

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 945

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 55, Chapter 1, O.S.L. 2007 (68 O.S. Supp. 2008,
10 Section 1004), which relates to gross production tax;
11 updating references; modifying apportionment of gross
12 production taxes; creating Revenue Replacement
13 Endowment Fund and providing for funding and purpose;
14 specifying the disposition of income and investment
15 return; requiring State Treasurer to invest Endowment
16 Fund in specified manner and providing exception;
17 creating Revenue Replacement Revolving Fund;
18 providing for nature of revolving fund and providing
19 for transfer of monies into revolving fund; providing
20 for appropriation, budgeting and expenditure of
21 revolving fund; limiting purpose for which specified
22 percentage of revolving fund shall be budgeted and
23 expended; providing procedures for expenditures from
24 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 55, Chapter 1, O.S.L. 2007 (68 O.S. Supp.
24 2008, 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 for the fiscal year ending June 30, 2007,
17 through the fiscal year ending June 30, 2011:

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 ~~2 of this~~
22 ~~aet~~ 2254.1 of Title 74 of the Oklahoma
23 Statutes,

24

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

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

11 (2) the Oklahoma Water Resources Board Rural Economic
12 Action Plan Water Projects Fund for the fiscal
13 year ending June 30, 2012, and for each fiscal
14 year thereafter,

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

23 g. seven and fourteen one-hundredths percent (7.14%)
24 shall be allocated to each county as provided in

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

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

13 a. twenty-two and one-half percent (22.5%) shall be paid
14 to the State Treasurer to be placed in the Common
15 Education Technology Revolving Fund created in Section
16 41.29c of Title 62 of the Oklahoma Statutes,

17 b. twenty-two and one-half percent (22.5%) shall be paid
18 to the State Treasurer to be placed in the Higher
19 Education Capital Revolving Fund created in Section
20 41.29d of Title 62 of the Oklahoma Statutes,

21 c. twenty-two and one-half percent (22.5%) shall be paid
22 to the State Treasurer to be placed in the Oklahoma
23 Tuition Scholarship Revolving Fund created in Section
24 41.29e of Title 62 of the Oklahoma Statutes,

1 d. three and seventy-five one-hundredths percent (3.75%)
2 shall be paid to the State Treasurer to be apportioned
3 to the County Bridge and Road Improvement Fund of the
4 State Treasury,

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

8 (1) the following sources and in the following
9 amounts for the fiscal year ending June 30, 2007,
10 through the fiscal year ending June 30, 2011:

11 (a) thirty-three and one-third percent (33 1/3%)
12 to the Oklahoma Tourism and Recreation
13 Department Capital Expenditure Revolving
14 Fund created pursuant to Section 2 of this
15 act,

16 (b) thirty-three and one-third percent (33 1/3%)
17 to the Oklahoma Conservation Commission
18 Infrastructure Revolving Fund created
19 pursuant to Section 3 of this act, and

20 (c) thirty-three and one-third percent (33 1/3%)
21 to the Community Water Infrastructure
22 Development Revolving Fund created pursuant
23 to Section 4 of this act, 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, 2012, 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 July 1, 2009, prior to the apportionment of any
9 tax as provided for in subsection A of this section, five percent
10 (5%) of the gross production tax levied and collected pursuant to
11 Section 1001 of this title shall be paid to the State Treasurer to
12 be placed in the Revenue Replacement Endowment Fund as created in
13 Section 2 of this act.

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

17 A. There is hereby created an endowment fund to be known as the
18 "Revenue Replacement Endowment Fund". The endowment fund principal
19 shall consist of funds apportioned pursuant to subsection C of
20 Section 1004 of Title 68 of the Oklahoma Statutes for the purpose of
21 creating an endowment for the operations of state government.
22 Notwithstanding any other provisions of law, income and investment
23 return on endowment fund principal shall accrue to the endowment
24 fund.

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

7 C. There is hereby created in the State Treasury a revolving
8 fund to be designated the "Revenue Replacement Revolving Fund". The
9 fund shall be a continuing fund, not subject to fiscal year
10 limitations, and shall consist of all such transfers made pursuant
11 to subsection D of this section. All monies accruing to the credit
12 of such fund are hereby appropriated and may be budgeted and
13 expended beginning with the fiscal year beginning July 1, 2023, and
14 each fiscal year thereafter, for operations of state government in
15 the same manner as the General Revenue Fund is budgeted and
16 expended; provided, no more than five percent (5%) of monies from
17 the Revenue Replacement Revolving Fund shall be budgeted or expended
18 for debt service payments of principal and interest due on
19 outstanding bonds or other financing instruments issued by the State
20 of Oklahoma, any Oklahoma counties, municipalities, state agencies,
21 authorities, commissions, political subdivisions or any other
22 governmental entities. Expenditures from such fund shall be made
23 upon warrants issued by the State Treasurer against claims filed as
24

1 prescribed by law with the Director of State Finance for approval
2 and payment.

3 D. On July 1, 2023, and on July 1 each year thereafter, four
4 percent (4%) of the total balance of the Revenue Replacement
5 Endowment Fund shall be transferred to the Revenue Replacement
6 Revolving Fund and shall be certified by the State Board of
7 Equalization as part of the total amount of revenue which will
8 accrue during the last applicable fiscal year.

9 SECTION 3. This act shall become effective July 1, 2009.

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

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