

ENROLLED HOUSE  
BILL NO. 3032

By: Bengé, Jackson, Inman,  
Luttrell, Banz, Liebmann,  
Cooksey, Williams, Buck,  
Kouplen, Proctor, Sherrer  
and Morrissette of the  
House

and

Sparks, Anderson, Corn,  
Johnson (Constance),  
Garrison and Ivester of the  
Senate

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 1004, as last amended by Section 4 of Enrolled Senate Bill No. 2173 of the 2nd Session of the 52nd Oklahoma Legislature, which relates to apportionment of gross production taxes; defining terms; modifying apportionment of gross production tax revenues; providing for apportionment of gross production tax revenues to the Energy Revenue Stabilization Fund; creating the Energy Revenue Stabilization Fund; providing for apportionment of revenues; providing fund subject to legislative appropriation; providing for investment of funds; providing for interest to become part of fund balance; imposing certain reporting duties on Oklahoma Tax Commission with respect to moving three-year average amounts; imposing deadline for first report; providing for codification; and providing effective dates.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1004, as last amended by Section 4 of Enrolled Senate Bill No. 2173 of the 2nd Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 1004. A. As used in this section:

1. "Moving three-year average amount for gas" means for purposes of the apportionments prescribed by this section beginning July 1, 2015, and for each fiscal year thereafter, the amount of gross production tax on natural gas collected for each of the three (3) complete fiscal years prior to the beginning of each fiscal year for which the three-year average is being computed and which was apportioned to the General Revenue Fund during such period divided by the whole number three (3); and

2. "Moving three-year average amount for oil" means for purposes of the apportionments prescribed by this section beginning July 1, 2015, and for each fiscal year thereafter, the amount of gross production tax on oil collected for each of the three (3) complete fiscal years prior to the beginning of each fiscal year for which the three-year average is being computed and which was apportioned to the General Revenue Fund during such period divided by the whole number three (3).

B. Beginning July 1, ~~2002~~ 2015, the gross production tax provided for in Section 1001 of this title is hereby levied and shall be collected and apportioned as follows:

1. For all monies collected from the tax levied on asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper:

- a. eighty-five and seventy-two one-hundredths percent (85.72%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,
- b. seven and fourteen one-hundredths percent (7.14%) of the sum collected from natural gas and/or casinghead gas or asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a

proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and

- c. seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided for in subparagraph b of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

2. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of seven percent (7%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. after the total revenue apportioned to the General Revenue Fund as prescribed by subparagraph b of this paragraph equals the moving three-year average amount for gas as defined by paragraph 1 of subsection A of this section, there shall be apportioned from the gross production tax levy imposed pursuant to Section 1001 of this title on natural gas and/or casinghead gas to the Energy Revenue Stabilization Fund created by Section 2 of this act, the amount of revenue, if any, which exceeds the moving three-year average amount for gas as defined pursuant to paragraph 1 of subsection A of this section,
- b. until the apportionment to the General Revenue Fund equals the moving three-year average amount for gas as prescribed by paragraph 1 of subsection A of this section, eighty-five and seventy-two one-hundredths percent (85.72%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,

- ~~b.~~ c. before any other apportionment of revenue has been made pursuant to this paragraph, seven and fourteen one-hundredths percent (7.14%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and
  
- ~~e.~~ d. before any other apportionment of revenue has been made pursuant to this paragraph, seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided for in subparagraph ~~b~~ d of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

3. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of four percent (4%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. after the total revenue apportioned to the General Revenue Fund as prescribed by subparagraph b of this paragraph equals the moving three-year average amount for gas as defined by paragraph 1 of subsection A of this section, there shall be apportioned from the gross production tax levy imposed pursuant to Section 1001 of this title on natural gas and/or casinghead gas to the Enhanced Energy Recovery Research Fund created pursuant to Section 2 of this act, the amount of revenue, if any, which exceeds the moving three-year average amount for gas as defined pursuant to paragraph 1 of subsection A of this section,
  
- b. until the apportionment to the General Revenue Fund equals the moving three-year average amount for gas as prescribed by paragraph 1 of subsection A of this

section, seventy-five percent (75%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,

- ~~b.~~ c. before any other apportionments are made pursuant to this paragraph, twelve and one-half percent (12.5%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and
  
- ~~e.~~ d. before any other apportionments are made pursuant to this paragraph, twelve and one-half percent (12.5%) shall be allocated to each county as provided for in subparagraph ~~b~~ c of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

4. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of one percent (1%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. fifty percent (50%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and
  
- b. fifty percent (50%) shall be allocated to each county as provided for in subparagraph a of this paragraph and shall be apportioned, on an average daily

attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

5. For all monies collected from the tax levied on oil at a tax rate of seven percent (7%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. there shall be apportioned from the gross production tax levy imposed pursuant to Section 1001 of this title on oil to the Energy Revenue Stabilization Fund created by Section 2 of this act, the amount of revenue, if any, which exceeds the moving three-year average amount for oil as defined pursuant to paragraph 2 of subsection A of this section,
- b. before any other apportionment of revenue has been made pursuant to this paragraph, twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Common Education Technology Revolving Fund created in Section 41.29c of Title 62 of the Oklahoma Statutes,
- ~~b.~~ c. before any other apportionment of revenue has been made pursuant to this paragraph, twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Higher Education Capital Revolving Fund created in Section 41.29d of Title 62 of the Oklahoma Statutes,
- ~~e.~~ d. before any other apportionment of revenue has been made pursuant to this paragraph, twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Oklahoma Tuition Scholarship Revolving Fund created in Section 41.29e of Title 62 of the Oklahoma Statutes,
- ~~d.~~ e. before any other apportionment of revenue has been made pursuant to this paragraph, three and seven hundred forty-five one-thousandths percent (3.745%) shall be distributed to the various counties of the

state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs,

e. f. before any other apportionment of revenue has been made pursuant to this paragraph, four and twenty-eight one-hundredths percent (4.28%) shall be paid to the State Treasurer to be apportioned to:

- (1) the following sources and in the following amounts through the fiscal year ending June 30, 2014:
  - (a) thirty-three and one-third percent (33 1/3%) to the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund created pursuant to Section 2254.1 of Title 74 of the Oklahoma Statutes,
  - (b) thirty-three and one-third percent (33 1/3%) to the Oklahoma Conservation Commission Infrastructure Revolving Fund created pursuant to Section 3-2-110 of Title 27A of the Oklahoma Statutes, and
  - (c) thirty-three and one-third percent (33 1/3%) to the Community Water Infrastructure Development Revolving Fund created pursuant to Section 1085.7A of Title 82 of the Oklahoma Statutes, and
- (2) the Oklahoma Water Resources Board Rural Economic Action Plan Water Projects Fund for the fiscal year ending June 30, 2014, and for each fiscal year thereafter,

- ~~f.~~ g. before any other apportionment of revenue has been made pursuant to this paragraph, seven and fourteen one-hundredths percent (7.14%) of the sum collected from oil shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year,
- ~~g.~~ h. before any other apportionment of revenue has been made pursuant to this paragraph, seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided in subparagraph ~~f~~ g of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction, and
- ~~h.~~ i. before any other apportionment of revenue has been made pursuant to this paragraph, five hundred thirty-five one-thousandths percent (0.535%) of the levy shall be transmitted by the Oklahoma Tax Commission to the Statewide Circuit Engineering District Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes;

6. For all monies collected from the tax levied on oil at a tax rate of four percent (4%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. there shall be apportioned from the gross production tax levy imposed pursuant to Section 1001 of this title on oil to the Energy Revenue Stabilization Fund created by Section 2 of this act, the amount of revenue, if any, which exceeds the moving three-year average amount for oil as defined pursuant to paragraph 2 of subsection A of this section,

- b. before any other apportionment of revenue has been made pursuant to this paragraph, twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Common Education Technology Revolving Fund created in Section 41.29c of Title 62 of the Oklahoma Statutes,
- ~~b.~~ c. before any other apportionment of revenue has been made pursuant to this paragraph, twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Higher Education Capital Revolving Fund created in Section 41.29d of Title 62 of the Oklahoma Statutes,
- ~~e.~~ d. before any other apportionment of revenue has been made pursuant to this paragraph, twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Oklahoma Tuition Scholarship Revolving Fund created in Section 41.29e of Title 62 of the Oklahoma Statutes,
- ~~d.~~ e. before any other apportionment of revenue has been made pursuant to this paragraph, three and twenty-eight one-hundredths percent (3.28%) shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs,
- ~~e.~~ f. before any other apportionment of revenue has been made pursuant to this paragraph, three and seventy-five one-hundredths percent (3.75%) shall be paid to the State Treasurer to be apportioned to:

(1) the following sources and in the following amounts through the fiscal year ending June 30, 2014:

(a) thirty-three and one-third percent (33 1/3%) to the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund created pursuant to Section 2254.1 of Title 74 of the Oklahoma Statutes,

(b) thirty-three and one-third percent (33 1/3%) to the Oklahoma Conservation Commission Infrastructure Revolving Fund created pursuant to Section 3-2-110 of Title 27A of the Oklahoma Statutes, and

(c) thirty-three and one-third percent (33 1/3%) to the Community Water Infrastructure Development Revolving Fund created pursuant to Section 1085.7A of Title 82 of the Oklahoma Statutes, and

(2) the Oklahoma Water Resources Board Rural Economic Action Plan Water Projects Fund for the fiscal year ending June 30, 2014, and for each fiscal year thereafter,

~~f.~~ g. before any other apportionment of revenue has been made pursuant to this paragraph, twelve and one-half percent (12.5%) of the sum collected from oil shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year,

~~g.~~ h. before any other apportionment of revenue has been made pursuant to this paragraph, twelve and one-half percent (12.5%) shall be allocated to each county as provided in subparagraph ~~f~~ g of this paragraph and shall be apportioned on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils

attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction, and

- ~~h.~~ i. before any other apportionment of revenue has been made pursuant to this paragraph, forty-seven one-hundredths percent (0.47%) of the levy shall be transmitted by the Tax Commission to the Statewide Circuit Engineering District Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes;

7. For all monies collected from the tax levied on oil at a tax rate of one percent (1%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. there shall be apportioned from the gross production tax levy imposed pursuant to Section 1001 of this title on oil to the Energy Revenue Stabilization Fund created by Section 2 of this act, the amount of revenue, if any, which exceeds the moving three-year average amount as defined pursuant to paragraph 2 of subsection A of this section,
- b. before any other apportionment of revenue has been made pursuant to this paragraph, fifty percent (50%) of the sum collected shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and
- ~~b.~~ c. before any other apportionment of revenue has been made pursuant to this paragraph, fifty percent (50%) shall be allocated to each county as provided for in subparagraph a b of this paragraph and shall be apportioned on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of

fifteen (15) mills for the current year and maintains twelve (12) years of instruction.

C. Provided, notwithstanding any other provision of this section, the total amounts deposited to the Common Education Technology Revolving Fund, the Higher Education Capital Revolving Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Rural Economic Action Plan Water Projects Fund, the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund, the Oklahoma Conservation Commission Infrastructure Revolving Fund and the Community Water Infrastructure Development Revolving Fund pursuant to paragraphs 5 and 6 of this section shall not exceed One Hundred Fifty Million Dollars (\$150,000,000.00) in any fiscal year. All sums in excess of One Hundred Fifty Million Dollars (\$150,000,000.00) in any fiscal year which would otherwise be deposited in such funds shall be ~~placed by the State Treasurer in the General Revenue Fund of the state~~ apportioned according to the requirements of this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a fund to be designated the "Energy Revenue Stabilization Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to Section 1004 of Title 68 of the Oklahoma Statutes.

B. The monies in the Energy Revenue Stabilization Fund shall be subject to legislative appropriation based upon the decline, if any, in the amount of gross production tax revenues apportioned to the General Revenue Fund of the State Treasury for the most recently completed fiscal year.

C. Monies in the Energy Revenue Stabilization Fund shall be invested in the same manner as other state funds under the direction and control of the State Treasurer.

D. All interest earned from the investment of the principal amount of the Energy Revenue Stabilization Fund shall become part of the total balance of the fund.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1004.1-1 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission shall report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Oklahoma State Senate not later than January 31 each year the moving three-year average amount for both oil and gas as defined by paragraphs 1 and 2 of subsection A of Section 1004 of Title 68 of the Oklahoma Statutes.

B. The Tax Commission shall make the first report required by this section not later than January 31, 2010, and not later than January 31 of each succeeding year.

SECTION 4. Sections 1 and 2 of this act shall become effective July 1, 2015.

SECTION 5. Section 3 of this act shall become effective November 1, 2010.

Passed the House of Representatives the 28th day of May, 2010.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 28th day of May, 2010.

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Presiding Officer of the Senate