

1 ENGROSSED HOUSE
2 BILL NO. 2414

By: Osborn (Leslie) and Wallace
of the House

3 and

4 David and Fields of the
5 Senate

6
7 An Act relating to revenue and taxation; stating
8 purpose; imposing additional tax levy upon
9 cigarettes; specifying amount of additional levy;
10 providing for apportionment of revenues to certain
11 funds; exempting levy from inclusion in determination
12 of certain amounts; requiring certain collections and
13 administration of levy; creating the Health Care
14 Authority Enhancement Fund, the Mental Health and
15 Substance Abuse Services Enhancement Fund, the Human
16 Services Enhancement Fund, the University Hospitals
17 Enhancement Fund, the Oklahoma State University
18 Medical Authority Enhancement Fund, the Health
19 Department Enhancement Fund, and the Health Care
20 Enhancement Fund; exempting funds from fiscal year
21 limitations; identifying funding source; declaring
22 funds appropriated; authorizing appropriation from
23 certain fund; requiring legislative authorization for
24 budgeting and expenditure; requiring certain
budgeting procedures; prohibiting sale of cigarette
excise tax stamps to wholesalers in excess of certain
amount; providing exception; stating purpose;
imposing tax on gasoline and diesel fuel for certain
period; establishing amount of tax per gallon;
requiring deposit of certain revenue, penalties and
interest in certain fund; amending 68 O.S. 2011,
Section 500.10, which relates to exemption from motor
fuels tax; extending exemptions to additional tax
levy; amending 69 O.S. 2011, Section 1521, as last
amended by Section 93, Chapter 15, O.S.L. 2013 (69
O.S. Supp. 2016, Section 1521), which relates to the
Rebuilding Oklahoma Access and Driver Safety Fund;
modifying calculation of certain annual
apportionments; amending 68 O.S. 2011, Section 1001,
as last amended by Section 1, Chapter 346, O.S.L.
2014 (68 O.S. Supp. 2016, Section 1001), which

1 relates to gross production tax; modifying rate for
2 well spudded after a certain date; providing for
3 codification; and providing for noncodification.
4

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

6 SECTION 1. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 302-7 of Title 68, unless there
8 is created a duplication in numbering, reads as follows:

9 A. For the purpose of providing revenue for the support of the
10 functions of state government, in addition to the tax levied in
11 Sections 302, 302-1, 302-2, 302-3, 302-4 and 302-5 of Title 68 of
12 the Oklahoma Statutes, there is hereby levied upon the sale, use,
13 gift, possession or consumption of cigarettes, as defined in
14 Sections 301 through 325 of Title 68 of the Oklahoma Statutes,
15 within this state, a tax at the rate of seventy-five (75) mills per
16 cigarette.

17 B. 1. Except as provided in paragraph 2 of this subsection,
18 the revenue resulting from the additional tax levied in subsection A
19 of this section shall be apportioned as provided in paragraphs 3 and
20 4 of this subsection.

21 2. The net amount of any revenue resulting from a payment in
22 lieu of excise taxes on cigarettes levied by this section, which net
23 amount shall be calculated after deductions for rebates owed
24 pursuant to a compact with a federally recognized Indian tribe or

1 nation, shall be apportioned as provided in paragraphs 3 and 4 of
2 this subsection.

3 3. For the period beginning September 1, 2017, and ending June
4 30, 2018, the resulting revenues as described by paragraphs 1 and 2
5 of this subsection shall be apportioned by the Oklahoma Tax
6 Commission and transmitted to the State Treasurer, who shall deposit
7 the same in the State Treasury to the credit of the following funds
8 in the following percentages:

9 a. the first One Hundred Eighty-five Million Dollars
10 (\$185,000,000.00):

11 (1) fifty percent (50%) to the credit of the Health
12 Care Authority Enhancement Fund, created in
13 Section 2 of this act,

14 (2) twenty-three percent (23%) to the credit of the
15 Mental Health and Substance Abuse Services
16 Enhancement Fund, created in Section 3 of this
17 act,

18 (3) thirteen and five-tenths percent (13.5%) to the
19 credit of the Human Services Enhancement Fund,
20 created in Section 4 of this act,

21 (4) five and four-tenths percent (5.4%) to the credit
22 of the University Hospitals Enhancement Fund,
23 created in Section 5 of this act,
24

1 (5) five and four-tenths percent (5.4%) to the credit
2 of the Oklahoma State University Medical
3 Authority Enhancement Fund, created in Section 6
4 of this act, and

5 (6) two and seven-tenths percent (2.7%) to the credit
6 of the Health Department Enhancement Fund,
7 created in Section 7 of this act, and

8 b. one hundred percent (100%) resulting revenues in
9 excess of One Hundred Eighty-five Million Dollars
10 (\$185,000,000.00) to the credit of the General Revenue
11 Fund of the state.

12 4. Beginning July 1, 2018, the resulting revenues as described
13 by paragraphs 1 and 2 of this subsection shall be apportioned by the
14 Oklahoma Tax Commission and transmitted to the State Treasurer, who
15 shall deposit the same in the State Treasury to the credit of the
16 following funds in the following amounts:

17 a. the first One Hundred Eighty-five Million Dollars
18 (\$185,000,000.00) each fiscal year to the credit of
19 the Health Care Enhancement Fund created in Section 8
20 of this act, and

21 b. all resulting revenue in excess of One Hundred Eighty-
22 five Million Dollars (\$185,000,000.00) each fiscal
23 year to the credit of the General Revenue Fund of the
24 state.

1 C. No part of the revenues resulting from the additional taxes
2 levied in this section shall be used in determining the amount of
3 cigarette tax collections to be paid into:

4 1. The State of Oklahoma Building Bonds of 1961 Sinking Fund
5 pursuant to the provisions of Sections 57.31 through 57.43 of Title
6 62 of the Oklahoma Statutes;

7 2. The State of Oklahoma Institutional Building Bonds of 1965
8 Sinking Fund pursuant to the provisions of Sections 57.61 through
9 57.73 of Title 62 of the Oklahoma Statutes;

10 3. The State of Oklahoma Institutional Building Bonds of 1965
11 Sinking Fund Series C and Series D pursuant to the provisions of
12 Sections 57.81 through 57.112 of Title 62 of the Oklahoma Statutes;

13 4. The State of Oklahoma Building Bonds of 1968 Sinking Fund
14 pursuant to the provisions of Sections 57.121 through 57.193 of
15 Title 62 of the Oklahoma Statutes; or

16 5. The Oklahoma Building Bonds of 1992 Sinking Fund pursuant to
17 the provisions of Sections 57.300 through 57.313 of Title 62 of the
18 Oklahoma Statutes.

19 D. The cigarette taxes levied in this section shall be
20 collected and administered as provided by law for other cigarette
21 taxes now levied, collected and administered pursuant to the
22 provisions of Sections 301 through 325 of Title 68 of the Oklahoma
23 Statutes.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 302-7a of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 There is hereby created in the State Treasury a fund for the
5 Oklahoma Health Care Authority to be designated the "Health Care
6 Authority Enhancement Fund". The fund shall be a continuing fund,
7 not subject to fiscal year limitations, and shall consist of monies
8 received pursuant to Section 1 of this act and any monies designated
9 to the fund by law. All monies accruing to the credit of the fund
10 are hereby appropriated and may be budgeted and expended by the
11 Oklahoma Health Care Authority as authorized by the Oklahoma
12 Legislature. Expenditures from the fund shall be made upon warrants
13 issued by the State Treasurer against claims filed as prescribed by
14 law with the Director of the Office of Management and Enterprise
15 Services for approval and payment.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 302-7b of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 There is hereby created in the State Treasury a fund for the
20 Department of Mental Health and Substance Abuse Services to be
21 designated the "Mental Health and Substance Abuse Services
22 Enhancement Fund". The fund shall be a continuing fund, not subject
23 to fiscal year limitations, and shall consist of monies received
24 pursuant to Section 1 of this act and any monies designated to the

1 fund by law. All monies accruing to the credit of the fund are
2 hereby appropriated and may be budgeted and expended by the
3 Department of Mental Health and Substance Abuse Services as
4 authorized by the Oklahoma Legislature. Expenditures from the fund
5 shall be made upon warrants issued by the State Treasurer against
6 claims filed as prescribed by law with the Director of the Office of
7 Management and Enterprise Services for approval and payment.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 302-7c of Title 68, unless there
10 is created a duplication in numbering, reads as follows:

11 There is hereby created in the State Treasury a fund for the
12 Department of Human Services to be designated the "Human Services
13 Enhancement Fund". The fund shall be a continuing fund, not subject
14 to fiscal year limitations, and shall consist of monies received
15 pursuant to Section 1 of this act and any monies designated to the
16 fund by law. All monies accruing to the credit of the fund are
17 hereby appropriated and may be budgeted and expended by the
18 Department of Human Services as authorized by the Oklahoma
19 Legislature. Expenditures from the fund shall be made upon warrants
20 issued by the State Treasurer against claims filed as prescribed by
21 law with the Director of the Office of Management and Enterprise
22 Services for approval and payment.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 302-7d of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 There is hereby created in the State Treasury a fund for the
5 University Hospitals Authority to be designated the "University
6 Hospitals Enhancement Fund". The fund shall be a continuing fund,
7 not subject to fiscal year limitations, and shall consist of monies
8 received pursuant to Section 1 of this act and any monies designated
9 to the fund by law. All monies accruing to the credit of the fund
10 are hereby appropriated and may be budgeted and expended by the
11 University Hospitals Authority as authorized by the Oklahoma
12 Legislature. Expenditures from the fund shall be made upon warrants
13 issued by the State Treasurer against claims filed as prescribed by
14 law with the Director of the Office of Management and Enterprise
15 Services for approval and payment.

16 SECTION 6. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 302-7e of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 There is hereby created in the State Treasury a fund for the
20 Oklahoma State University Medical Authority to be designated the
21 "Oklahoma State University Medical Authority Enhancement Fund". The
22 fund shall be a continuing fund, not subject to fiscal year
23 limitations, and shall consist of monies received pursuant to
24 Section 1 of this act and any monies designated to the fund by law.

1 All monies accruing to the credit of the fund are hereby
2 appropriated and may be budgeted and expended by the Oklahoma State
3 University Medical Authority as authorized by the Oklahoma
4 Legislature. Expenditures from the fund shall be made upon warrants
5 issued by the State Treasurer against claims filed as prescribed by
6 law with the Director of the Office of Management and Enterprise
7 Services for approval and payment.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 302-7f of Title 68, unless there
10 is created a duplication in numbering, reads as follows:

11 There is hereby created in the State Treasury a fund for the
12 State Department of Health to be designated the "Health Department
13 Enhancement Fund". The fund shall be a continuing fund, not subject
14 to fiscal year limitations, and shall consist of monies received
15 pursuant to Section 1 of this act and any monies designated to the
16 fund by law. All monies accruing to the credit of the fund are
17 hereby appropriated and may be budgeted and expended by the State
18 Department of Health as authorized by the Oklahoma Legislature.
19 Expenditures from the fund shall be made upon warrants issued by the
20 State Treasurer against claims filed as prescribed by law with the
21 Director of the Office of Management and Enterprise Services for
22 approval and payment.

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1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 302-7g of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 There is hereby created in the State Treasury a fund to be
5 designated the "Health Care Enhancement Fund". The fund shall be a
6 continuing fund, not subject to fiscal year limitations, and shall
7 consist of monies received pursuant to Section 1 of this act and any
8 monies designated to the fund by law. All monies accruing to the
9 credit of the fund shall be appropriated at the discretion of the
10 Legislature for the purpose of enhancing the health of Oklahomans.

11 SECTION 9. NEW LAW A new section of law not to be
12 codified in the Oklahoma Statutes reads as follows:

13 The Oklahoma Tax Commission shall not sell cigarette excise tax
14 stamps to any wholesaler in excess of the amount of the monthly
15 average amount of such excise tax stamps sold to such wholesaler
16 during the preceding calendar year prior to the effective date of
17 Sections 1 and 2 of this act. Provided, the wholesaler may purchase
18 in excess of the monthly average purchased during the preceding
19 calendar year upon documentation, to the Tax Commission's
20 satisfaction, of probable sales greater than the wholesaler's sales
21 in the preceding calendar year.

22 SECTION 10. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 500.4B of Title 68, unless there
24 is created a duplication in numbering, reads as follows:

1 A. For the purpose of providing revenue for the support of the
2 functions of state government, for a forty-eight-month period
3 following the effective date of this act in addition to the tax
4 imposed by Section 500.4 of Title 68 of the Oklahoma Statutes there
5 is hereby imposed a tax of six cents (\$0.06) per gallon on all:

6 1. Gasoline used or consumed in this state; and

7 2. Diesel fuel used or consumed in this state.

8 B. All remaining revenue from the tax imposed by subsection A
9 of this section, and penalties and interest thereon collected by the
10 Oklahoma Tax Commission, after the requirements of Section 500.63 of
11 Title 68 of the Oklahoma Statutes have been fulfilled, shall be
12 deposited in the State Treasury to the credit of the Rebuilding
13 Oklahoma Access and Driver Safety Fund created in Section 1521 of
14 Title 69 of the Oklahoma Statutes.

15 SECTION 11. AMENDATORY 68 O.S. 2011, Section 500.10, is
16 amended to read as follows:

17 Section 500.10 Subject to the procedural requirements and
18 conditions set out in this section and Sections 500.11 through
19 500.17 of this title, the following are exempt from the ~~tax~~ taxes on
20 motor fuel imposed by Section 500.4 of this title ~~on motor fuel and~~
21 Section 10 of this act:

22 1. Motor fuel for which proof of export is available in the
23 form of a terminal-issued destination state shipping paper:
24

- a. exported by a supplier who is licensed in the destination state, or
- b. sold by a supplier to a licensed exporter for immediate export;

2. Motor fuel which was acquired by an unlicensed exporter and as to which the tax imposed by Section 500.4 of this title has previously been paid or accrued and was subsequently exported by transport truck by or on behalf of the licensed exporter in a diversion across state boundaries properly reported in conformity with Section 500.46 of this title;

3. Motor fuel exported out of a bulk plant in this state in a tank wagon if the destination of that vehicle does not exceed twenty-five (25) miles from the border of this state and as to which the tax imposed by Section 500.4 of this title has previously been paid or accrued, subject to gallonage limits and other conditions established by the Oklahoma Tax Commission;

4. K-1 kerosene sold at retail through dispensers which have been designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than twenty-one (21) gallons for use other than for highway purposes, under such rules as the Tax Commission shall reasonably require;

1 5. Motor fuel sold to the United States or any agency or
2 instrumentality thereof;

3 6. Motor fuel used solely and exclusively in district-owned
4 public school vehicles or FFA and 4-H Club trucks for the purpose of
5 legally transporting public school children, and motor fuel
6 purchased by any school district for use exclusively in school buses
7 leased or hired for the purpose of legally transporting public
8 school children, or in the operation of vehicles used in driver
9 training;

10 7. Motor fuel used solely and exclusively as fuel to propel
11 motor vehicles on the public roads and highways of this state, when
12 leased or owned and being operated for the sole benefit of a county,
13 city, town, a volunteer fire department with a state certification
14 and rating, rural electric cooperatives, rural water and sewer
15 districts, rural irrigation districts organized under the Oklahoma
16 Irrigation District Act, conservancy districts and master
17 conservancy districts organized under the Conservancy Act of
18 Oklahoma, rural ambulance service districts, or federally recognized
19 Indian tribes;

20 8. Motor fuel used as fuel for farm tractors or stationary
21 engines owned or leased and operated by any person and used
22 exclusively for agricultural purposes, except as to two and eight
23 one-hundredths cents (\$0.0208) per gallon of gasoline as provided in
24 subsection C of Section 500.4 of this title;

1 9. Gasoline, diesel fuel and kerosene sold for use as fuel to
2 generate power in aircraft engines, whether in aircraft or for
3 training, testing or research purposes of aircraft engines, except
4 as to eight one-hundredths of one cent (\$0.0008) per gallon as
5 provided in subsection B of Section 500.4 of this title;

6 10. Motor fuel sold within an Indian reservation or within
7 Indian country by a federally recognized Indian tribe to a member of
8 that tribe and used in motor vehicles owned by that member of the
9 tribe. This exemption does not apply to sales within an Indian
10 reservation or within Indian country by a federally recognized
11 Indian tribe to non-Indian consumers or to Indian consumers who are
12 not members of the tribe selling the motor fuel;

13 11. Subject to determination by the Tax Commission, that
14 portion of diesel fuel:

- 15 a. used to operate equipment attached to a motor vehicle,
16 if the diesel fuel was placed into the fuel supply
17 tank of a motor vehicle that has a common fuel
18 reservoir for travel on a highway and for the
19 operation of equipment, or
20 b. consumed by the vehicle while the vehicle is parked
21 off the highways of this state;

22 12. Motor fuel acquired by a consumer out of state and carried
23 into this state, retained within and consumed from the same vehicle
24 fuel supply tank within which it was imported;

1 13. Diesel fuel used as heating oil, or in railroad locomotives
2 or any other motorized flanged-wheel rail equipment, or used for
3 other nonhighway purposes other than as expressly exempted under
4 another provision;

5 14. Motor fuel which was lost or destroyed as a direct result
6 of a sudden and unexpected casualty;

7 15. Taxable diesel which had been accidentally contaminated by
8 dye so as to be unsaleable as highway fuel as proved by proper
9 documentation;

10 16. Dyed diesel fuel;

11 17. Motor fuel sold to the Oklahoma Space Industry Development
12 Authority or any spaceport user as defined in the Oklahoma Space
13 Industry Development Act; and

14 18. Biofuels or biodiesel produced by an individual with crops
15 grown on property owned by the same individual and used in a vehicle
16 owned by the same individual on the public roads and highways of
17 this state.

18 SECTION 12. AMENDATORY 69 O.S. 2011, Section 1521, as
19 last amended by Section 93, Chapter 15, O.S.L. 2013 (69 O.S. Supp.
20 2016, Section 1521), is amended to read as follows:

21 Section 1521. A. There is hereby created in the State Treasury
22 a fund to be known as the "Rebuilding Oklahoma Access and Driver
23 Safety Fund". The fund shall be a continuing fund, not subject to
24 fiscal year limitations, and shall consist of all appropriations and

1 transfers made by the Legislature. All monies accruing to the
2 credit of the fund are hereby appropriated and may be budgeted and
3 expended each fiscal year by the Department of Transportation for
4 the purposes authorized by subsection G of this section.

5 Expenditures from the fund shall be made upon warrants issued by the
6 State Treasurer against claims filed as prescribed by law with the
7 Director of the Office of Management and Enterprise Services for
8 approval and payment.

9 B. ~~There~~ Beginning July 1, 2017, except for an amount
10 equivalent to the amount of revenue apportioned pursuant to Section
11 10 of this act, there shall be apportioned to the funds specified in
12 this subsection from the monies that would otherwise be apportioned
13 to the General Revenue Fund by Section 2352 of Title 68 of the
14 Oklahoma Statutes from the revenues derived pursuant to subsections
15 A, B and E of Section 2355 of Title 68 of the Oklahoma Statutes
16 amounts as follows:

17 1. For each fiscal year, subject to the provisions of paragraph
18 3 of this subsection, and, except for the amount prescribed by
19 subparagraph a of this paragraph, subject to any reductions required
20 by subsection F of this section, there shall be apportioned to the
21 Rebuilding Oklahoma Access and Driver Safety Fund:

- 22 a. for the fiscal year beginning July 1, 2011, the first
23 Thirty-five Million Seven Hundred Thousand Dollars
24 (\$35,700,000.00), for the fiscal year beginning July

1, 2012, the first Forty-one Million Seven Hundred
Thousand Dollars (\$41,700,000.00) and for the fiscal
year beginning July 1, 2013, and for each fiscal year
thereafter, Fifty-nine Million Seven Hundred Thousand
Dollars (\$59,700,000.00), which shall be allocated and
used by the Department of Transportation first for the
purpose of making any required payments for principal,
interest or other costs of borrowing with respect to
the obligations issued pursuant to Section 341 of
Title 73 of the Oklahoma Statutes and after any such
required payment has been made then for the purposes
otherwise authorized by this section, plus

b. the total amount apportioned to the Rebuilding
Oklahoma Access and Driver Safety Fund for the
preceding fiscal year which, except for the amount
prescribed by subparagraph a of this paragraph, shall
be apportioned before any other amount is apportioned
pursuant to Section 2352 of Title 68 of the Oklahoma
Statutes, plus

c. an additional incremental amount which shall not be in
excess of the amount prescribed by subparagraph a of
this paragraph and that is required in order for the
total apportionment to the Rebuilding Oklahoma Access
and Driver Safety Fund from all sources for such

1 fiscal year to equal Five Hundred Seventy-five Million
2 Dollars (\$575,000,000.00).

3 All amounts apportioned pursuant to this paragraph shall be
4 divided into twelve equal amounts to be apportioned each month
5 during the fiscal year except the amount specified in subparagraph a
6 of this paragraph which amount shall be allocated in its full amount
7 in cash not later than July 30 each year or such later date as may
8 be required in order for the amount to be allocated in cash;

9 2. For each fiscal year after the apportionments required by
10 paragraph 1 of this subsection have been made:

11 a. the next Two Million Dollars (\$2,000,000.00) shall be
12 apportioned to the Oklahoma Tourism and Passenger Rail
13 Revolving Fund created pursuant to Section 325 of
14 Title 66 of the Oklahoma Statutes to be used for
15 capital and operating costs for the "Heartland Flyer"
16 rail project, and

17 b. the next Three Million Dollars (\$3,000,000.00) shall
18 be apportioned to the Public Transit Revolving Fund
19 created pursuant to Section 4031 of this title to be
20 used for purposes authorized by law other than the
21 purpose described by subparagraph a of this paragraph.

22 All amounts apportioned pursuant to this paragraph shall be
23 divided into twelve equal amounts to be apportioned each month
24 during the fiscal year; and

1 3. For each fiscal year after the first fiscal year in which
2 the total apportionment to the Rebuilding Oklahoma Access and Driver
3 Safety Fund as provided by paragraph 1 of this subsection and from
4 other sources equals Five Hundred Seventy-five Million Dollars
5 (\$575,000,000.00), except for an amount equivalent to the amount of
6 revenue apportioned pursuant to Section 10 of this act, the first
7 Five Hundred Seventy-five Million Dollars (\$575,000,000.00)
8 collected pursuant to subsections A, B and E of Section 2355 of
9 Title 68 of the Oklahoma Statutes and apportioned pursuant to
10 Section 2352 of Title 68 of the Oklahoma Statutes that would
11 otherwise be apportioned to the General Revenue Fund shall be
12 apportioned to the Rebuilding Oklahoma Access and Driver Safety
13 Fund. With the exception of the amount prescribed by subparagraph a
14 of paragraph 1 of this subsection, all amounts apportioned pursuant
15 to this paragraph shall be divided into twelve equal amounts to be
16 apportioned each month during the fiscal year.

17 C. The apportionments of revenues required by subparagraphs a,
18 b and c of paragraph 1 of subsection B of this section shall be made
19 until the total annual apportionment from such sources in addition
20 to the apportionment made pursuant to Section 10 of this act to the
21 Rebuilding Oklahoma Access and Driver Safety Fund equals Five
22 Hundred Seventy-five Million Dollars (\$575,000,000.00). After such
23 annual apportionment level is reached, the apportionment to the fund
24

1 shall be governed by the provisions of paragraph 3 of subsection B
2 of this section.

3 D. The monies apportioned to the Rebuilding Oklahoma Access and
4 Driver Safety Fund shall not be used to supplant or replace existing
5 state funds used for transportation purposes.

6 E. In order to ensure that the funds from the ROADS Fund are
7 used to enhance and not supplant state funding for the Department of
8 Transportation, the State Board of Equalization shall examine and
9 investigate expenditures from the fund each year. For purposes of
10 this examination, monies used to retire outstanding debt obligations
11 for which the Department of Transportation is responsible shall be
12 excluded. At the meeting of the State Board of Equalization held
13 within five (5) days after the monthly apportionment in February of
14 each year, the State Board of Equalization shall issue a finding and
15 report which shall state whether expenditures from the ROADS Fund
16 were used to enhance or supplant state funding for the Department of
17 Transportation. If the State Board of Equalization finds that state
18 funding for the Department of Transportation was supplanted by funds
19 from the ROADS Fund, the Board shall specify the amount by which
20 such funding was supplanted. In this event, the Legislature shall
21 not make any appropriations for the ensuing fiscal year until an
22 appropriation in that amount is made to replenish state funding for
23 the Department of Transportation.

1 F. In the event that the Director of the Office of Management
2 and Enterprise Services declares a General Revenue Fund revenue
3 failure pursuant to Section 34.49 of Title 62 of the Oklahoma
4 Statutes, and agency allocations are reduced pursuant to the
5 provisions of Section 34.49 of Title 62 of the Oklahoma Statutes,
6 the amounts that would otherwise be apportioned to the ROADS Fund
7 by:

8 1. Subparagraph a of paragraph 1 of subsection B of this
9 section, only to the extent that the amount is not required for debt
10 service related to the obligations authorized pursuant to Section
11 341 of Title 73 of the Oklahoma Statutes;

12 2. Subparagraphs b and c of paragraph 1 of subsection B of this
13 section; and

14 3. Subparagraphs a and b of paragraph 2 of subsection B of this
15 section,
16 shall be reduced by a percentage equal to that required of the
17 General Revenue Fund appropriations to state agencies and such
18 reductions shall occur during the entire fiscal year and for any
19 month during which such reductions are required by the Office of
20 Management and Enterprise Services and by the same percentage as
21 that required of the agencies for such General Revenue Fund
22 appropriations.

23 G. The Department of Transportation shall use the monies in the
24 Rebuilding Oklahoma Access and Driver Safety Fund for:

1 1. The construction and maintenance of state roads, bridges and
2 highways;

3 2. The direct expenses of operating and maintaining the state
4 highway system, including bridges;

5 3. Direct expenses incurred in constructing, repairing, and
6 maintaining state highways, farm-to-market roads, county highways
7 and bridges as authorized by law;

8 4. Matching federal funds;

9 5. The purchase of materials, tools, machinery, motor vehicles,
10 and equipment necessary or convenient for the construction and
11 maintenance of the state highway system and bridges;

12 6. Debt service incurred prior to January 1, 2006, for Capital
13 Improvement Program bonds sold pursuant to Section 2001 of this
14 title; and

15 7. Debt service incurred on or after July 1, 2009, with respect
16 to obligations authorized to be issued pursuant to Section 341 of
17 Title 73 of the Oklahoma Statutes.

18 H. From the monies allocated pursuant to the provisions of
19 subparagraph a of paragraph 1 of subsection B of this section each
20 fiscal year, the Department of Transportation shall make payments
21 required for the payment of principal, interest and other costs
22 related to the obligations issued by the Oklahoma Capitol
23 Improvement Authority as authorized by Section 341 of Title 73 of
24 the Oklahoma Statutes and such payments shall be made by the

1 Department each fiscal year before such monies are used for any
2 other purpose.

3 SECTION 13. AMENDATORY 68 O.S. 2011, Section 1001, as
4 last amended by Section 1, Chapter 346, O.S.L. 2014 (68 O.S. Supp.
5 2016, Section 1001), is amended to read as follows:

6 Section 1001. A. There is hereby levied upon the production of
7 asphalt, ores bearing lead, zinc, jack and copper a tax equal to
8 three-fourths of one percent ($\frac{3}{4}$ of 1%) on the gross value thereof.

9 B. 1. Effective July 1, 2013, through June 30, 2015, except as
10 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
11 this section, there shall be levied upon the production of oil a tax
12 equal to seven percent (7%) of the gross value of the production of
13 oil based on a per barrel measurement of forty-two (42) U.S. gallons
14 of two hundred thirty-one (231) cubic inches per gallon, computed at
15 a temperature of sixty (60) degrees Fahrenheit.

16 2. Effective July 1, 2013, through June 30, 2015, except as
17 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
18 this section, there shall be levied a tax equal to seven percent
19 (7%) of the gross value of the production of gas.

20 3. Effective July 1, 2015, except as otherwise provided in this
21 section, there shall be levied a tax on the gross value of the
22 production of oil and gas as follows:

23 a. upon the production of oil a tax equal to seven
24 percent (7%) of the gross value of the production of

oil based on a per barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit,

b. upon the production of gas a tax equal to seven percent (7%) of the gross value of the production of gas, and

c. notwithstanding the levies in subparagraphs a and b of this paragraph, the production of oil, gas, or oil and gas:

(1) from wells spudded on or after July 1, 2015, and prior to the effective date of this act shall be taxed at a rate of two percent (2%) commencing with the month of first production for a period of thirty-six (36) months. Thereafter, the production shall be taxed as provided in subparagraphs a and b of this paragraph, and

(2) from wells spudded on or after the effective date of this act shall be taxed at a rate of two percent (2%) commencing with the month of first production for a period of eighteen (18) months. Thereafter, the production shall be taxed as provided in subparagraphs a and b of this paragraph.

1 C. The taxes hereby levied shall also attach to, and are levied
2 on, what is known as the royalty interest, and the amount of such
3 tax shall be a lien on such interest.

4 D. 1. Except as otherwise provided in this section, for
5 secondary recovery projects approved or having an initial project
6 beginning date on or after July 1, 2000, and before July 1, 2020,
7 any incremental production attributable to the working interest
8 owners which results from such secondary recovery projects shall be
9 exempt from the gross production tax levied pursuant to this section
10 for a period not to exceed five (5) years from the initial project
11 beginning date or for a period ending upon the termination of the
12 secondary recovery process, whichever occurs first.

13 2. Except as otherwise provided in this section, for tertiary
14 recovery projects approved and having a project beginning date on or
15 after July 1, 1993, and before July 1, 2020, any incremental
16 production attributable to the working interest owners which results
17 from such tertiary recovery projects shall be exempt from the gross
18 production tax levied pursuant to this section from the project
19 beginning date until project payback is achieved, but not to exceed
20 a period of ten (10) years. Project payback pursuant to this
21 paragraph shall be determined by appropriate payback indicators
22 which will provide for the recovery of capital expenses and
23 operating expenses, excluding administrative expenses, in
24 determining project payback. The capital expenses of pipelines

1 constructed to transport carbon dioxide to a tertiary recovery
2 project shall not be included in determining project payback
3 pursuant to this paragraph.

4 3. The provisions of this subsection shall also not apply to
5 any enhanced recovery project using fresh water as the primary
6 injectant, except when using steam.

7 4. For purposes of this subsection:

8 a. "incremental production" means the amount of crude oil
9 or other liquid hydrocarbons which is produced during
10 an enhanced recovery project and which is in excess of
11 the base production amount of crude oil or other
12 liquid hydrocarbons. The base production amount shall
13 be the average monthly amount of production for the
14 twelve-month period immediately prior to the project
15 beginning date minus the monthly rate of production
16 decline for the project for each month beginning one
17 hundred eighty (180) days prior to the project
18 beginning date. The monthly rate of production
19 decline shall be equal to the average extrapolated
20 monthly decline rate for the twelve-month period
21 immediately prior to the project beginning date as
22 determined by the Corporation Commission based on the
23 production history of the field, its current status,
24 and sound reservoir engineering principles, and

1 b. "project beginning date" means the date on which the
2 injection of liquids, gases, or other matter begins on
3 an enhanced recovery project.

4 5. The Corporation Commission shall promulgate rules for the
5 qualification for this exemption which shall include, but not be
6 limited to, procedures for determining incremental production as
7 defined in subparagraph a of paragraph 4 of this subsection, and the
8 establishment of appropriate payback indicators as approved by the
9 Tax Commission for the determination of project payback for each of
10 the exemptions authorized by this subsection.

11 6. For new secondary recovery projects and tertiary recovery
12 projects approved by the Corporation Commission on or after July 1,
13 1993, and before July 1, 2020, such approval shall constitute
14 qualification for an exemption.

15 7. Any person seeking an exemption shall file an application
16 for such exemption with the Tax Commission which, upon determination
17 of qualification by the Corporation Commission, shall approve the
18 application for such exemption.

19 8. The Tax Commission may require any person requesting such
20 exemption to furnish information or records concerning the exemption
21 as is deemed necessary by the Tax Commission.

22 9. Upon the expiration of the exemption granted pursuant to
23 this subsection, the Tax Commission shall collect the gross
24 production tax levied pursuant to this section.

1 E. 1. Except as otherwise provided in this section, the
2 production of oil, gas or oil and gas from a horizontally drilled
3 well producing prior to July 1, 2011, which production commenced
4 after July 1, 2002, shall be exempt from the gross production tax
5 levied pursuant to subsection B of this section from the project
6 beginning date until project payback is achieved but not to exceed a
7 period of forty-eight (48) months commencing with the month of
8 initial production from the horizontally drilled well. For purposes
9 of subsection D of this section and this subsection, project payback
10 shall be determined as of the date of the completion of the well and
11 shall not include any expenses beyond the completion date of the
12 well, and subject to the approval of the Tax Commission.

13 2. Claims for refund for the production periods within the
14 fiscal years ending June 30, 2010, and June 30, 2011, shall be filed
15 and received by the Tax Commission no later than December 31, 2011.

16 3. For production commenced on or after July 1, 2011, and prior
17 to July 1, 2015, the tax levied pursuant to the provisions of this
18 section on the production of oil, gas or oil and gas from a
19 horizontally drilled well shall be reduced to a rate of one percent
20 (1%) for a period of forty-eight (48) months from the month of
21 initial production. The taxes collected from the production of oil
22 shall be apportioned pursuant to the provisions of paragraph 8 of
23 subsection ~~A~~ B of Section 1004 of this title. The taxes collected
24 from the production of gas shall be apportioned pursuant to the

1 provisions of paragraph 4 of subsection ~~A~~ B of Section 1004 of this
2 title.

3 4. The production of oil, gas or oil and gas on or after July
4 1, 2011, and prior to July 1, 2015, from these qualifying wells
5 shall be taxed at a rate of one percent (1%) until the expiration of
6 forty-eight (48) months commencing with the month of initial
7 production.

8 5. As used in this subsection, "horizontally drilled well"
9 shall mean an oil, gas or oil and gas well drilled or recompleted in
10 a manner which encounters and subsequently produces from a
11 geological formation at an angle in excess of seventy (70) degrees
12 from vertical and which laterally penetrates a minimum of one
13 hundred fifty (150) feet into the pay zone of the formation.

14 F. 1. Except as otherwise provided by this section, the
15 severance or production of oil, gas or oil and gas from an inactive
16 well shall be exempt from the gross production tax levied pursuant
17 to subsection B of this section for a period of twenty-eight (28)
18 months from the date upon which production is reestablished. This
19 exemption shall take effect July 1, 1994, and shall apply to wells
20 for which work to reestablish or enhance production began on or
21 after July 1, 1994, and for which production is reestablished prior
22 to July 1, 2020. For all such production, a refund against gross
23 production taxes shall be issued as provided in subsection L of this
24 section.

1 2. As used in this subsection, for wells for which production
2 is reestablished prior to July 1, 1997, "inactive well" means any
3 well that has not produced oil, gas or oil and gas for a period of
4 not less than two (2) years as evidenced by the appropriate forms on
5 file with the Corporation Commission reflecting the well's status.
6 As used in this subsection, for wells for which production is
7 reestablished on or after July 1, 1997, and prior to July 1, 2020,
8 "inactive well" means any well that has not produced oil, gas or oil
9 and gas for a period of not less than one (1) year as evidenced by
10 the appropriate forms on file with the Corporation Commission
11 reflecting the well's status. Wells which experience mechanical
12 failure or loss of mechanical integrity, as defined by the
13 Corporation Commission, including but not limited to, casing leaks,
14 collapse of casing or loss of equipment in a wellbore, or any
15 similar event which causes cessation of production, shall also be
16 considered inactive wells.

17 G. 1. Except as otherwise provided by this section, any
18 incremental production which results from a production enhancement
19 project shall be exempt from the gross production tax levied
20 pursuant to subsection B of this section for a period of twenty-
21 eight (28) months from the date of first sale after project
22 completion of the production enhancement project. This exemption
23 shall take effect July 1, 1994, and shall apply to production
24 enhancement projects having a project beginning date on or after

1 July 1, 1994, and prior to July 1, 2020. For all such production, a
2 refund against gross production taxes shall be issued as provided in
3 subsection L of this section.

4 2. As used in this subsection:

- 5 a. for production enhancement projects having a project
6 beginning date on or after July 1, 1997, and prior to
7 July 1, 2020, "production enhancement project" means
8 any workover as defined in this paragraph,
9 recompletion as defined in this paragraph, reentry of
10 plugged and abandoned wellbores, or addition of a well
11 or field compression,
- 12 b. "incremental production" means the amount of crude
13 oil, natural gas or other hydrocarbons which are
14 produced as a result of the production enhancement
15 project in excess of the base production,
- 16 c. "base production" means the average monthly amount of
17 production for the twelve-month period immediately
18 prior to the commencement of the project or the
19 average monthly amount of production for the twelve-
20 month period immediately prior to the commencement of
21 the project less the monthly rate of production
22 decline for the project for each month beginning one
23 hundred eighty (180) days prior to the commencement of
24 the project. The monthly rate of production decline

1 shall be equal to the average extrapolated monthly
2 decline rate for the twelve-month period immediately
3 prior to the commencement of the project based on the
4 production history of the well. If the well or wells
5 covered in the application had production for less
6 than the full twelve-month period prior to the filing
7 of the application for the production enhancement
8 project, the base production shall be the average
9 monthly production for the months during that period
10 that the well or wells produced,

11 d. for production enhancement projects having a project
12 beginning date on or after July 1, 1997, and prior to
13 July 1, 2020, "recompletion" means any downhole
14 operation in an existing oil or gas well that is
15 conducted to establish production of oil or gas from
16 any geologic interval not currently completed or
17 producing in such existing oil or gas well within the
18 same or a different geologic formation, and

19 e. "workover" means any downhole operation in an existing
20 oil or gas well that is designed to sustain, restore
21 or increase the production rate or ultimate recovery
22 in a geologic interval currently completed or
23 producing in the existing oil or gas well. For
24 production enhancement projects having a project

beginning date on or after July 1, 1997, and prior to July 1, 2020, "workover" includes, but is not limited to:

- (1) acidizing,
- (2) reperforating,
- (3) fracture treating,
- (4) sand/paraffin/scale removal or other wellbore cleanouts,
- (5) casing repair,
- (6) squeeze cementing,
- (7) installation of compression on a well or group of wells or initial installation of artificial lifts on gas wells, including plunger lifts, rod pumps, submersible pumps and coiled tubing velocity strings,
- (8) downsizing existing tubing to reduce well loading,
- (9) downhole commingling,
- (10) bacteria treatments,
- (11) upgrading the size of pumping unit equipment,
- (12) setting bridge plugs to isolate water production zones, or
- (13) any combination thereof.

1 "Workover" shall not mean the routine maintenance,
2 routine repair, or like for like replacement of
3 downhole equipment such as rods, pumps, tubing,
4 packers, or other mechanical devices.

5 H. 1. For purposes of this subsection, "depth" means the
6 length of the maximum continuous string of drill pipe utilized
7 between the drill bit face and the drilling rig's kelly bushing.

8 2. Except as otherwise provided in subsection K of this
9 section:

10 a. the production of oil, gas or oil and gas from wells
11 spudded between July 1, 1997, and July 1, 2005, and
12 drilled to a depth of twelve thousand five hundred
13 (12,500) feet or greater and wells spudded between
14 July 1, 2005, and July 1, 2015, and drilled to a depth
15 between twelve thousand five hundred (12,500) feet and
16 fourteen thousand nine hundred ninety-nine (14,999)
17 feet shall be exempt from the gross production tax
18 levied pursuant to subsection B of this section from
19 the date of first sales for a period of twenty-eight
20 (28) months,

21 b. the production of oil, gas or oil and gas from wells
22 spudded between July 1, 2002, and July 1, 2005, and
23 drilled to a depth of fifteen thousand (15,000) feet
24 or greater and wells spudded between July 1, 2005, and

1 July 1, 2011, and drilled to a depth between fifteen
2 thousand (15,000) feet and seventeen thousand four
3 hundred ninety-nine (17,499) feet shall be exempt from
4 the gross production tax levied pursuant to subsection
5 B of this section from the date of first sales for a
6 period of forty-eight (48) months,

7 c. the production of oil, gas or oil and gas from wells
8 spudded between July 1, 2002, and July 1, 2011, and
9 drilled to a depth of seventeen thousand five hundred
10 (17,500) feet or greater shall be exempt from the
11 gross production tax levied pursuant to subsection B
12 of this section from the date of first sales for a
13 period of sixty (60) months,

14 d. the tax levied pursuant to the provisions of this
15 section on the production of oil, gas or oil and gas
16 from wells spudded between July 1, 2011, and July 1,
17 2015, and drilled to a depth between fifteen thousand
18 (15,000) feet and seventeen thousand four hundred
19 ninety-nine (17,499) feet shall be reduced to a rate
20 of four percent (4%) for a period of forty-eight (48)
21 months from the date of first sales. The taxes
22 collected from the production of oil shall be
23 apportioned pursuant to the provisions of paragraph 7
24 of subsection A B of Section 1004 of this title. The

1 taxes collected from the production of gas shall be
2 apportioned pursuant to the provisions of paragraph 3
3 of subsection ~~A~~ B of Section 1004 of this title,
4 e. the tax levied pursuant to the provisions of this
5 section on the production of oil, gas or oil and gas
6 from wells spudded between July 1, 2011, and July 1,
7 2015, and drilled to a depth of seventeen thousand
8 five hundred (17,500) feet or greater shall be reduced
9 to a rate of four percent (4%) for a period of sixty
10 (60) months from the date of first sales. The taxes
11 collected from the production of oil shall be
12 apportioned pursuant to the provisions of paragraph 7
13 of subsection ~~A~~ B of Section 1004 of this title. The
14 taxes collected from the production of gas shall be
15 apportioned pursuant to the provisions of paragraph 3
16 of subsection ~~A~~ B of Section 1004 of this title, and
17 f. the provisions of subparagraphs b and c of this
18 paragraph shall only apply to the production of wells
19 qualifying for the exemption provided under these
20 subparagraphs prior to July 1, 2011. The production
21 of oil, gas or oil and gas on or after July 1, 2011,
22 and before July 1, 2015, from wells qualifying under
23 subparagraph b of this paragraph shall be taxed at a
24 rate of four percent (4%) until the expiration of

1 forty-eight (48) months from the date of first sales
2 and the production of oil, gas or oil and gas on or
3 after July 1, 2011, and before July 1, 2015, from
4 wells qualifying under subparagraph c of this
5 paragraph shall be taxed at a rate of four percent
6 (4%) until the expiration of sixty (60) months from
7 the date of first sales.

8 3. Except as otherwise provided for in this subsection, for all
9 such wells spudded, a refund against gross production taxes shall be
10 issued as provided in subsection L of this section.

11 I. Except as otherwise provided by this section, the production
12 of oil, gas or oil and gas from wells spudded or reentered between
13 July 1, 1995, and July 1, 2015, which qualify as a new discovery
14 pursuant to this subsection shall be exempt from the gross
15 production tax levied pursuant to subsection B of this section from
16 the date of first sales for a period of twenty-eight (28) months.
17 For all such wells spudded or reentered, a refund against gross
18 production taxes shall be issued as provided in subsection L of this
19 section. As used in this subsection, "new discovery" means
20 production of oil, gas or oil and gas from:

21 1. For wells spudded or reentered on or after July 1, 1997, and
22 prior to July 1, 2015, a well that discovers crude oil in paying
23 quantities that is more than one (1) mile from the nearest oil well
24 producing from the same producing interval of the same formation;

1 2. For wells spudded or reentered on or after July 1, 1997, and
2 prior to July 1, 2015, a well that discovers crude oil in paying
3 quantities beneath current production in a deeper producing interval
4 that is more than one (1) mile from the nearest oil well producing
5 from the same deeper producing interval;

6 3. For wells spudded or reentered on or after July 1, 1997, and
7 prior to July 1, 2015, a well that discovers natural gas in paying
8 quantities that is more than two (2) miles from the nearest gas well
9 producing from the same producing interval; or

10 4. For wells spudded or reentered on and after July 1, 1997,
11 and prior to July 1, 2015, a well that discovers natural gas in
12 paying quantities beneath current production in a deeper producing
13 interval that is more than two (2) miles from the nearest gas well
14 producing from the same deeper producing interval.

15 J. Except as otherwise provided by this section, the production
16 of oil, gas or oil and gas from any well, drilling of which is
17 commenced after July 1, 2000, and prior to July 1, 2015, located
18 within the boundaries of a three-dimensional seismic shoot and
19 drilled based on three-dimensional seismic technology, shall be
20 exempt from the gross production tax levied pursuant to subsection B
21 of this section from the date of first sales as follows:

22 1. If the three-dimensional seismic shoot is shot prior to July
23 1, 2000, for a period of eighteen (18) months; and
24

1 2. If the three-dimensional seismic shoot is shot on or after
2 July 1, 2000, for a period of twenty-eight (28) months. For all
3 such production, a refund against gross production taxes shall be
4 issued as provided in subsection L of this section.

5 K. 1. The exemptions provided for in subsections F, G, I and J
6 of this section, the exemption provided for in subparagraph a of
7 paragraph 2 of subsection H of this section, and the exemptions
8 provided for in subparagraphs b and c of paragraph 2 of subsection H
9 of this section for production from wells spudded before July 1,
10 2005, shall not apply:

11 a. to the severance or production of oil, upon
12 determination by the Tax Commission that the average
13 annual index price of Oklahoma oil exceeds Thirty
14 Dollars (\$30.00) per barrel calculated on an annual
15 calendar year basis, as adjusted for inflation using
16 the Consumer Price Index-All Urban Consumers (CPI-U)
17 as published by the Bureau of Labor Statistics of the
18 U.S. Department of Labor or its successor agency.
19 Such adjustment shall be based on the most current
20 data available for the preceding twelve-month period
21 and shall be applied for the fiscal year which begins
22 on the July 1 date immediately following the release
23 of the CPI-U data by the Bureau of Statistics.

1 (1) The "average annual index price" will be
2 calculated by multiplying the West Texas
3 Intermediate closing price by the "index price
4 ratio". The index price ratio is defined as the
5 immediate preceding three-year historical average
6 ratio of the actual weighted average wellhead
7 price to the West Texas Intermediate close price
8 published on the last business day of each month.

9 (2) The average annual index price will be updated
10 annually by the Oklahoma Tax Commission no later
11 than March 31 of each year.

12 (3) If the West Texas Intermediate Crude price is
13 unavailable for any reason, an industry benchmark
14 price may be substituted and used for the
15 calculation of the index price as determined by
16 the Tax Commission,

17 b. to the severance or production of oil or gas upon
18 which gross production taxes are paid at a rate of one
19 percent (1%) pursuant to the provisions of subsection
20 B of this section, and

21 c. to the severance or production of gas, upon
22 determination by the Tax Commission that the average
23 annual index price of Oklahoma gas exceeds Five
24 Dollars (\$5.00) per thousand cubic feet (mcf)

1 calculated on an annual calendar year basis as
2 adjusted for inflation using the Consumer Price Index-
3 All Urban Consumers (CPI-U) as published by the Bureau
4 of Labor Statistics of the U.S. Department of Labor or
5 its successor agency. Such adjustment shall be based
6 on the most current data available for the preceding
7 twelve-month period and shall be applied for the
8 fiscal year which begins on the July 1 date
9 immediately following the release of the CPI-U data by
10 the Bureau of Statistics.

11 (1) The "average annual index price" will be
12 calculated by multiplying the Henry Hub 3-Day
13 Average Close price by the "index price ratio".
14 The index price ratio is defined as the immediate
15 preceding three-year historical average ratio of
16 the actual weighted average wellhead price to the
17 Henry Hub 3-Day Average Close price published on
18 the last business day of each month.

19 (2) The average annual index price will be updated
20 annually by the Oklahoma Tax Commission no later
21 than March 31 of each year.

22 (3) If the Henry Hub 3-Day Average Close price is
23 unavailable for any reason, an industry benchmark
24 price may be substituted and used for the

1 calculation of the index price as determined by
2 the Tax Commission.

3 2. Notwithstanding the exemptions granted pursuant to
4 subsections F, G, I, J, paragraph 1 of subsection E, and
5 subparagraph a of paragraph 2 of subsection H of this section, there
6 shall continue to be levied upon the production of petroleum or
7 other crude or mineral oil or natural gas or casinghead gas, as
8 provided in subsection B of this section, from any wells provided
9 for in subsections F, G, I, J, paragraph 1 of subsection E, and
10 subparagraph a of paragraph 2 of subsection H of this section, a tax
11 equal to one percent (1%) of the gross value of the production of
12 petroleum or other crude or mineral oil or natural gas or casinghead
13 gas. The tax hereby levied shall be apportioned as follows:

14 a. fifty percent (50%) of the sum collected shall be
15 apportioned to the County Highway Fund as provided in
16 subparagraph b of paragraph 1 of subsection ~~A~~ B of
17 Section 1004 of this title, and

18 b. fifty percent (50%) of the sum collected shall be
19 apportioned to the appropriate school district as
20 provided in subparagraph c of paragraph 1 of
21 subsection ~~A~~ B of Section 1004 of this title.

22 Upon the expiration of the exemption granted pursuant to
23 subsection E, F, G, H, I or J of this section, the provisions of
24 this paragraph shall have no force or effect.

1 L. 1. Prior to July 1, 2015, and except as provided in
2 subsection M of this section, for all oil and gas production exempt
3 from gross production taxes pursuant to subsections E, F, G, H, I
4 and J of this section during a given fiscal year, a refund of gross
5 production taxes shall be issued to the well operator or a designee
6 in the amount of such gross production taxes paid during such
7 period, subject to the following provisions:

8 a. a refund shall not be claimed until after the end of
9 such fiscal year. As used in this subsection, a
10 fiscal year shall be deemed to begin on July 1 of one
11 calendar year and shall end on June 30 of the
12 subsequent calendar year,

13 b. unless otherwise specified, no claims for refunds
14 pursuant to the provisions of this subsection shall be
15 filed more than eighteen (18) months after the first
16 day of the fiscal year in which the refund is first
17 available,

18 c. no claims for refunds pursuant to the provisions of
19 this subsection shall be filed by or on behalf of
20 persons other than the operator or a working interest
21 owner of record at the time of production,

22 d. no refunds shall be claimed or paid pursuant to the
23 provisions of this subsection for oil or gas
24 production upon which a tax is paid at a rate of one

1 percent (1%) as specified in subsection B of this
2 section, and

3 e. no refund shall be paid unless the person making the
4 claim for refund demonstrates by affidavit or other
5 means prescribed by the Tax Commission that an amount
6 equal to or greater than the amount of the refund has
7 been invested in the exploration for or production of
8 crude oil or natural gas in this state by such person
9 not more than three (3) years prior to the date of the
10 claim. No amount of investment used to qualify for a
11 refund pursuant to the provisions of this subsection
12 may be used to qualify for another refund pursuant to
13 the provisions of this subsection.

14 If there are insufficient funds collected from the production of
15 oil to satisfy the refunds claimed for oil production pursuant to
16 subsection E, F, G, H, I or J of this section, the Tax Commission
17 shall pay the balance of the refund claims out of the gross
18 production taxes collected from the production of gas.

19 2. On or after July 1, 2015, for all oil and gas production
20 exempt from gross production taxes pursuant to subsections F and G
21 of this section during a given fiscal year, a refund of gross
22 production taxes shall be issued to the well operator or a designee
23 in the amount of such gross production taxes paid during such
24 period, subject to the following provisions:

- 1 a. a refund shall not be claimed until after the end of
2 such fiscal year. As used in this subsection, a
3 fiscal year shall be deemed to begin on July 1 of one
4 calendar year and shall end on June 30 of the
5 subsequent calendar year,
- 6 b. unless otherwise specified, no claims for refunds
7 pursuant to the provisions of this subsection shall be
8 filed more than eighteen (18) months after the first
9 day of the fiscal year in which the refund is first
10 available,
- 11 c. no claims for refunds pursuant to the provisions of
12 this subsection shall be filed by or on behalf of
13 persons other than the operator or a working interest
14 owner of record at the time of production,
- 15 d. no refunds shall be claimed or paid pursuant to the
16 provisions of this subsection for oil or gas
17 production upon which a tax is paid at a rate of two
18 percent (2%), and
- 19 e. no refund shall be paid unless the person making the
20 claim for refund demonstrates by affidavit or other
21 means prescribed by the Tax Commission that an amount
22 equal to or greater than the amount of the refund has
23 been invested in the exploration for or production of
24 crude oil or natural gas in this state by such person

1 not more than three (3) years prior to the date of the
2 claim. No amount of investment used to qualify for a
3 refund pursuant to the provisions of this paragraph
4 may be used to qualify for another refund pursuant to
5 the provisions of this paragraph.

6 If there are insufficient funds collected from the production of
7 oil or gas to satisfy the refunds claimed for oil or gas production
8 pursuant to subsection F or G of this section, the Tax Commission
9 shall pay the balance of the refund claims out of the gross
10 production taxes collected from either the production of oil or gas,
11 as necessary.

12 3. Notwithstanding any other provisions of law, after the
13 effective date of this act, no refund of gross production taxes
14 shall be claimed for oil and gas production exempt from gross
15 production taxes pursuant to subsections E, F, G, H, I and J of this
16 section for production occurring prior to July 1, 2003.

17 M. Claims for refunds filed for the exemptions provided in
18 paragraph 1 of subsection E, and subparagraphs b and c of paragraph
19 2 of subsection H of this section for the production periods
20 beginning on or after July 1, 2009, and ending on or before June 30,
21 2011, shall be paid pursuant to the provisions of this subsection.
22 The claims for refunds referenced herein shall be paid in equal
23 payments of a period of thirty-six (36) months. The first payment
24 shall be made after July 1, 2012, but prior to August 1, 2012. The

1 Tax Commission shall provide, not later than June 30, 2012, to the
2 operator or designated interest owner, a schedule of rebates to be
3 paid out over the thirty-six-month period. The payments required to
4 be made pursuant to the provisions of this subsection shall be
5 subject to a penalty rate of interest equal to nine percent (9%) per
6 annum. The penalty rate of interest shall accrue for each day that
7 a required payment is not made by the end of the month for which the
8 payment is required to be made by the Tax Commission. For purposes
9 of computing the per diem rate of interest pursuant to this
10 subsection, a calendar year shall be deemed to consist of three
11 hundred sixty (360) days.

12 N. 1. The Corporation Commission and the Tax Commission shall
13 promulgate joint rules for the qualification for the exemptions
14 provided for in this section and the rules shall contain provisions
15 for verification of any wells from which production may be qualified
16 for the exemptions. The Tax Commission shall adopt rules and
17 regulations which establish guidelines for production of oil or gas
18 after July 1, 2011, which is exempt from tax pursuant to the
19 provisions of paragraph 1 of subsection E and subparagraphs b and c
20 of paragraph 2 of subsection H of this section to remit tax at the
21 reduced rate provided in paragraph 2 of subsection E and
22 subparagraphs d and e of paragraph 2 of subsection H of this section
23 until the end of the qualifying exemption period.

24

1 2. Any person requesting any exemption shall file an
2 application for qualification for the exemption with the Corporation
3 Commission which, upon finding that the well meets the requirements
4 of this section, shall approve the application for qualification.

5 3. Any person seeking an exemption shall:

6 a. file an application for the exemption with the Tax
7 Commission which, upon determination of qualification
8 by the Corporation Commission, shall approve the
9 application for an exemption, and

10 b. provide a copy of the approved application to the
11 remitter of the gross production tax.

12 4. The Tax Commission may require any person requesting an
13 exemption to furnish necessary financial and other information or
14 records in order to determine and justify the refund.

15 5. Upon the expiration of an exemption granted pursuant to this
16 section, the Tax Commission shall collect the gross production tax
17 levied pursuant to this section. If a person who qualifies for the
18 exemption elects to remit his or her own gross production tax during
19 the exemption period, the first purchaser shall not be liable to
20 withhold or remit the tax until the first day of the month following
21 the receipt of written notification from the person who is qualified
22 for such exemption stating that such exemption has expired and
23 directing the first purchaser to resume tax remittance on his or her
24 behalf.

1 O. 1. Prior to July 1, 2015, persons shall only be entitled to
2 either the exemption granted pursuant to subsection D of this
3 section or the exemption granted pursuant to subsection E, F, G, H,
4 I or J of this section for each oil, gas or oil and gas well drilled
5 or recompleted in this state. However, any person who qualifies for
6 the exemption granted pursuant to subsection E, F, G, H, I or J of
7 this section shall not be prohibited from qualification for the
8 exemption granted pursuant to subsection D of this section, if the
9 exemption granted pursuant to subsection E, F, G, H, I or J of this
10 section has expired.

11 2. On or after July 1, 2015, all persons shall only be entitled
12 to either the exemption granted pursuant to subsection D of this
13 section or the exemption granted pursuant to subsection F or G of
14 this section for each oil, gas, or oil and gas well drilled or
15 recompleted in this state. However, any person who qualifies for
16 the exemption granted pursuant to subsections F and G of this
17 section shall not be prohibited from qualification for the exemption
18 granted pursuant to subsection D of this section if the exemption
19 granted pursuant to subsection F or G of this section has expired.
20 Further, the exemption granted pursuant to subsection D of this
21 section shall not apply to any production upon which a tax is paid
22 at a rate of two percent (2%).

23 P. The Tax Commission shall have the power to require any such
24 person engaged in mining or the production or the purchase of such

1 asphalt, mineral ores aforesaid, oil, or gas, or the owner of any
2 royalty interest therein to furnish any additional information by it
3 deemed to be necessary for the purpose of correctly computing the
4 amount of the tax; and to examine the books, records and files of
5 such person; and shall have power to conduct hearings and compel the
6 attendance of witnesses, and the production of books, records and
7 papers of any person.

8 Q. Any person or any member of any firm or association, or any
9 officer, official, agent or employee of any corporation who shall
10 fail or refuse to testify; or who shall fail or refuse to produce
11 any books, records or papers which the Tax Commission shall require;
12 or who shall fail or refuse to furnish any other evidence or
13 information which the Tax Commission may require; or who shall fail
14 or refuse to answer any competent questions which may be put to him
15 or her by the Tax Commission, touching the business, property,
16 assets or effects of any such person relating to the gross
17 production tax imposed by this article or exemption authorized
18 pursuant to this section or other laws, shall be guilty of a
19 misdemeanor, and, upon conviction thereof, shall be punished by a
20 fine of not more than Five Hundred Dollars (\$500.00), or
21 imprisonment in the jail of the county where such offense shall have
22 been committed, for not more than one (1) year, or by both such fine
23 and imprisonment; and each day of such refusal on the part of such
24 person shall constitute a separate and distinct offense.

1 R. The Tax Commission shall have the power and authority to
2 ascertain and determine whether or not any report herein required to
3 be filed with it is a true and correct report of the gross products,
4 and of the value thereof, of such person engaged in the mining or
5 production or purchase of asphalt and ores bearing minerals
6 aforesaid and of oil and gas. If any person has made an untrue or
7 incorrect report of the gross production or value or volume thereof,
8 or shall have failed or refused to make such report, the Tax
9 Commission shall, under the rules prescribed by it, ascertain the
10 correct amount of either, and compute the tax.

11 S. The payment of the taxes herein levied shall be in full, and
12 in lieu of all taxes by the state, counties, cities, towns, school
13 districts and other municipalities upon any property rights attached
14 to or inherent in the right to the minerals, upon producing leases
15 for the mining of asphalt and ores bearing lead, zinc, jack or
16 copper, or for oil, or for gas, upon the mineral rights and
17 privileges for the minerals aforesaid belonging or appertaining to
18 land, upon the machinery, appliances and equipment used in and
19 around any well producing oil, or gas, or any mine producing asphalt
20 or any of the mineral ores aforesaid and actually used in the
21 operation of such well or mine. The payment of gross production tax
22 shall also be in lieu of all taxes upon the oil, gas, asphalt or
23 ores bearing minerals hereinbefore mentioned during the tax year in
24 which the same is produced, and upon any investment in any of the

1 leases, rights, privileges, minerals or other property described
2 herein. Any interest in the land, other than that herein
3 enumerated, and oil in storage, asphalt and ores bearing minerals
4 hereinbefore named, mined, produced and on hand at the date as of
5 which property is assessed for general and ad valorem taxation for
6 any subsequent tax year, shall be assessed and taxed as other
7 property within the taxing district in which such property is
8 situated at the time.

9 T. No equipment, material or property shall be exempt from the
10 payment of ad valorem tax by reason of the payment of the gross
11 production tax except such equipment, machinery, tools, material or
12 property as is actually necessary and being used and in use in the
13 production of asphalt or of ores bearing lead, zinc, jack or copper
14 or of oil or gas. Provided, the exemption shall include the
15 wellbore and non-recoverable down-hole material, including casing,
16 actually used in the disposal of waste materials produced with such
17 oil or gas. It is expressly declared that no ice plants, hospitals,
18 office buildings, garages, residences, gasoline extraction or
19 absorption plants, water systems, fuel systems, rooming houses and
20 other buildings, nor any equipment or material used in connection
21 therewith, shall be exempt from ad valorem tax.

22 U. The exemption from ad valorem tax set forth in subsections S
23 and T of this section shall continue to apply to all property from
24 which production of oil, gas or oil and gas is exempt from gross

1 production tax pursuant to subsection D, E, F, G, H, I or J of this
2 section.

3 SECTION 14. When considered in the House of Representatives as
4 a revenue raising measure, on final passage this measure received a
5 majority vote of those elected to and constituting the House of
6 Representatives, but did not receive three-fourths (3/4) majority
7 approval of the membership of the House of Representatives as
8 required by Article V, Section 33 of the Oklahoma Constitution for a
9 measure to become law without being submitted to a vote of the
10 people at the next General Election. Pursuant to Article V, Section
11 33 of the Oklahoma Constitution, upon receiving a majority vote of
12 those elected to and constituting the Senate, there is hereby
13 ordered a referendum which shall be filed with the Secretary of
14 State and addressed to the Governor of the State, who shall submit
15 the same to the people for their approval or rejection at the next
16 General Election.

17 Passed the House of Representatives the 16th day of May, 2017.

18

19

20

Presiding Officer of the House
of Representatives

21

22

Passed the Senate the ____ day of _____, 2017.

23

24

Presiding Officer of the Senate