

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2763

By: Montgomery

AS INTRODUCED

An Act relating to public finance; enacting the Oklahoma Energy Revenues Stabilization Act; providing for deposit of certain revenues into the Energy Stabilization Fund; providing for investment of monies; providing for deposit of monies into the General Revenue Fund; making legislative findings; authorizing third-party consultation contracts; requiring creation of Revenue Protection Strategy; prescribing procedures; imposing duties; providing for use of best practices; authorizing certain use of returns; prohibiting use of fund prior to certain principal balance amount; creating the Board on Revenue Stabilization; providing for membership; providing for meetings; requiring reports; prescribing procedures related to Revenue Protection Strategy; providing for codification; providing an effective date; and declaring an emergency.

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

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

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

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

4       A. Revenues from the gross production tax on oil and gas above  
5 a moving five-year average, in addition to revenue from corporate  
6 income tax above a five-year average, shall be deposited into a  
7 revolving fund to be known as the Energy Stabilization Fund.

8       B. The Energy Stabilization Fund shall be invested in a manner  
9 prescribed by the State Treasurer with the primary intent of  
10 generating returns, with all investment returns from the Energy  
11 Stabilization Fund to accrue to the balance of the fund.

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

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

21       It is the finding of the Legislature that the State Treasurer  
22 may be authorized to utilize the financial instruments known as  
23 options on oil and gas futures for the purpose of providing revenue  
24 stability, given that these instruments are not a contractual right

1 of ownership to stock or of any company. The Legislature further  
2 finds that the purchase of options on oil and gas futures is not to  
3 be considered the lending of the state's credit, but rather that the  
4 state is purchasing options to a commodity which may generally  
5 benefit the citizens of the state and that the state is in effect  
6 paying for a service which it has the option to purchase.

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

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

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

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

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

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

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

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

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

21        7. The Revenue Protection Strategy shall detail the anticipated  
22 costs of the proposed Revenue Protection Strategy unless the  
23 strategy is amended by the Board on Revenue Stabilization. The  
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1 Revenue Protection Strategy report shall also include the realized  
2 costs of the previous fiscal year's Revenue Protection Strategy.

3 8. The Energy Stabilization Fund shall not be used until such  
4 time that the Energy Stabilization Fund shall have built a principal  
5 balance that is equal to twenty-five percent (25%) of the five-year  
6 moving average of the gross production tax revenue. The State  
7 Treasurer may use investment returns generated from the fund for the  
8 purpose of acquiring the financial instruments necessary for  
9 carrying out the hedging strategy.

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

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

19 11. Revenue gained from the utilization of the Revenue  
20 Protection Strategy shall be expended in line with the requirements  
21 and apportionments of the applicable gross production taxes, except  
22 that one-half of one percent (0.5%) of any gains gathered from the  
23 exercise of the Revenue Protection Strategy shall be deposited to  
24 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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