STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1139 By: Marlatt of the Senate

and

Watson of the House

COMMITTEE SUBSTITUTE

An Act relating to the Corporation Commission Plugging Fund; amending 17 O.S. 2011, Section 180.10, as last amended by Section 1, Chapter 314, O.S.L. 2015 (17 O.S. Supp. 2015, Section 180.10), which relates to the Corporation Commission Plugging Fund; extending termination date; amending 68 O.S. 2011, Sections 1101, 1102 and 1103, as amended by Section 1, Chapter 331, O.S.L. 2012 (68 O.S. Supp. 2015, Section 1103), which relate to the excise tax on oil and gas and apportionment of tax; extending certain termination dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 17 O.S. 2011, Section 180.10, as last amended by Section 1, Chapter 314, O.S.L. 2015 (17 O.S. Supp. 2015, Section 180.10), is amended to read as follows:

Section 180.10 A. There is hereby created in the State Treasury a fund for the Corporation Commission to be designated the "Corporation Commission Plugging Fund". The plugging fund shall

consist of monies received by the Corporation Commission as required by law to be deposited to the credit of said fund. The fund shall be a continuing fund not subject to fiscal year limitations and shall not be subject to legislative appropriations. Expenditures from the plugging fund shall be made pursuant to the laws of this state and the statutes relating to the Corporation Commission. For each fiscal year, the Commission may expend not more than eight percent (8%) of the total amount deposited to the credit of the plugging fund during the previous fiscal year for the purpose of responding to occurrences of seeping natural gas as provided for in Section 317.1 of Title 52 of the Oklahoma Statutes. In addition, expenditures from the plugging fund may be made pursuant to The Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes, for purposes of immediately responding to emergency situations, within the Commission's jurisdiction, having potentially critical environmental or public safety impact. Warrants for expenditures from the fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee of the Corporation Commission and approved for payment by the Director of the Office of Management and Enterprise Services. The provisions of this act or rules promulgated pursuant thereto, shall not be construed to relieve or in any way diminish the surety bonding requirements required by Section 318.1 of Title 52 of the Oklahoma Statutes.

B. Prior to July 1, ~~2016~~ 2021, the plugging fund shall be maintained at Five Million Dollars ($5,000,000.00). If the plugging fund falls below the five-million-dollar maintenance level, the Corporation Commission shall notify the Tax Commission that the plugging fund has fallen below the required maintenance level and that the excise tax which has been levied by subsection A of Section 1101 of Title 68 of the Oklahoma Statutes and subsection A of Section 1102 of Title 68 of the Oklahoma Statutes which is credited and apportioned to the Corporation Commission Plugging Fund pursuant to Section 1103 of Title 68 of the Oklahoma Statutes is to be imposed. Such additional excise tax shall be imposed and collected until such time as is necessary to meet the additional five-million-dollar maintenance level. The Tax Commission shall notify the persons responsible for payment of the excise tax on oil and gas of the imposition of such tax. The provisions of this subsection shall terminate on July 1, ~~2016~~ 2021.

SECTION 2. AMENDATORY 68 O.S. 2011, Section 1101, is amended to read as follows:

Section 1101. A. Prior to July 1, ~~2016~~ 2021, and as provided in Section 1103.1 of this title, there is hereby levied, in addition to the gross production tax, an excise tax equal to ninety-five one thousandths of one percent (.095 of 1%) of the gross value on each barrel of petroleum oil produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such

excise tax of ninety-five one thousandths of one percent (.095 of 1%) of the gross value shall be reported to and collected by the Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on petroleum oil. On petroleum oil sold at the time of production, the excise tax thereon shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid; provided, that in the event oil on which such tax becomes due is not sold at the time of production, but is retained by the producer, the tax on such oil not so sold shall be paid by the producer, including the tax due on royalty oil not sold; and provided, further, that in settlement with royalty owner, such producer shall have the right to deduct the amount of tax so paid on royalty oil, or to deduct therefrom royalty oil equivalent in value at the time such tax becomes due with the amount of tax paid.

The provisions of this subsection shall terminate on June 30, ~~2016~~ 2021.

B. Beginning on July 1, ~~2016~~ 2021, there is hereby levied, in addition to the gross production tax, an excise tax equal to eighty-five one thousandths of one percent (.085 of 1%) of the gross value on each barrel of petroleum oil produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such excise tax of eighty-five one thousandths of one percent (.085 of 1%) of the gross value shall be reported to and collected by the

Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on petroleum oil. On petroleum oil sold at the time of production, the excise tax thereon shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid; provided, that in the event oil on which such tax becomes due is not sold at the time of production, but is retained by the producer, the tax on such oil not so sold shall be paid by the producer, including the tax due on royalty oil not sold; and provided, further, that in settlement with royalty owner, such producer shall have the right to deduct the amount of tax so paid on royalty oil, or to deduct therefrom royalty oil equivalent in value at the time such tax becomes due with the amount of tax paid.

SECTION 3. AMENDATORY 68 O.S. 2011, Section 1102, is amended to read as follows:

Section 1102. A. Prior to July 1, ~~2016~~ 2021, and as provided in Section 1103.1 of this title, there is hereby levied, in addition to the gross production tax, an excise tax equal to ninety-five one thousandths of one percent (.095 of 1%) of the gross value of all natural gas and/or casinghead gas produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such excise tax of ninety-five one thousandths of one percent (.095 of 1%) of the gross value shall be reported to and collected by the

Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on natural gas and/or casinghead gas, and this excise tax shall apply in all cases where the gross production tax provided for by law applies to the production of natural gas and/or casinghead gas. The excise tax shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid, provided, however, that if such natural gas and/or casinghead gas is retained by the producer, then the tax shall be paid by the producer, who shall have the right to deduct the amount of tax so paid on royalty gas at the time of settlement with the royalty owner.

The provisions of this subsection shall terminate on June 30, ~~2016~~ 2021.

B. Beginning on July 1, ~~2016~~ 2021, there is hereby levied, in addition to the gross production tax, an excise tax equal to eighty-five one thousandths of one percent (.085 of 1%) of the gross value of all natural gas and/or casinghead gas produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such excise tax of eighty-five one thousandths of one percent (.085 of 1%) of the gross value shall be reported to and collected by the Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on natural gas and/or casinghead gas, and this excise tax shall

apply in all cases where the gross production tax provided for by law applies to the production of natural gas and/or casinghead gas. The excise tax shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid, provided, however, that if such natural gas and/or casinghead gas is retained by the producer, then the tax shall be paid by the producer, who shall have the right to deduct the amount of tax so paid on royalty gas at the time of settlement with the royalty owner.

SECTION 4. AMENDATORY 68 O.S. 2011, Section 1103, as amended by Section 1, Chapter 331, O.S.L. 2012 (68 O.S. Supp. 2015, Section 1103), is amended to read as follows:

Section 1103. A. 1. Prior to July 1, ~~2016~~ 2021, and as provided in Section 1103.1 of this title, all monies derived from the levy of the excise tax on petroleum oil provided for by Section 1101 of this title shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

a. eighty-two and six hundred thirty-four thousandths percent (82.634%) of said excise tax shall be credited to the General Revenue Fund of the State Treasury; provided, in each fiscal year beginning on or after July 1, 2013, the first One Million Three Hundred Fifty Thousand Dollars ($1,350,000.00) which would otherwise have been apportioned to the General Revenue

Fund pursuant to this subparagraph shall be transferred to the Oil and Gas Division Revolving Fund of the Oklahoma Corporation Commission;

b. ten and five hundred twenty-six thousandths percent (10.526%) shall be credited and apportioned to a separate and distinct fund to be known as the "Corporation Commission Plugging Fund"; and

c. the remaining six and eighty-four hundredths percent (6.84%) of said excise tax shall be credited and apportioned to a separate and distinct fund to be known as "The Interstate Oil Compact Fund of Oklahoma", which fund is hereby created.

2. Prior to July 1, ~~2016~~ 2021, and as provided in Section 1103.1 of this title, all monies derived from the levy of the excise tax on natural gas and/or casinghead gas provided for by Section 1102 of this title shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

a. eighty-two and six thousand forty-five ten thousandths percent (82.6045%) of said excise tax shall be credited to the General Revenue Fund of the State Treasury; provided, in each fiscal year beginning on or after July 1, 2013, the first One Million Three Hundred Fifty Thousand Dollars ($1,350,000.00) which would otherwise have been apportioned to the General

Revenue Fund pursuant to this subparagraph shall be transferred to the Oil and Gas Division Revolving Fund of the Oklahoma Corporation Commission;

b. ten and five thousand five hundred fifty-five ten thousandths percent (10.5555%) shall be credited and apportioned to the Corporation Commission Plugging Fund; and

c. six and eighty-four hundredths percent (6.84%) of said excise tax shall be credited and apportioned to The Interstate Oil Compact Fund of Oklahoma.

3. Prior to July 1, ~~2016~~ 2021, and as provided in Section 1103.1 of this title, all monies to accrue to "The Interstate Oil Compact Fund of Oklahoma" under the provisions of this article, together with all monies remaining unexpended in "The Interstate Oil Compact Fund of Oklahoma" created under this subsection are hereby appropriated and shall be used for the payment of the compensation of the assistant representative of the State of Oklahoma on "The Interstate Oil Compact Commission", the compensation of such clerical, technical, and legal assistants as he or she may with the consent of the Governor employ; the actual and necessary traveling expenses of the assistant representative and employees, and of the Governor when traveling in the Governor's capacity as official representative of the State of Oklahoma on "The Interstate Oil Compact Commission"; all items of office expense, including the cost

of office supplies and equipment; such contributions as the Governor shall deem necessary and proper to pay to "The Interstate Oil Compact Commission" to defray its expenses; and such other necessary expenses as may be incurred in enabling the State of Oklahoma to fully cooperate in accomplishing the objects of the Interstate Compact to conserve oil and gas. The fund shall be disbursed by the State Treasurer upon sworn, itemized claims approved by the assistant representative and the Governor; provided, that if at the end of any fiscal year any part of the special fund shall remain unexpended, such balance shall be transferred by the State Treasurer to, and become a part of, the General Revenue Fund of the state for the ensuing fiscal year. Provided, further, that if the State of Oklahoma withdraws from the Interstate Compact to conserve oil and gas, any unencumbered monies in "The Interstate Oil Compact Fund of Oklahoma" shall be transferred to and become a part of the General Revenue Fund of the State Treasury and thereafter the excise tax on petroleum oil, natural gas and/or casinghead gas levied by this article shall be levied, collected and deposited in the General Revenue Fund of the State Treasury.

4. All monies to accrue to the Corporation Commission Plugging Fund are hereby appropriated and shall be used for payment of expenses related to the statutory purpose of the fund.

The provisions of this subsection shall terminate on June 30, ~~2016~~ 2021.

B. 1. Beginning on July 1, ~~2016~~ 2021, all monies derived from the levy of the excise tax on petroleum oil provided for by Section 1101 of this Code shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

a. ninety-two and thirty-five hundredths percent (92.35%) of said excise tax shall be credited and apportioned to the General Revenue Fund of the State Treasury; provided, in each fiscal year beginning on or after July 1, 2013, the first One Million Three Hundred Fifty Thousand Dollars ($1,350,000.00) which would otherwise have been apportioned to the General Revenue Fund pursuant to this subparagraph shall be transferred to the Oil and Gas Division Revolving Fund of the Oklahoma Corporation Commission, and

b. the remaining seven and sixty-five hundredths percent (7.65%) of said excise tax shall be credited and apportioned to a separate and distinct fund to be known as "The Interstate Oil Compact Fund of Oklahoma", which fund is hereby created.

2. Beginning on July 1, ~~2016~~ 2021, all monies derived from the levy of the excise tax on natural gas and/or casinghead gas provided for by Section 1102 of this Code shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

a. ninety-two and thirty-five hundredths percent (92.35%) of said excise tax shall be credited and apportioned to the General Revenue Fund of the State Treasury; provided, in each fiscal year beginning on or after July 1, 2013, the first One Million Three Hundred Fifty Thousand Dollars ($1,350,000.00) which would otherwise have been apportioned to the General Revenue Fund pursuant to this subparagraph shall be transferred to the Oil and Gas Division Revolving Fund of the Oklahoma Corporation Commission, and

b. seven and sixty-five hundredths percent (7.65%) of said excise tax shall be credited and apportioned to The Interstate Oil Compact Fund of Oklahoma.

3. Beginning on July 1, ~~2016~~ 2021, all monies to accrue to "The Interstate Oil Compact Fund of Oklahoma" under the provisions of this article, together with all monies remaining unexpended in "The Interstate Oil Compact Fund of Oklahoma" created under this subsection are hereby appropriated and shall be used for the payment of the compensation of the assistant representative of the State of Oklahoma on "The Interstate Oil Compact Commission", the compensation of such clerical, technical, and legal assistants as he or she may with the consent of the Governor employ; the actual and necessary traveling expenses of the assistant representative and employees, and of the Governor when traveling in the Governor's

capacity as official representative of the State of Oklahoma on "The Interstate Oil Compact Commission"; all items of office expense, including the cost of office supplies and equipment; such contributions as the Governor shall deem necessary and proper to pay to "The Interstate Oil Compact Commission" to defray its expenses; and such other necessary expenses as may be incurred in enabling the State of Oklahoma to fully cooperate in accomplishing the objects of the Interstate Compact to conserve oil and gas. The fund shall be disbursed by the State Treasurer upon sworn, itemized claims approved by the assistant representative and the Governor; provided, that if at the end of any fiscal year any part of the special fund shall remain unexpended, such balance shall be transferred by the State Treasurer to, and become a part of, the General Revenue Fund of the State Treasury for the ensuing fiscal year. Provided, further, that if the State of Oklahoma withdraws from the Interstate Compact to conserve oil and gas, any unencumbered monies in "The Interstate Oil Compact Fund of Oklahoma" shall be transferred to and become a part of the General Revenue Fund of the State Treasury and thereafter the excise tax on petroleum oil, natural gas and/or casinghead gas levied by this article shall be levied, collected and deposited in the General Revenue Fund of the State Treasury.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

55-2-9734 KB 04/06/16