

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
BILL NO. 2763

By: Montgomery and Sherrer of
the House

and

Holt of the Senate

[public finance - Oklahoma Energy Revenues
Stabilization Act - creation of Revenue Protection
Strategy - creating the Board on Revenue
Stabilization - ~~effective date~~ -
emergency]

AUTHOR: Add the following House Coauthors: Vaughan, Leewright,
Murdock and Wood

AUTHOR: Add the following Senate Coauthors: Standridge, Shortey
and Brecheen

AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause
and entire bill and insert

"[Oklahoma Legacy Fund - deposit - earnings -
Revenue Stabilization Fund - State Board of
Equalization - codification]

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 34.102 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. There is hereby created in the State Treasury a revolving
5 fund to be known and designated as the "Revenue Stabilization Fund."
6 The fund shall be a continuing fund, not subject to fiscal year
7 limitations. Beginning for the first fiscal year when the amount of
8 certified revenues exceeds the amount of such revenues certified by
9 the State Board of Equalization in February of 2014, and subject to
10 the conditions and findings of the State Board of Equalization as
11 prescribed by Section 2 of this act, the Revenue Stabilization Fund
12 shall consist of:

13 1. Seventy-five percent (75%) of the revenue derived from the
14 gross production tax on oil levied pursuant to Section 1001 of Title
15 68 of the Oklahoma Statutes which is in excess of the five-year
16 average computed as prescribed by Section 2 of this act;

17 2. Seventy-five percent (75%) of the revenue derived from the
18 gross production tax on natural gas levied pursuant to Section 1001
19 of Title 68 of the Oklahoma Statutes which is in excess of the five-
20 year average computed as prescribed by Section 2 of this act;

21 3. Seventy-five percent (75%) of the revenue derived from
22 corporate income tax levied pursuant to Section 2355 of Title 68 of
23 the Oklahoma Statutes which is in excess of the five-year average
24 computed as prescribed by Section 2 of this act; and

1 4. Any amounts appropriated by the Legislature.

2 B. In the event that a revenue failure is declared with respect
3 to the General Revenue Fund pursuant to Section 34.49 of Title 62 of
4 the Oklahoma Statutes, the Director of the Office of Management and
5 Enterprise Services may withdraw up to one-quarter (1/4) of the
6 balance of the Revenue Stabilization Fund, to reduce or avoid
7 reductions to agencies for the current fiscal year not to exceed the
8 amount of the declared revenue failure.

9 C. In the event that a revenue failure is declared with respect
10 to the General Revenue Fund pursuant to Section 34.49 of Title 62 of
11 the Oklahoma Statutes, the Legislature may appropriate up to one-
12 quarter (1/4) of the balance of the Revenue Stabilization Fund, not
13 to exceed the amount of the declared revenue failure as declared
14 with respect to the General Revenue Fund pursuant to Section 34.49
15 of Title 62 of the Oklahoma Statutes.

16 D. In the event that the amount of revenue certified to be
17 collected in the General Revenue Fund for the upcoming fiscal year
18 is less than the amount of revenue certified to the General Revenue
19 Fund for the current fiscal year, the Legislature may appropriate up
20 to one-quarter (1/4) of the balance of the Revenue Stabilization
21 Fund; provided, that the amount withdrawn shall not exceed the
22 amount of the decline in revenue certified.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 34.105 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. In addition to any other duties prescribed by law, at the
5 meeting required by paragraph 1 of Section 23 of Article X of the
6 Oklahoma Constitution to be held in February of 2017, and each year
7 thereafter, the State Board of Equalization shall certify:

8 1. For the revenue derived from the tax levied on oil pursuant
9 to Section 1001 of Title 68 of the Oklahoma Statutes, which would
10 otherwise be apportioned to the General Revenue Fund, the average
11 annual amount of actual revenue apportioned to the General Revenue
12 Fund for the previous five (5) fiscal years;

13 2. For the revenue derived from the tax levied on natural gas
14 pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, which
15 would otherwise be apportioned to the General Revenue Fund, the
16 average annual amount of actual revenue apportioned to the General
17 Revenue Fund for the previous five (5) fiscal years; and

18 3. For the revenue derived from the corporate income tax levied
19 pursuant to Section 2355 of Title 68 the Oklahoma Statutes, which
20 would otherwise be apportioned to the General Revenue Fund, the
21 average annual amount of actual revenue apportioned to the General
22 Revenue Fund for the previous five (5) fiscal years.

23 B. If the amount of revenue available for apportionment to the
24 General Revenue Fund for the next ensuing fiscal year as estimated

1 by the State Board of Equalization exceeds the amounts certified
2 pursuant to paragraph 1 or 2 of subsection A of this section, with
3 respect to each such revenue source, seventy-five percent (75%) of
4 such amount in excess of the separately computed five-year average,
5 which would otherwise be apportioned to the General Revenue Fund,
6 shall be deposited to the credit of the Revenue Stabilization Fund.

7 C. If the amount of revenue available for apportionment to the
8 General Revenue Fund for the next ensuing fiscal year exceeds the
9 amount certified, as estimated by the State Board of Equalization
10 pursuant to paragraph 3 of subsection A of this section, twenty-five
11 percent (25%) of such amount in excess shall be deposited to the
12 credit of the Maintenance of State Buildings Revolving Fund created
13 in Section 908 of Title 62 of the Oklahoma Statutes. The remaining
14 seventy-five percent (75%) shall be deposited to the credit of the
15 Revenue Stabilization Fund.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 34.106 of Title 62, unless there
18 is created a duplication in numbering, reads as follows:

19 Not later than December 15, 2021, and every five (5) years
20 thereafter, the Office of Management and Enterprise Services shall
21 submit a report to the Joint Committee on Appropriations and Budget,
22 and the Governor on the performance of the Revenue Stabilization
23 Fund and Maintenance of State Buildings Revolving Fund set forth in
24 this section. The reports shall include an analysis of the deposit

1 formulae impact on General Revenue Fund tax revenue volatility, the
2 adequacy of deposits required by the formula to the Revenue
3 Stabilization Fund to replace potential future revenue declines, the
4 adequacy of the deposits to the Maintenance of State Buildings
5 Revolving Fund to ensure the proper maintenance of state buildings,
6 the withdrawal provisions of the Revenue Stabilization Fund and an
7 analysis of the adequacy of the maximum cap on the Revenue
8 Stabilization Fund balances. The reports shall include recommended
9 changes, if any, to the deposit formulae, withdrawal rules or
10 maximum balance cap that are consistent with the purposes of the
11 Revenue Stabilization Fund and the Maintenance of State Buildings
12 Revolving Fund."

13 and when the title is restored, amend the title to
14 conform

15 Passed the Senate the 21st day of April, 2016.

17 _____
18 Presiding Officer of the Senate

19 Passed the House of Representatives the ____ day of _____,
20 2016.

22 _____
23 Presiding Officer of the House
24 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2763

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7 [public finance - Oklahoma Energy Revenues
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10 Stabilization - ~~effective date~~ -
11 emergency]

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13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 8001 of Title 62, unless there
17 is created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "Oklahoma Energy
19 Revenues Stabilization Act".

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 8002 of Title 68, unless there
22 is created a duplication in numbering, reads as follows:

23 A. Revenues from the gross production tax on oil and gas above
24 a moving five-year average, in addition to revenue from corporate

1 income tax above a five-year average, shall be deposited into a
2 revolving fund to be known as the Energy Stabilization Fund.

3 B. The Energy Stabilization Fund shall be invested in a manner
4 prescribed by the State Treasurer with the primary intent of
5 generating returns, with all investment returns from the Energy
6 Stabilization Fund to accrue to the balance of the fund.

7 C. In the event that the Energy Stabilization Fund should grow
8 to a value equal to seventy-five percent (75%) of the February
9 projection of gross production tax on oil and gas, all monies above
10 the seventy-five-percent level shall be deposited to the credit of
11 the General Revenue Fund for appropriation in the current fiscal
12 year.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 8003 of Title 62, unless there
15 is created a duplication in numbering, reads as follows:

16 It is the finding of the Legislature that the State Treasurer
17 may be authorized to utilize the financial instruments known as
18 options on oil and gas futures for the purpose of providing revenue
19 stability, given that these instruments are not a contractual right
20 of ownership to stock or of any company. The Legislature further
21 finds that the purchase of options on oil and gas futures is not to
22 be considered the lending of the state's credit, but rather that the
23 state is purchasing options to a commodity which may generally
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1 benefit the citizens of the state and that the state is in effect
2 paying for a service which it has the option to purchase.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 8004 of Title 62, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The State Treasurer shall be authorized to contract with a
7 third-party firm for the purpose of consultation and assessment of
8 the State of Oklahoma's oil and gas tax revenues and determining the
9 best strategy for acquiring financial positions which may benefit
10 the state.

11 B. The State Treasurer shall create a Revenue Protection
12 Strategy for the next fiscal year.

13 1. The Tax Commission shall report to the State Treasurer the
14 projected level of revenue that will be reported to the Board of
15 Equalization at its December meeting. This projection shall be
16 reported between five (5) and ten (10) days before the December
17 meeting of the Board of Equalization.

18 2. The State Treasurer shall utilize information from the Tax
19 Commission to create the Revenue Protection Strategy (RPS) for the
20 fiscal year for which the projection is applicable.

21 3. The State Treasurer may utilize a third-party consultant to
22 help in creating the Revenue Protection Strategy.

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1 4. The Revenue Protection Strategy shall report the projected
2 amount of gross production revenues collected on oil and gas
3 production.

4 5. The Revenue Protection Strategy may utilize projected gains
5 from the use of a hedging strategy using options related to oil or
6 gas or both such commodities. No hedging strategy shall include the
7 equity securities of a specific company. The Revenue Protection
8 Strategy shall utilize best practices of risk management and
9 investment and not be for speculative purposes. The Revenue
10 Protection Strategy shall detail the proposed use of financial
11 instruments and cash funds from the Energy Stabilization Fund to
12 prevent a minimum of a ten-percent decline in gross production tax
13 revenue receipts from the December equalization projection.

14 6. The Revenue Protection Strategy shall include by what means
15 the State Treasurer proposes to pay to acquire the revenue-
16 stabilizing hedging positions. The State Treasurer may utilize
17 investment returns from the State Treasurer's portfolio or from the
18 Energy Stabilization Fund to acquire the hedging positions.

19 7. The Revenue Protection Strategy shall detail the anticipated
20 costs of the proposed Revenue Protection Strategy unless the
21 strategy is amended by the Board on Revenue Stabilization. The
22 Revenue Protection Strategy report shall also include the realized
23 costs of the previous fiscal year's Revenue Protection Strategy.
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1 8. The Energy Stabilization Fund shall not be used until such
2 time that the Energy Stabilization Fund shall have built a principal
3 balance that is equal to twenty-five percent (25%) of the five-year
4 moving average of the gross production tax revenue. The State
5 Treasurer may use investment returns generated from the fund for the
6 purpose of acquiring the financial instruments necessary for
7 carrying out the hedging strategy.

8 9. The State Treasurer may use third-party sources for the
9 purpose of purchasing the options on futures.

10 10. The State Treasurer shall be authorized to use monies from
11 investment returns on the State Treasurer's portfolio or from the
12 Energy Stabilization Fund to acquire both consulting services and
13 payment of the third-party purchases of options, except as otherwise
14 provided for in this act. The State Treasurer shall include both
15 the expenditures and source of financing in the monthly report of
16 investment activity.

17 11. Revenue gained from the utilization of the Revenue
18 Protection Strategy shall be expended in line with the requirements
19 and apportionments of the applicable gross production taxes, except
20 that one-half of one percent (0.5%) of any gains gathered from the
21 exercise of the Revenue Protection Strategy shall be deposited to
22 the credit of the Energy Stabilization Fund.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 8005 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. There shall be created a Board on Revenue Stabilization.

5 B. The Board shall be composed of the following members:

6 1. The Governor shall appoint one member from any oil company
7 based in the State of Oklahoma, and one member from any gas company
8 based in the State of Oklahoma, and one Registered Representative
9 who has passed both the Series 7/66 Exams;

10 2. The President Pro Tempore of the Oklahoma State Senate shall
11 appoint one member from any oil or gas company based in the State of
12 Oklahoma;

13 3. The Speaker of the Oklahoma House of Representatives shall
14 appoint one Registered Representative who has passed the Series 7/66
15 exams; and

16 4. The State Treasurer or a designee shall serve as an ex
17 officio member of the Board.

18 C. The Governor's Registered Representative appointment shall
19 serve as the Chair of the Board.

20 D. The Board shall meet within forty-eight (48) hours of the
21 December Board of Equalization revenue certification. The State
22 Treasurer shall report to the Board findings from any third-party
23 consultations, and shall provide the Revenue Protection Strategy to
24 meet the requirements of this act.

1 E. The Board shall vote to approve or disapprove of the State
2 Treasurer's proposed Revenue Protection Strategy. If the Board
3 votes to disapprove of the Revenue Protection Strategy, the Board
4 shall immediately amend the strategy and provide instructions for
5 the implementation of the revised Revenue Protection Strategy.

6 F. Upon the approval or revision of the proposed Revenue
7 Protection Strategy, the State Treasurer shall be responsible for
8 implementing the Revenue Protection Strategy immediately.

9 G. The Board may meet throughout the year as needed to amend
10 the Revenue Protection Strategy or approve of proposed amendments as
11 applicable.

12 ~~SECTION 6. This act shall become effective July 1, 2016.~~

13 ~~SECTION 7. 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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1 Passed the House of Representatives the 9th day of March, 2016.

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3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2016.

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8 _____
9 Presiding Officer of the Senate