

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2152

By: Sparks

4  
5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2001, Section 1004, as last amended by Section  
9 1, Chapter 305, O.S.L. 2009 (68 O.S. Supp. 2009,  
10 Section 1004), which relates to gross production tax;  
11 modifying apportionment of gross production taxes;  
12 establishing basis for certain determination;  
13 creating Revenue Replacement Endowment Fund and  
14 providing for funding and purpose; specifying the  
15 disposition of income and investment return;  
16 requiring State Treasurer to invest Endowment Fund in  
17 specified manner and providing exception; creating  
18 Revenue Replacement Revolving Fund; providing for  
19 nature of revolving fund and providing for transfer  
20 of monies into revolving fund; providing for  
21 appropriation, budgeting and expenditure of revolving  
22 fund; limiting purpose for which specified percentage  
23 of revolving fund shall be budgeted and expended;  
24 providing procedures for expenditures from revolving  
fund; authorizing transfer of certain portion of  
Endowment Fund to Revolving Fund at specified time;  
requiring State Board of Equalization to make certain  
certification; providing for codification; providing  
an effective date; and declaring an emergency.

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

22 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1004, as  
23 last amended by Section 1, Chapter 305, O.S.L. 2009 (68 O.S. Supp.  
24 2009, Section 1004), is amended to read as follows:

1 Section 1004. A. Beginning July 1, 2002, the gross production  
2 tax provided for in Section 1001 of this title is hereby levied and  
3 shall be collected and apportioned as follows:

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

6 a. eighty-five and seventy-two one-hundredths percent  
7 (85.72%) shall be paid to the State Treasurer of the  
8 state to be placed in the General Revenue Fund of the  
9 state and used for the general expense of state  
10 government, to be paid out pursuant to direct  
11 appropriation by the Legislature,

12 b. seven and fourteen one-hundredths percent (7.14%) of  
13 the sum collected from natural gas and/or casinghead  
14 gas or asphalt or ores bearing uranium, lead, zinc,  
15 jack, gold, silver or copper shall be paid to the  
16 various county treasurers to be credited to the County  
17 Highway Fund as follows: Each county shall receive a  
18 proportionate share of the funds available based upon  
19 the proportion of the total value of production from  
20 such county in the corresponding month of the  
21 preceding year, and

22 c. seven and fourteen one-hundredths percent (7.14%)  
23 shall be allocated to each county as provided for in  
24 subparagraph b of this paragraph and shall be

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

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

12           a.   eighty-five and seventy-two one-hundredths percent  
13               (85.72%) shall be paid to the State Treasurer of the  
14               state to be placed in the General Revenue Fund of the  
15               state and used for the general expense of state  
16               government, to be paid out pursuant to direct  
17               appropriation by the Legislature,

18           b.   seven and fourteen one-hundredths percent (7.14%) of  
19               the sum collected from natural gas and/or casinghead  
20               gas shall be paid to the various county treasurers to  
21               be credited to the County Highway Fund as follows:  
22               Each county shall receive a proportionate share of the  
23               funds available based upon the proportion of the total

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

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

- 17 a. seventy-five percent (75%) shall be paid to the State  
18 Treasurer of the state to be placed in the General  
19 Revenue Fund of the state and used for the general  
20 expense of state government, to be paid out pursuant  
21 to direct appropriation by the Legislature,  
22 b. twelve and one-half percent (12.5%) of the sum  
23 collected from natural gas and/or casinghead gas shall  
24 be paid to the various county treasurers to be

1 credited to the County Highway Fund as follows: Each  
2 county shall receive a proportionate share of the  
3 funds available based upon the proportion of the total  
4 value of production from such county in the  
5 corresponding month of the preceding year, and

6 c. twelve and one-half percent (12.5%) shall be allocated  
7 to each county as provided for in subparagraph b of  
8 this paragraph and shall be apportioned, on an average  
9 daily attendance per capita distribution basis, as  
10 certified by the State Superintendent of Public  
11 Instruction to the school districts of the county  
12 where such pupils attend school regardless of  
13 residence of such pupil, provided the school district  
14 makes an ad valorem tax levy of fifteen (15) mills for  
15 the current year and maintains twelve (12) years of  
16 instruction;

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

20 a. fifty percent (50%) of the sum collected from natural  
21 gas and/or casinghead gas shall be paid to the various  
22 county treasurers to be credited to the County Highway  
23 Fund as follows: Each county shall receive a  
24 proportionate share of the funds available based upon

1 the proportion of the total value of production from  
2 such county in the corresponding month of the  
3 preceding year, and

- 4 b. fifty percent (50%) shall be allocated to each county  
5 as provided for in subparagraph a of this paragraph  
6 and shall be apportioned, on an average daily  
7 attendance per capita distribution basis, as certified  
8 by the State Superintendent of Public Instruction to  
9 the school districts of the county where such pupils  
10 attend school regardless of residence of such pupil,  
11 provided the school district makes an ad valorem tax  
12 levy of fifteen (15) mills for the current year and  
13 maintains twelve (12) years of instruction;

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

- 17 a. twenty-five and seventy-two one-hundredths percent  
18 (25.72%) shall be paid to the State Treasurer to be  
19 placed in the Common Education Technology Revolving  
20 Fund created in Section 41.29c of Title 62 of the  
21 Oklahoma Statutes,

- 22 b. twenty-five and seventy-two one-hundredths percent  
23 (25.72%) shall be paid to the State Treasurer to be  
24 placed in the Higher Education Capital Revolving Fund

1 created in Section 41.29d of Title 62 of the Oklahoma  
2 Statutes,

3 c. twenty-five and seventy-two one-hundredths percent  
4 (25.72%) shall be paid to the State Treasurer to be  
5 placed in the Oklahoma Tuition Scholarship Revolving  
6 Fund created in Section 41.29e of Title 62 of the  
7 Oklahoma Statutes,

8 d. four and twenty-eight one-hundredths percent (4.28%)  
9 shall be paid to the State Treasurer to be apportioned  
10 to the County Bridge and Road Improvement Fund of the  
11 State Treasury,

12 e. four and twenty-eight one-hundredths percent (4.28%)  
13 shall be paid to the State Treasurer to be apportioned  
14 to:

15 (1) the following sources and in the following  
16 amounts through the fiscal year ending June 30,  
17 2014:

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

23 (b) thirty-three and one-third percent (33 1/3%)  
24 to the Oklahoma Conservation Commission

1                   Infrastructure Revolving Fund created  
2                   pursuant to Section 3-2-110 of Title 27A of  
3                   the Oklahoma Statutes, and

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

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

13                f. seven and fourteen one-hundredths percent (7.14%) of  
14                the sum collected from oil shall be paid to the  
15                various county treasurers, to be credited to the  
16                County Highway Fund as follows: Each county shall  
17                receive a proportionate share of the funds available  
18                based upon the proportion of the total value of  
19                production from such county in the corresponding month  
20                of the preceding year, and

21                g. seven and fourteen one-hundredths percent (7.14%)  
22                shall be allocated to each county as provided in  
23                subparagraph f of this paragraph and shall be  
24                apportioned, on an average daily attendance per capita

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

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

- 11 a. twenty-two and one-half percent (22.5%) shall be paid  
12 to the State Treasurer to be placed in the Common  
13 Education Technology Revolving Fund created in Section  
14 41.29c of Title 62 of the Oklahoma Statutes,
- 15 b. twenty-two and one-half percent (22.5%) shall be paid  
16 to the State Treasurer to be placed in the Higher  
17 Education Capital Revolving Fund created in Section  
18 41.29d of Title 62 of the Oklahoma Statutes,
- 19 c. twenty-two and one-half percent (22.5%) shall be paid  
20 to the State Treasurer to be placed in the Oklahoma  
21 Tuition Scholarship Revolving Fund created in Section  
22 41.29e of Title 62 of the Oklahoma Statutes,
- 23 d. three and seventy-five one-hundredths percent (3.75%)  
24 shall be paid to the State Treasurer to be apportioned

1 to the County Bridge and Road Improvement Fund of the  
2 State Treasury,

3 e. three and seventy-five one-hundredths percent (3.75%)  
4 shall be paid to the State Treasurer to be apportioned  
5 to:

6 (1) the following sources and in the following  
7 amounts through the fiscal year ending June 30,  
8 2014:

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

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

19 (c) thirty-three and one-third percent (33 1/3%)  
20 to the Community Water Infrastructure  
21 Development Revolving Fund created pursuant  
22 to Section 1085.7A of Title 82 of the  
23 Oklahoma Statutes, and  
24

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

5 f. twelve and one-half percent (12.5%) of the sum  
6 collected from oil shall be paid to the various county  
7 treasurers, to be credited to the County Highway Fund  
8 as follows: Each county shall receive a proportionate  
9 share of the funds available based upon the proportion  
10 of the total value of production from such county in  
11 the corresponding month of the preceding year, and

12 g. twelve and one-half percent (12.5%) shall be allocated  
13 to each county as provided in subparagraph f of this  
14 paragraph and shall be apportioned on an average daily  
15 attendance per capita distribution basis, as certified  
16 by the State Superintendent of Public Instruction, to  
17 the school districts of the county where such pupils  
18 attend school regardless of residence of such pupil,  
19 provided the school district makes an ad valorem tax  
20 levy of fifteen (15) mills for the current year and  
21 maintains twelve (12) years of instruction; and

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

- 1           a.   fifty percent (50%) of the sum collected shall be paid  
2                   to the various county treasurers, to be credited to  
3                   the County Highway Fund as follows: Each county shall  
4                   receive a proportionate share of the funds available  
5                   based upon the proportion of the total value of  
6                   production from such county in the corresponding month  
7                   of the preceding year, and
- 8           b.   fifty percent (50%) shall be allocated to each county  
9                   as provided for in subparagraph a of this paragraph  
10                  and shall be apportioned on an average daily  
11                  attendance per capita distribution basis, as certified  
12                  by the State Superintendent of Public Instruction, to  
13                  the school districts of the county where such pupils  
14                  attend school regardless of residence of such pupil,  
15                  provided the school district makes an ad valorem tax  
16                  levy of fifteen (15) mills for the current year and  
17                  maintains twelve (12) years of instruction.

18           B. Provided, notwithstanding any other provision of this  
19 section, the total amounts deposited to the Common Education  
20 Technology Revolving Fund, the Higher Education Capital Revolving  
21 Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Rural  
22 Economic Action Plan Water Projects Fund, the Oklahoma Tourism and  
23 Recreation Department Capital Expenditure Revolving Fund, the  
24 Oklahoma Conservation Commission Infrastructure Revolving Fund and

1 the Community Water Infrastructure Development Revolving Fund  
2 pursuant to paragraphs 5 and 6 of this section shall not exceed One  
3 Hundred Fifty Million Dollars (\$150,000,000.00) in any fiscal year.  
4 All sums in excess of One Hundred Fifty Million Dollars  
5 (\$150,000,000.00) in any fiscal year which would otherwise be  
6 deposited in such funds shall be placed by the State Treasurer in  
7 the General Revenue Fund of the state.

8 C. Beginning on July 1 of the first year after the average  
9 annual index price of Oklahoma gas exceeds Ten Dollars (\$10.00) per  
10 thousand cubic feet, prior to the apportionment of any tax as  
11 provided for in subsection A of this section, five percent (5%) of  
12 the gross production tax levied and collected pursuant to Section  
13 1001 of this title shall be paid to the State Treasurer to be placed  
14 in the Revenue Replacement Endowment Fund as created in Section 2 of  
15 this act. For purposes of this section, the average annual index  
16 price of Oklahoma gas shall be based on the determination made by  
17 the Oklahoma Tax Commission pursuant to subparagraph c of paragraph  
18 1 of subsection K of Section 1001 of this title.

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

22 A. There is hereby created an endowment fund to be known as the  
23 "Revenue Replacement Endowment Fund". The endowment fund principal  
24 shall consist of funds apportioned pursuant to subsection C of

1 Section 1004 of Title 68 of the Oklahoma Statutes for the purpose of  
2 creating an endowment for the operations of state government.  
3 Notwithstanding any other provisions of law, income and investment  
4 return on endowment fund principal shall accrue to the endowment  
5 fund.

6 B. The Revenue Replacement Endowment Fund shall be invested by  
7 the State Treasurer as authorized in Section 89.2 of Title 62 of the  
8 Oklahoma Statutes; provided, investments in obligations of state and  
9 local governments, pursuant to paragraph 6 of subsection A of  
10 Section 89.2 of Title 62 of the Oklahoma Statutes, shall not exceed  
11 five percent (5%) of the cash available for investment.

12 C. There is hereby created in the State Treasury a revolving  
13 fund to be designated the "Revenue Replacement Revolving Fund". The  
14 fund shall be a continuing fund, not subject to fiscal year  
15 limitations, and shall consist of all such transfers made pursuant  
16 to subsection D of this section. All monies accruing to the credit  
17 of such fund are hereby appropriated and may be budgeted and  
18 expended for the fiscal year beginning July 1, 2025, and each fiscal  
19 year thereafter, for operations of state government in the same  
20 manner as the General Revenue Fund is budgeted and expended;  
21 provided, no more than five percent (5%) of monies from the Revenue  
22 Replacement Revolving Fund shall be budgeted or expended for debt  
23 service payments of principal and interest due on bonds or other  
24 financing instruments issued by the State of Oklahoma, any Oklahoma

1 counties, municipalities, state agencies, authorities, commissions,  
2 political subdivisions or any other governmental entities.  
3 Expenditures from such fund shall be made upon warrants issued by  
4 the State Treasurer against claims filed as prescribed by law with  
5 the Director of State Finance for approval and payment.

6 D. On July 1, 2025, and on July 1 each year thereafter, four  
7 percent (4%) of the total balance of the Revenue Replacement  
8 Endowment Fund shall be transferred to the Revenue Replacement  
9 Revolving Fund and shall be certified by the State Board of  
10 Equalization as part of the total amount of revenue which will  
11 accrue during the last applicable fiscal year.

12 SECTION 3. This act shall become effective July 1, 2010.

13 SECTION 4. It being immediately necessary for the preservation  
14 of the public peace, health and safety, an emergency is hereby  
15 declared to exist, by reason whereof this act shall take effect and  
16 be in full force from and after its passage and approval.

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