

THE HOUSE OF REPRESENTATIVES
Monday, March 1, 2010

Committee Substitute for
House Bill No. 3032

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3032 - By: BENGE AND JACKSON of the House and ANDERSON AND SPARKS of the Senate.

(energy revenue stabilization – amending 68 O.S. 2001, Section 1004 – apportionment of gross production tax revenues – Energy Revenue Stabilization Fund – State Board of Equalization – computation of certain revenue amounts – monthly gross production revenue targets – transfer of monies from the Energy Revenue Stabilization Fund – creating the Energy Revenue Stabilization Fund – investment of monies – creating Enhanced Emergency Recovery Fund – codification –
effective date)

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

1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1004, as last amended by
2 Section 1, Chapter 305, O.S.L. 2009 (68 O.S. Supp. 2009, Section 1004), is amended to
3 read as follows:

4 Section 1004. Beginning July 1, ~~2002~~ 2011, the gross production tax provided for in
5 Section 1001 of this title is hereby levied and shall be collected and apportioned as
6 follows:

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

- 1 a. eighty-five and seventy-two one-hundredths percent (85.72%) shall be
2 paid to the State Treasurer of the state to be placed in the General
3 Revenue Fund of the state and used for the general expense of state
4 government, to be paid out pursuant to direct appropriation by the
5 Legislature,
- 6 b. seven and fourteen one-hundredths percent (7.14%) of the sum
7 collected from natural gas and/or casinghead gas or asphalt or ores
8 bearing uranium, lead, zinc, jack, gold, silver or copper shall be paid to
9 the various county treasurers to be credited to the County Highway
10 Fund as follows: Each county shall receive a proportionate share of the
11 funds available based upon the proportion of the total value of
12 production from such county in the corresponding month of the
13 preceding year, and
- 14 c. seven and fourteen one-hundredths percent (7.14%) shall be allocated
15 to each county as provided for in subparagraph b of this paragraph and
16 shall be apportioned, on an average daily attendance per capita
17 distribution basis, as certified by the State Superintendent of Public
18 Instruction to the school districts of the county where such pupils
19 attend school regardless of residence of such pupil, provided the school
20 district makes an ad valorem tax levy of fifteen (15) mills for the
21 current year and maintains twelve (12) years of instruction;

1 2. For all monies collected from the tax levied on natural gas and/or casinghead gas
2 at a tax rate of seven percent (7%) pursuant to the provisions of subsection B of Section
3 1001 of this title:

4 a. after any other apportionments required by this paragraph are made
5 there shall be apportioned to the Energy Revenue Stabilization Fund
6 created by Section 3 of this act that would otherwise be apportioned to
7 the General Revenue Fund the amount of revenue from the gross
8 production tax levy imposed pursuant to Section 1001 of this title on
9 natural gas which exceeds the moving three-year average amount of
10 the General Revenue Fund component for such prior years collections
11 as defined pursuant to paragraph 3 of subsection A of Section 2 of this
12 act.

13 b. before the apportionment of revenue to the Energy Revenue
14 Stabilization Fund, if any, has been made, ~~eighty-five and seventy-two~~
15 ~~one-hundredths~~ percent (85.72%) the amount of revenue derived by
16 computing the moving three-year average for natural gas pursuant to
17 paragraph 3 of subsection A of Section 2 of this act shall be paid to the
18 State Treasurer of the state to be placed in the General Revenue Fund
19 of the state and used for the general expense of state government, to be
20 paid out pursuant to direct appropriation by the Legislature,

21 ~~b. c.~~ before the apportionment of revenue to the Energy Revenue
22 Stabilization Fund, if any, has been made, seven and fourteen one-

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

17 3. For all monies collected from the tax levied on natural gas and/or casinghead gas
18 at a tax rate of four percent (4%) pursuant to the provisions of subsection B of Section
19 1001 of this title:

20 a. ~~seventy-five percent (75%)~~ after any other apportionments required by
21 this paragraph are made there shall be apportioned to the Energy
22 Revenue Stabilization Fund created by Section 3 of this act that would

1 otherwise be apportioned to the General Revenue Fund the amount of
2 revenue from the gross production tax levy imposed pursuant to
3 Section 1001 of this title on natural gas which exceeds the moving
4 three-year average amount of the General Revenue Fund component
5 for such prior years collections as defined pursuant to paragraph 3 of
6 subsection A of Section 2 of this act,
7 b. before the apportionment of revenue to the Energy Revenue
8 Stabilization Fund has been made, the amount of revenue derived by
9 computing the moving three-year average for natural gas pursuant to
10 paragraph 3 of subsection A of Section 2 of this act shall be paid to the
11 State Treasurer of the state to be placed in the General Revenue Fund
12 of the state and used for the general expense of state government, to be
13 paid out pursuant to direct appropriation by the Legislature,
14 b. c. before the apportionment of revenue to the Energy Revenue
15 Stabilization Fund, if any, has been made, twelve and one-half percent
16 (12.5%) of the sum collected from natural gas and/or casinghead gas
17 shall be paid to the various county treasurers to be credited to the
18 County Highway Fund as follows: Each county shall receive a
19 proportionate share of the funds available based upon the proportion of
20 the total value of production from such county in the corresponding
21 month of the preceding year, and

1 e. d. before the apportionment of revenue to the Energy Revenue
2 Stabilization Fund, if any, has been made, twelve and one-half percent
3 (12.5%) shall be allocated to each county as provided for in
4 subparagraph ~~b~~ c of this paragraph and shall be apportioned, on an
5 average daily attendance per capita distribution basis, as certified by
6 the State Superintendent of Public Instruction to the school districts of
7 the county where such pupils attend school regardless of residence of
8 such pupil, provided the school district makes an ad valorem tax levy
9 of fifteen (15) mills for the current year and maintains twelve (12)
10 years of instruction;

11 4. For all monies collected from the tax levied on natural gas and/or casinghead gas
12 at a tax rate of one percent (1%) pursuant to the provisions of subsection B of Section
13 1001 of this title:

14 a. after any other apportionments required by this paragraph are made
15 there shall be apportioned to the Energy Revenue Stabilization Fund
16 created by Section 3 of this act that would otherwise be apportioned to
17 the General Revenue Fund the amount of revenue from the gross
18 production tax levy imposed pursuant to Section 1001 of this title on
19 natural gas which exceeds the moving three-year average amount of
20 the General Revenue Fund component for such prior years collections
21 as defined pursuant to paragraph 3 of subsection A of Section 2 of this
22 act.

1 **b.** before the apportionment of revenue to the Energy Revenue
2 Stabilization Fund, if any, has been made, fifty percent (50%) of the
3 sum collected from natural gas and/or casinghead gas shall be paid to
4 the various county treasurers to be credited to the County Highway
5 Fund as follows: Each county shall receive a proportionate share of the
6 funds available based upon the proportion of the total value of
7 production from such county in the corresponding month of the
8 preceding year, and

9 **b. c.** before the apportionment of revenue to the Energy Revenue
10 Stabilization Fund, if any, has been made, fifty percent (50%) shall be
11 allocated to each county as provided for in subparagraph **a b** of this
12 paragraph and shall be apportioned, on an average daily attendance
13 per capita distribution basis, as certified by the State Superintendent
14 of Public Instruction to the school districts of the county where such
15 pupils attend school regardless of residence of such pupil, provided the
16 school district makes an ad valorem tax levy of fifteen (15) mills for the
17 current year and maintains twelve (12) years of instruction;

18 5. For all monies collected from the tax levied on oil at a tax rate of seven percent
19 (7%) pursuant to the provisions of subsection B of Section 1001 of this title:

20 **a.** after any other apportionments required by this paragraph are made
21 there shall be apportioned to the Energy Revenue Stabilization Fund
22 created by Section 3 of this act that would otherwise be apportioned to

1 the General Revenue Fund the amount of revenue from the gross
2 production tax levy imposed pursuant to Section 1001 of this title on
3 oil which exceeds the moving three-year average amount of the
4 General Revenue Fund component for such prior years collections as
5 defined pursuant to paragraph 2 of subsection A of Section 2 of this
6 act.

7 b. before the apportionment of revenue to the Energy Revenue
8 Stabilization Fund, if any, has been made, twenty-five and seventy-two
9 one-hundredths percent (25.72%) shall be paid to the State Treasurer
10 to be placed in the Common Education Technology Revolving Fund
11 created in Section 41.29c of Title 62 of the Oklahoma Statutes,

12 ~~b. c.~~ before the apportionment of revenue to the Energy Revenue
13 Stabilization Fund, if any, has been made, twenty-five and seventy-two
14 one-hundredths percent (25.72%) shall be paid to the State Treasurer
15 to be placed in the Higher Education Capital Revolving Fund created
16 in Section 41.29d of Title 62 of the Oklahoma Statutes,

17 ~~e. d.~~ before the apportionment of revenue to the Energy Revenue
18 Stabilization Fund, if any, has been made, twenty-five and seventy-two
19 one-hundredths percent (25.72%) shall be paid to the State Treasurer
20 to be placed in the Oklahoma Tuition Scholarship Revolving Fund
21 created in Section 41.29e of Title 62 of the Oklahoma Statutes,

1 Fund created pursuant to Section 1085.7A of Title 82 of
2 the Oklahoma Statutes, and

3 (2) the Oklahoma Water Resources Board Rural Economic Action
4 Plan Water Projects Fund for the fiscal year ending June 30,
5 2014, and for each fiscal year thereafter,

6 ~~£. g.~~ before the apportionment of revenue to the Energy Revenue
7 Stabilization Fund, if any, has been made, seven and fourteen one-
8 hundredths percent (7.14%) of the sum collected from oil shall be paid
9 to the various county treasurers, to be credited to the County Highway
10 Fund as follows: Each county shall receive a proportionate share of the
11 funds available based upon the proportion of the total value of
12 production from such county in the corresponding month of the
13 preceding year, and

14 ~~g. h.~~ before the apportionment of revenue to the Energy Revenue
15 Stabilization Fund, if any, has been made, seven and fourteen one-
16 hundredths percent (7.14%) shall be allocated to each county as
17 provided in subparagraph ~~£ g~~ of this paragraph and shall be
18 apportioned, on an average daily attendance per capita distribution
19 basis, as certified by the State Superintendent of Public Instruction, to
20 the school districts of the county where such pupils attend school
21 regardless of residence of such pupil, provided the school district

1 makes an ad valorem tax levy of fifteen (15) mills for the current year
2 and maintains twelve (12) years of instruction;

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

5 a. after any other apportionments required by this paragraph are made
6 there shall be apportioned to the Energy Revenue Stabilization Fund
7 created by Section 3 of this act that would otherwise be apportioned to
8 the General Revenue Fund the amount of revenue from the gross
9 production tax levy imposed pursuant to Section 1001 of this title on
10 oil which exceeds the moving three-year average amount of the
11 General Revenue Fund component for such prior years collections as
12 defined pursuant to paragraph 2 of subsection A of Section 2 of this
13 act.

14 b. before the apportionment of revenue to the Energy Revenue
15 Stabilization Fund, if any, has been made, twenty-two and one-half
16 percent (22.5%) shall be paid to the State Treasurer to be placed in the
17 Common Education Technology Revolving Fund created in Section
18 41.29c of Title 62 of the Oklahoma Statutes,

19 ~~b. c.~~ before the apportionment of revenue to the Energy Revenue
20 Stabilization Fund, if any, has been made, twenty-two and one-half
21 percent (22.5%) shall be paid to the State Treasurer to be placed in the

1 Higher Education Capital Revolving Fund created in Section 41.29d of
2 Title 62 of the Oklahoma Statutes,
3 ~~e. d.~~ before the apportionment of revenue to the Energy Revenue
4 Stabilization Fund, if any, has been made, twenty-two and one-half
5 percent (22.5%) shall be paid to the State Treasurer to be placed in the
6 Oklahoma Tuition Scholarship Revolving Fund created in Section
7 41.29e of Title 62 of the Oklahoma Statutes,
8 ~~d. e.~~ before the apportionment of revenue to the Energy Revenue
9 Stabilization Fund, if any, has been made, three and seventy-five one-
10 hundredths percent (3.75%) shall be paid to the State Treasurer to be
11 apportioned to the County Bridge and Road Improvement Fund of the
12 State Treasury,
13 ~~e. f.~~ before the apportionment of revenue to the Energy Revenue
14 Stabilization Fund, if any, has been made, three and seventy-five one-
15 hundredths percent (3.75%) shall be paid to the State Treasurer to be
16 apportioned to:
17 (1) the following sources and in the following amounts through the
18 fiscal year ending June 30, 2014:
19 (a) thirty-three and one-third percent (33 1/3%) to the
20 Oklahoma Tourism and Recreation Department Capital
21 Expenditure Revolving Fund created pursuant to Section
22 2254.1 of Title 74 of the Oklahoma Statutes,

1 (b) thirty-three and one-third percent (33 1/3%) to the
2 Oklahoma Conservation Commission Infrastructure
3 Revolving Fund created pursuant to Section 3-2-110 of
4 Title 27A of the Oklahoma Statutes, and
5 (c) thirty-three and one-third percent (33 1/3%) to the
6 Community Water Infrastructure Development Revolving
7 Fund created pursuant to Section 1085.7A of Title 82 of
8 the Oklahoma Statutes, and
9 (2) the Oklahoma Water Resources Board Rural Economic Action
10 Plan Water Projects Fund for the fiscal year ending June 30,
11 2014, and for each fiscal year thereafter,
12 ~~f. g.~~ before the apportionment of revenue to the Energy Revenue
13 Stabilization Fund, if any, has been made, twelve and one-half percent
14 (12.5%) of the sum collected from oil shall be paid to the various county
15 treasurers, to be credited to the County Highway Fund as follows:
16 Each county shall receive a proportionate share of the funds available
17 based upon the proportion of the total value of production from such
18 county in the corresponding month of the preceding year, and
19 ~~g. h.~~ before the apportionment of revenue to the Energy Revenue
20 Stabilization Fund, if any, has been made, twelve and one-half percent
21 (12.5%) shall be allocated to each county as provided in subparagraph ~~f~~
22 ~~g~~ of this paragraph and shall be apportioned on an average daily

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

7 7. For all monies collected from the tax levied on oil at a tax rate of one percent
8 (1%) pursuant to the provisions of subsection B of Section 1001 of this title:

9 a. after any other apportionments required by this paragraph are made
10 there shall be apportioned to the Energy Revenue Stabilization Fund
11 created by Section 3 of this act that would otherwise be apportioned to
12 the General Revenue Fund the amount of revenue from the gross
13 production tax levy imposed pursuant to Section 1001 of this title on
14 oil which exceeds the moving three-year average amount of the
15 General Revenue Fund component for such prior years collections as
16 defined pursuant to paragraph 2 of subsection A of Section 2 of this
17 act.

18 b. before the apportionment of revenue to the Energy Revenue
19 Stabilization Fund, if any, has been made, fifty percent (50%) of the
20 sum collected shall be paid to the various county treasurers, to be
21 credited to the County Highway Fund as follows: Each county shall
22 receive a proportionate share of the funds available based upon the

1 proportion of the total value of production from such county in the
2 corresponding month of the preceding year, and
3 ~~b. c.~~ before the apportionment of revenue to the Energy Revenue
4 Stabilization Fund, if any, has been made, fifty percent (50%) shall be
5 allocated to each county as provided for in subparagraph ~~a b~~ of this
6 paragraph and shall be apportioned on an average daily attendance
7 per capita distribution basis, as certified by the State Superintendent
8 of Public Instruction, to the school districts of the county where such
9 pupils attend school regardless of residence of such pupil, provided the
10 school district makes an ad valorem tax levy of fifteen (15) mills for the
11 current year and maintains twelve (12) years of instruction.

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

1 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 1004.1A of Title 68, unless there is created a duplication in
3 numbering, reads as follows:

4 A. As used in this section:

5 1. "Gross production tax" means the levy imposed pursuant to Section 1001 of Title
6 68 of the Oklahoma Statutes on oil and natural gas;

7 2. "Moving three-year average for oil" means the total amount of gross production
8 tax on oil collected for each of the three (3) complete fiscal years prior to the beginning of
9 the fiscal year for which the three-year average is being computed and which was
10 apportioned to the General Revenue Fund during such period divided by the whole
11 number three (3); and

12 3. "Moving three-year average for natural gas" means the total amount of gross
13 production tax on natural gas collected for each of the three (3) complete fiscal years
14 prior to the beginning of the fiscal year for which the three-year average is being
15 computed and which was apportioned to the General Revenue Fund during such period
16 divided by the whole number three (3).

17 B. The State Board of Equalization shall report to the Legislature during the
18 month of February each year the moving three-year average for oil and the moving three-
19 year average for natural gas.

20 C. Each amount so computed pursuant to subsection B of this section shall be the
21 maximum amount of gross production tax revenue available for use in determining the
22 amount of such revenue which may be certified as available to the Legislature for

1 appropriation in the forthcoming fiscal year as provided by Section 23 of Article X of the
2 Oklahoma Constitution. The amount available for appropriation shall be one hundred
3 percent (100%) of each amount computed pursuant to subsection B of this section.

4 D. The State Board of Equalization shall compute a monthly gross production
5 revenue target figure for use in making apportionments from the Energy Revenue
6 Stabilization Fund created pursuant to Section 3 of this act by dividing the moving three-
7 year average amount for oil by the whole number twelve (12).

8 E. The State Board of Equalization shall compute a monthly gross production
9 revenue target figure for use in making apportionments from the Energy Revenue
10 Stabilization Fund created pursuant to Section 3 of this act by dividing the moving three-
11 year average amount for natural gas by the whole number twelve (12).

12 F. The State Board shall provide the information computed pursuant to subsections
13 D and E of this section to the Director of the Office of State Finance not later than July 1
14 each year.

15 G. For any month of the then current fiscal year during which the actual amount of
16 gross production tax revenue on oil or natural gas is less than the applicable monthly
17 gross production revenue target figure, the Director of the Office of State Finance shall
18 transfer the difference between the monthly gross production tax revenue target amount
19 and the amount actually collected during such month from the Energy Revenue
20 Stabilization Fund to the General Revenue Fund.

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

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

8 B. The monies in the Energy Revenue Stabilization Fund shall be apportioned to
9 the General Revenue Fund in the manner prescribed by Section 2 of this act.

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

12 D. All interest earned from the investment of the principal amount of the Energy
13 Revenue Stabilization Fund shall be apportioned monthly to the Enhanced Energy
14 Recovery Fund created pursuant to Section 4 of this act.

15 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 1004.1C of Title 68, unless there is created a duplication in
17 numbering, reads as follows:

18 A. There is hereby created in the State Treasury a fund to be designated the
19 “Enhanced Energy Recovery Fund”. The fund shall be a continuing fund, not subject to
20 fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to
21 Section 3 of this act.

1 B. The Enhanced Energy Recovery Fund shall be used for the purpose of projects or
2 studies conducive to the development of energy resources within the state.

3 SECTION 5. This act shall become effective July 1, 2011.

4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
5 dated 02-25-10 - DO PASS, As Amended and Coauthored.