural gas producers, and
- c. one member representing marginal well producers.

D. All members of the Fuels Council shall be knowledgeable of the regulation of fuels. The Council shall be composed as follows:

1. The Governor shall appoint three members as follows:

- a. one member representing the propane industry located in this state,
- b. one member representing a statewide nonprofit environmental organization, and
- c. one member representing the general public;

2. The President Pro Tempore of the Senate shall appoint three members as follows:

- a. one member representing retail petroleum marketers,
- b. one member representing an alternative fuels industry, and
- c. one member representing environmental contractors;

3. The Speaker of the House of Representatives shall appoint three members as follows:

- a. one member representing the field of engineering,
- b. one member representing the retail petroleum marketers, and
- c. one member representing the field of geology.

E. The Oklahoma Mining Commission created pursuant to Section 1 of Title 45 of the Oklahoma Statutes shall continue as the Oklahoma Mining Council and carry on the powers and duties assigned to it by law. The current members of the Oklahoma Mining Council shall remain on such Council until the expiration of their individual terms of office or until such offices are vacated. Future appointments to the Council shall be made according to the provisions of Section 1 of Title 45 of the Oklahoma Statutes.

F. Each Council created herein shall have sole authority to recommend, as applicable, to the Energy Commission Board, rules on behalf of the Energy Commission of Oklahoma within their jurisdictional areas insofar as such matters are within the jurisdiction of the Commission pursuant to the Oklahoma Energy Administration Reform Act. The staff of the Energy Commission of Oklahoma shall not have standing to recommend permanent Board rules or changes to such rules which have not previously been submitted to the Councils for action.

G. Members of the Councils shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act. The Councils are authorized to obtain administrative assistance from the Energy Commission of Oklahoma, as necessary.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1009 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1998, with regard to all programs and functions transferred and assigned among the state energy agencies pursuant to this act, all agency rules relating to such programs and functions are hereby transferred to the Energy Commission of Oklahoma for the purpose of maintaining and operating such programs and functions. Such rules shall remain in effect until June 30, 1999, at which time such transferred rules will terminate unless earlier superseded by rules promulgated by the Energy Commission of Oklahoma. By February 1, 1999, the Energy Commission of Oklahoma shall have promulgated new permanent rules to implement the programs and functions within the jurisdiction of the agency pursuant to this act.

B. Unexpired or unrevoked licenses, permits, certifications or registrations issued prior to July 1, 1998, shall remain valid for stated terms and conditions until otherwise provided by law. Such licenses, permits or registrations shall be subject to the laws and rules of the Energy Commission of Oklahoma to which jurisdiction over such licenses, permits or registrations are transferred pursuant to the Oklahoma Energy Administration Reform Act.

C. All rights, obligations and remedies arising out of laws, rules, agreements and causes of action are also transferred to such Commission.

D. Nothing in the Oklahoma Energy Administration Reform Act shall operate to bar or negate any existing order, claim or cause of action transferred or available to any state energy agency or its respective predecessor, nor shall it operate to affect enforcement action undertaken by any program, division or service prior to such transfer to any state energy agency. Violations of provisions of law now contained in this title, and violations of rules, permits or final orders which occurred prior to the transfer of jurisdiction and authority to any state energy agency shall be subject to penalties available and existing at the time of violation.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1998, all powers, duties, and responsibilities now exercised by the Corporation Commission pursuant to Titles 17 and 52 of the Oklahoma Statutes relating to the Commission's Fuels Division and Oil and Gas Division, the underground and aboveground storage tanks regulatory programs, the Oklahoma Leaking Underground Storage Tank Fund, oil and gas regulatory programs, pollution abatement and underground injection control are hereby transferred to the Energy Commission of Oklahoma, together with all unexpended funds, property, records, personnel, and any outstanding financial obligations and encumbrances related to the activities of such divisions or programs, including appropriate administrative and support services regardless of the division within which they are located. To the extent that there are vacant positions within the job classifications being transferred or personnel are filling more than one position within the Corporation Commission, one of which is not within the division or programs being transferred, the vacant positions shall be transferred to the Energy Commission of Oklahoma and personnel filling more than one position shall remain in the position not transferred from the Corporation Commission and the other position shall be transferred as a vacant position to the Energy Commission of Oklahoma.

B. As used in Titles 17 and 52 of the Oklahoma Statutes and in statutes relating to the administration of the above-mentioned divisions and programs, the term "Corporation Commission" shall mean the Energy Commission of Oklahoma.

C. All rules promulgated and orders entered by the Corporation Commission related to the programs and functions transferred by this act, shall be transferred to the Energy Commission of Oklahoma as

provided by law and shall remain in full force and effect until amended, modified, revoked or repealed by the Energy Commission Board or the Energy Commission of Oklahoma and shall be enforced by the Energy Commission of Oklahoma.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1998, all powers, duties, and responsibilities now exercised by the Oklahoma Liquefied Petroleum Gas Board pursuant to law are hereby transferred to the Energy Commission of Oklahoma, together with all unexpended funds, property, records, personnel, and any outstanding financial obligations and encumbrances related thereto.

B. As used in Sections 420.1 through 421.1, inclusive, of Title 52 of the Oklahoma Statutes, the term "Oklahoma Liquefied Petroleum Gas Board" shall mean the Energy Commission of Oklahoma created by this act and the terms "State Liquefied Petroleum Gas Administrator" and "Administrator" shall mean the Executive Director of the Energy Commission of Oklahoma.

C. All rules promulgated and orders entered by the Oklahoma Liquefied Petroleum Gas Board prior to the effective date of this act shall be transferred to the Energy Commission of Oklahoma and shall remain in full force and effect until amended, modified, revoked or repealed by the Energy Commission Board or the Energy Commission of Oklahoma and shall be enforced by the Commission.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1012 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1998, all powers, duties, and responsibilities of the Oklahoma Alternative Fuels Conversion Act and the Alternative Fuels Technician Certification Act now exercised by the Department of Central Services pursuant to law are hereby

transferred to the Energy Commission of Oklahoma, together with all unexpended funds, property, records, personnel, and any outstanding financial obligations and encumbrances related thereto.

B. As used in the Oklahoma Alternative Fuels Conversion Act and the Alternative Fuels Technician Certification Act, the term "Department of Central Services" shall mean the Oklahoma Fuels Administration Department created by this act and the term "Director of the Department of Central Services" shall mean the Executive Director of the Energy Commission of Oklahoma.

C. All rules promulgated and orders entered by the Department of Central Services prior to the effective date of this act related to the programs and functions transferred by this act shall be transferred to the Energy Commission of Oklahoma and shall remain in full force and effect until amended, modified, revoked or repealed by the Energy Commission Board or the Energy Commission of Oklahoma and shall be enforced by the Commission.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1013 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1998, all powers, duties, and responsibilities now exercised by the Department of Mines pursuant to law are hereby transferred to the Energy Commission of Oklahoma, together with all unexpended funds, property, records, personnel, and any outstanding financial obligations and encumbrances related thereto.

B. As used in Title 45 of the Oklahoma Statutes, the term "Department of Mines" shall mean the Energy Commission of Oklahoma created by this act and the term "Oklahoma Mining Commission" shall mean the Oklahoma Mining Commission Advisory Council of the Energy Commission of Oklahoma.

C. All rules promulgated and permits issued by the Oklahoma Department of Mines prior to the effective date of this act shall be

transferred to the Energy Commission of Oklahoma and shall remain in full force and effect until amended, modified, revoked or repealed by the Energy Commission Board or the Energy Commission of Oklahoma and shall be enforced by the Commission.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1014 of Title 52, unless there is created a duplication in numbering, reads as follows:

There is hereby created the Energy Administration Court. The Energy Administration Court shall exercise the judicial and quasi-judicial powers of the Corporation Commission, Oklahoma Liquefied Petroleum Gas Board, the Oklahoma Department of Mines and the Department of Central Services for the jurisdictional areas being transferred to the Energy Commission of Oklahoma. The Energy Administration Court shall be a court of record and shall have the same powers as currently vested in the Corporation Commission when sitting as a judicial or quasi-judicial body. All appeals from the Energy Administration Court shall be to the Supreme Court in the manner as appeals are now taken from the Corporation Commission.

SECTION 16. AMENDATORY Section 5, Chapter 360, O.S.L. 1996, is amended to read as follows:

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~~ thirty-four (34) 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., and
- j. one member representing the members of the Oklahoma Mineral Owners Association.

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 Department of Mines, ~~the Office of Public Affairs~~ Department of Central Services 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~~ 1998. 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, consolidating fuels administration functions and programs, consolidating energy- and mining-related functions and programs, 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~~ June 30, 1998.

SECTION 17. Section 16 of this act shall be codified as Section 1015 of Title 52 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 18. AMENDATORY 68 O.S. 1991, Section 1001, as last amended by Section 1, Chapter 360, O.S.L. 1996 (68 O.S. Supp. 1996, 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~~ 2002, 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~~ 2002. 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~~ 2002, and drilled to a depth of ~~fifteen thousand (15,000)~~ twelve thousand five hundred (12,500) 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.

(1) (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 19. AMENDATORY Section 2, Chapter 360, O.S.L. 1996 (68 O.S. Supp. 1996, Section 1001.3), is amended to read as follows:

Section 1001.3 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.~~ C. 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.~~ D. 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.~~ E. 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.~~ F. Gross production tax exemptions under the provisions of this section shall be limited to production from calendar years 1996, 1997 and 1998.

SECTION 20. 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.

46-1-1257

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