

ENROLLED SENATE
BILL NO. 309

By: Lerblance, Branan and
Crutchfield of the Senate

and

Adkins, Bingman, Hyman,
Walker, Shoemake, Askins,
McMullan, Calvey, Coody,
Dank, DePue, Ingmire,
Jackson and Tibbs of the
House

An Act relating to revenue and taxation; defining terms; exempting production from economically at-risk oil or gas lease from gross production tax in certain amounts; specifying circumstances in which exemption not applicable; providing procedures for administration of exemption; providing procedures for application for economically at-risk oil or gas lease status; providing for determination of such status; granting certain authority and specifying certain duties of Oklahoma Tax Commission; limiting exemption to production in certain years; amending 68 O.S 2001, Section 1103, which relates to apportionment of petroleum excise tax revenues; modifying apportionment of certain revenues; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1001.3a of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Economically at-risk oil or gas lease" means any oil or gas lease operated at a net loss or at a net profit which is less than the total gross production tax remitted for such lease during the previous calendar year; and

2. "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, production from an economically at-risk oil or gas lease shall be eligible for an exemption from 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 in the following amounts:

1. If the gross production tax rate levied pursuant to subsection B of Section 1001 of Title 68 of the Oklahoma Statutes was seven percent (7%), then the exemption shall equal six-sevenths (6/7) of the gross production tax levied;

2. If the gross production tax rate levied pursuant to subsection B of Section 1001 of Title 68 of the Oklahoma Statutes was four percent (4%), then the exemption shall equal three-fourths (3/4) of the gross production tax levied; and

3. If the gross production tax rate levied pursuant to subsection B of Section 1001 of Title 68 of the Oklahoma Statutes was one percent (1%), no exemption shall apply.

C. For all production exempt from gross production taxes pursuant to this section, a refund of gross production taxes paid for production in the previous calendar year in the amounts specified in this subsection shall be issued to the well operator or a designee. The refund shall not be claimed until after July 1 of the year subsequent to the year of production.

D. Any operator making application for an economically at-risk oil or gas lease status under the provisions of this section shall submit documentation to the Tax Commission, as determined by the 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 or gas 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 Tax Commission shall have sole authority to determine if an oil or gas lease qualifies for certification as an economically at-risk oil or gas lease and shall make the determination within sixty (60) days after an application is filed for economically at-risk oil or gas lease status. The 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 2005, 2006 and 2007.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 1103, is amended to read as follows:

Section 1103. A. 1. Prior to July 1, 2006, and as provided in Section 1103.1 of this title, all monies derived from the levy of the excise tax on petroleum oil provided for by Section 1101 of this title shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

- a. ~~eighty-four and five hundred fifty-three thousandths percent (84.553%)~~ eighty-two and six hundred thirty-four thousandths percent (82.634%) of said excise tax shall be credited to the General Revenue Fund of the State Treasury;
- b. ten and five hundred twenty-six thousandths percent (10.526%) shall be credited and apportioned to a separate and distinct fund to be known as the "Corporation Commission Plugging Fund"; and
- c. the remaining ~~four and nine hundred twenty-one thousandths percent (4.921%)~~ six and eighty-four hundredths percent (6.84%) of said excise tax shall be credited and apportioned to a separate and distinct fund to be known as "The Interstate Oil Compact Fund of Oklahoma", which fund is hereby created.

2. Prior to July 1, 2006, and as provided in Section 1103.1 of this title, all monies derived from the levy of the excise tax on natural gas and/or casinghead gas provided for by Section 1102 of this title shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

- a. ~~eighty-five and four thousand sixty-six ten thousandths percent (85.4066%)~~ eighty-two and six thousand forty-five ten thousandths percent (82.6045%) of said excise tax shall be credited to the General Revenue Fund of the State Treasury;
- b. ten and five thousand five hundred fifty-five ten thousandths percent (10.5555%) shall be credited and apportioned to the Corporation Commission Plugging Fund; and
- c. ~~four and three hundred seventy-nine ten thousandths percent (4.0379%)~~ six and eighty-four hundredths percent (6.84%) of said excise tax shall be credited and apportioned to The Interstate Oil Compact Fund of Oklahoma.

3. Prior to July 1, 2006, and as provided in Section 1103.1 of this title, all monies to accrue to "The Interstate Oil Compact Fund of Oklahoma" under the provisions of this article, together with all monies remaining unexpended in "The Interstate Oil Compact Fund of Oklahoma" created under this subsection are hereby appropriated and shall be used for the payment of the compensation of the assistant representative of the State of Oklahoma on "The Interstate Oil Compact Commission", the compensation of such clerical, technical, and legal assistants as he or she may with the consent of the Governor employ; the actual and necessary traveling expenses of said

assistant representative and employees, and of the Governor when traveling in his or her capacity as official representative of the State of Oklahoma on "The Interstate Oil Compact Commission"; all items of office expense, including the cost of office supplies and equipment; such contributions as the Governor shall deem necessary and proper to pay to "The Interstate Oil Compact Commission" to defray its expenses; and such other necessary expenses as may be incurred in enabling the State of Oklahoma to fully cooperate in accomplishing the objects of the Interstate Compact to conserve oil and gas. Said fund shall be disbursed by the State Treasurer upon sworn, itemized claims approved by the assistant representative and the Governor; provided, that if at the end of any fiscal year any part of said special fund shall remain unexpended, such balance shall be transferred by the State Treasurer to, and become a part of, the General Revenue Fund of the state for the ensuing fiscal year. Provided, further, that if the State of Oklahoma withdraws from the Interstate Compact to conserve oil and gas, any unencumbered monies in "The Interstate Oil Compact Fund of Oklahoma" shall be transferred to and become a part of the General Revenue Fund of the State Treasury and thereafter the excise tax on petroleum oil, natural gas and/or casinghead gas levied by this article shall be levied, collected and deposited in the General Revenue Fund of the State Treasury.

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

The provisions of this subsection shall terminate on June 30, 2006.

B. 1. Beginning on July 1, 2006, all monies derived from the levy of the excise tax on petroleum oil provided for by Section 1101 of this Code shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

- a. ~~ninety-four and five tenths percent (94.5%)~~ ninety-two and thirty-five hundredths percent (92.35%) of said excise tax shall be credited and apportioned to the General Revenue Fund of the State Treasury, and
- b. the remaining ~~five and five tenths percent (5.5%)~~ seven and sixty-five hundredths percent (7.65%) of said excise tax shall be credited and apportioned to a separate and distinct fund to be known as "The Interstate Oil Compact Fund of Oklahoma", which fund is hereby created.

2. Beginning on July 1, 2006, all monies derived from the levy of the excise tax on natural gas and/or casinghead gas provided for by Section 1102 of this Code shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

- a. ~~twenty-one twenty-seconds (21/22)~~ ninety-two and thirty-five hundredths percent (92.35%) of said excise tax shall be credited and apportioned to the General Revenue Fund of the State Treasury, and

b. ~~one twenty-second (1/22)~~ seven and sixty-five hundredths percent (7.65%) of said excise tax shall be credited and apportioned to The Interstate Oil Compact Fund of Oklahoma.

3. Beginning on July 1, 2006, all monies to accrue to "The Interstate Oil Compact Fund of Oklahoma" under the provisions of this article, together with all monies remaining unexpended in "The Interstate Oil Compact Fund of Oklahoma" created under this subsection are hereby appropriated and shall be used for the payment of the compensation of the assistant representative of the State of Oklahoma on "The Interstate Oil Compact Commission", the compensation of such clerical, technical, and legal assistants as he or she may with the consent of the Governor employ; the actual and necessary traveling expenses of said assistant representative and employees, and of the Governor when traveling in his or her capacity as official representative of the State of Oklahoma on "The Interstate Oil Compact Commission"; all items of office expense, including the cost of office supplies and equipment; such contributions as the Governor shall deem necessary and proper to pay to "The Interstate Oil Compact Commission" to defray its expenses; and such other necessary expenses as may be incurred in enabling the State of Oklahoma to fully cooperate in accomplishing the objects of the Interstate Compact to conserve oil and gas. Said fund shall be disbursed by the State Treasurer upon sworn, itemized claims approved by the assistant representative and the Governor; provided, that if at the end of any fiscal year any part of said special fund shall remain unexpended, such balance shall be transferred by the State Treasurer to, and become a part of, the General Revenue Fund of the State Treasury for the ensuing fiscal year. Provided, further, that if the State of Oklahoma withdraws from the Interstate Compact to conserve oil and gas, any unencumbered monies in "The Interstate Oil Compact Fund of Oklahoma" shall be transferred to and become a part of the General Revenue Fund of the State Treasury and thereafter the excise tax on petroleum oil, natural gas and/or casinghead gas levied by this article shall be levied, collected and deposited in the General Revenue Fund of the State Treasury.

SECTION 3. This act shall become effective July 1, 2005.

SECTION 4. 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.

Passed the Senate the 27th day of May, 2005.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2005.

Presiding Officer of the House
of Representatives