

STATE OF OKLAHOMA

2nd Extraordinary Session of the 56th Legislature (2018)

HOUSE BILL 1033

By: Wallace and Casey of the
House

and

David and Fields of the
Senate

AS INTRODUCED

An Act relating to revenue and taxation; stating purpose pursuant to the authority provided in Section 57 of Article V of the Oklahoma Constitution; imposing additional tax levy upon cigarettes; specifying amount of additional levy; providing for apportionment of revenues; exempting levy from inclusion in determination of certain amounts; requiring certain collections and administration of levy; prohibiting sale of cigarette excise tax stamps to wholesalers in excess of certain amount; providing exception; creating the State Health Care Enhancement Fund; exempting fund from fiscal year limitations; identifying funding source; authorizing appropriations from fund for certain purpose; amending 68 O.S. 2011, Sections 402, 402-1 and 402-3, which relate to tax levies on tobacco products; providing that little cigars be taxed in the same rate and manner as cigarettes; clarifying language; imposing additional tax levy upon chewing tobacco; specifying amount of additional levy; providing for apportionment of revenues; prohibiting certain acts; declaring levy as a tax on the consumer; imposing tax on gasoline and diesel fuel; establishing amount of tax on a per-gallon basis; 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 68 O.S. 2011, Section 1001, as last amended by Section 1,

Chapter 5, 1st Extraordinary Session, O.S.L. 2017 (68 O.S. Supp. 2017, Section 1001), which relates to gross production tax; limiting period where certain rate is applicable; implementing rate applicable to initial production for certain period; modifying rate treatment of production enhancement projects after certain date; making treatment applicable to production within a certain period; modifying definitions of certain terms; eliminating certain definition; eliminating references to certain subsection; modifying application of certain provisions related to claims for and payments of tax refunds; modifying process related to qualification and administration of certain exemptions and reduced rates; amending 68 O.S. 2011, Section 1004, as last amended by Section 2, Chapter 355, O.S.L. 2017 (68 O.S. Supp. 2017, Section 1004), which relates to apportionment of gross production taxes; providing certain collections be apportioned in certain manner; enacting the Oklahoma Zero-Emission Facility Energy Tax Act of 2018; stating purpose of tax pursuant to Section 19 of Article X of the Oklahoma Constitution; defining terms; imposing levy of tax on certain electrical power production; providing levy in addition to and not in lieu of certain other taxes; providing exemption from tax for certain wind turbines; requiring remittance of tax; specifying persons or entities required to remit; providing for monthly remittance; providing for penalty; providing for imposition of interest; providing for apportionment of revenue to the General Revenue Fund; repealing 68 O.S. 2011, Section 402-2, which relates to additional tax on tobacco products; providing for codification; and providing for noncodification.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

1 The provisions of this measure are enacted pursuant to the
2 authority provided in Section 57 of Article V of the Oklahoma
3 Constitution for a general revenue bill.

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

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

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

19 2. The net amount of any revenue resulting from a payment in
20 lieu of excise taxes on cigarettes levied by this section, which net
21 amount shall be calculated after deductions for rebates owed
22 pursuant to a compact with a federally recognized Indian tribe or
23 nation, shall be apportioned as provided in paragraph 3 of this
24 subsection.

1 3. a. Prior to July 1, 2019, the resulting revenues as
2 described by paragraphs 1 and 2 of this subsection
3 shall be apportioned by the Oklahoma Tax Commission
4 and transmitted to the State Treasurer who shall
5 deposit such revenue in the General Revenue Fund.

6 b. Beginning July 1, 2019, the resulting revenues as
7 described by paragraphs 1 and 2 of this subsection
8 shall be apportioned by the Oklahoma Tax Commission
9 and transmitted to the State Treasurer, who shall
10 deposit such revenue to the credit of the State Health
11 Care Enhancement Fund, created in Section 4 of this
12 act.

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

16 1. The State of Oklahoma Building Bonds of 1961 Sinking Fund
17 pursuant to the provisions of Sections 57.31 through 57.43 of Title
18 62 of the Oklahoma Statutes;

19 2. The State of Oklahoma Institutional Building Bonds of 1965
20 Sinking Fund pursuant to the provisions of Sections 57.61 through
21 57.73 of Title 62 of the Oklahoma Statutes;

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

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

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

7 D. The cigarette taxes levied in this section shall be
8 collected and administered as provided by law for other cigarette
9 taxes now levied, collected and administered pursuant to the
10 provisions of Sections 301 through 325 of Title 68 of the Oklahoma
11 Statutes.

12 SECTION 3. NEW LAW A new section of law not to be
13 codified in the Oklahoma Statutes reads as follows:

14 The Oklahoma Tax Commission shall not sell cigarette excise tax
15 stamps to any wholesaler in excess of the amount of the monthly
16 average amount of such excise tax stamps sold to such wholesaler
17 during the preceding calendar year prior to the effective date of
18 Sections 2 and 3 of this act. Provided, the wholesaler may purchase
19 in excess of the monthly average purchased during the preceding
20 calendar year upon documentation, to the Tax Commission's
21 satisfaction, of probable sales greater than the wholesaler's sales
22 in the preceding calendar year.

1 SECTION 4. 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 to be
5 designated the "State Health Care Enhancement Fund". The fund shall
6 be a continuing fund, not subject to fiscal year limitations, and
7 shall consist of monies received pursuant to Sections 2 and 8 of
8 this act and any monies designated to the fund by law. All monies
9 accruing to the credit of the fund shall be appropriated at the
10 discretion of the Legislature for the purpose of enhancing the
11 health of Oklahomans.

12 SECTION 5. AMENDATORY 68 O.S. 2011, Section 402, is
13 amended to read as follows:

14 Section 402. There shall be levied, assessed, collected, and
15 paid in respect to the articles containing tobacco enumerated in
16 Section 401 et seq. of this title, a tax in the following amounts:

17 1. Little Cigars. Upon cigars of all descriptions made of
18 tobacco, or any substitute therefor, and weighing not more than
19 three (3) pounds per thousand, ~~four (4) mills for each cigar.~~
20 ~~Provided, that~~ the tax levied on the products coming under this
21 paragraph shall ~~not apply if~~ be equal to the tax on such products
22 that is reported and paid as cigarette tax under Sections 301
23 through 325 of this title. Further, the tax levied herein shall be
24

1 paid in the same manner as required in Sections 301 through 325 of
2 this title;

3 2. Cigars. Upon cigars of all descriptions made of tobacco, or
4 any substitute therefor, weighing more than three (3) pounds per
5 thousand and having a manufacturer's recommended retail selling
6 price, under the Federal Code, of not exceeding four cents (\$0.04)
7 per cigar, one cent (\$0.01) for each cigar;

8 3. Cigars. Upon all other cigars of all descriptions made of
9 tobacco, or any substitute therefor, and weighing more than three
10 (3) pounds per thousand, Twenty Dollars (\$20.00) per thousand. For
11 the purpose of computing the tax, cheroots, stogies, etc., are
12 hereby classed as cigars;

13 4. Smoking Tobacco. Upon all smoking tobacco including
14 granulated, plug cut, crimp cut, ready rubbed and other kinds and
15 forms of tobacco prepared in such manner as to be suitable for
16 smoking in a pipe or cigarette, the tax shall be twenty-five percent
17 (25%) of the factory list price exclusive of any trade discount,
18 special discount or deals; and

19 5. Chewing Tobacco. Upon chewing tobacco, smokeless tobacco,
20 and snuff, the tax shall be twenty percent (20%) of the factory list
21 price exclusive of any trade discount, special discount or deals.

22 It shall not be permissible for a retailer to advertise that the
23 retailer will absorb the tax due on the taxable merchandise
24 described herein. Such tax shall be paid by the consumer.

1 Notwithstanding any other provision of law, the tax levied pursuant
2 to the provisions of Section 401 et seq. of this title shall be part
3 of the gross proceeds or gross receipts from the sale of cigars or
4 tobacco products, or both, as those terms are defined in paragraph 7
5 12 of Section 1352 of this title.

6 SECTION 6. AMENDATORY 68 O.S. 2011, Section 402-1, is
7 amended to read as follows:

8 Section 402-1. In addition to the tax levied by Section 402 of
9 this title, there is hereby levied upon the sale, use, exchange or
10 possession of articles containing tobacco as defined in said Section
11 402, a tax in the following amounts:

12 ~~(a) Upon little cigars of all descriptions made of tobacco, or~~
13 ~~any substitute therefor, and weighing not more than three (3) pounds~~
14 ~~per thousand, two and one-half (2 1/2) mills for each cigar.~~
15 ~~Provided, that the tax levied on the products coming under this~~
16 ~~paragraph shall not apply if the tax on such products is reported~~
17 ~~and paid as cigarette tax under Sections 301 through 325 of this~~
18 ~~title.~~

19 ~~(b)~~ Upon cigars of all descriptions made of tobacco, or any
20 substitute therefor, and weighing more than three (3) pounds per
21 thousand, and having a manufacturer's recommended retail selling
22 price, under the Federal Code, of more than four cents (\$0.04) for
23 each cigar, Ten Dollars (\$10.00) per thousand. For the purpose of
24

1 computing the tax, cheroots, stogies, etc., are hereby classed as
2 cigars-;

3 ~~(e)~~ (b) Upon all smoking tobacco including granulated, plug cut,
4 crimp cut, ready rubbed and other kinds and forms of tobacco
5 prepared in such manner as to be suitable for smoking in a pipe or
6 cigarette, the tax shall be fifteen percent (15%) of the factory
7 list price exclusive of any trade discount, special discount or
8 deals-; and

9 ~~(d)~~ (c) Upon chewing tobacco, smokeless tobacco, and snuff, the
10 tax shall be ten percent (10%) of the factory list price exclusive
11 of any trade discount, special discount or deals.

12 This tax shall be paid by the consumer and no retailer may
13 advertise that he will pay or absorb this tax.

14 ~~(e)~~ The tax herein levied on tobacco products shall be evidenced
15 by stamps and collected on the same basis and in the same manner and
16 in all respects as the tax levied by the Tobacco Products Tax Law.
17 The revenue from this additional tax shall be apportioned by the
18 Oklahoma Tax Commission in the same manner as provided in Section
19 404 of this title, for the apportionment of other tobacco products
20 tax revenue.

21 SECTION 7. AMENDATORY 68 O.S. 2011, Section 402-3, is
22 amended to read as follows:

23 Section 402-3. A. In addition to the tax levied in Sections
24 402, and 402-1 ~~and 402-2~~ of this title, effective January 1, 2005,

1 there shall be levied, assessed, collected, and paid in respect to
2 the articles containing tobacco enumerated in Section 401 et seq. of
3 this title, a tax in the following amounts:

4 ~~1. Little Cigars. Upon cigars of all descriptions made of~~
5 ~~tobacco, or any substitute therefor, and weighing not more than~~
6 ~~three (3) pounds per thousand, twenty-seven (27) mills for each~~
7 ~~cigar. Provided, that the tax levied on the products coming under~~
8 ~~this paragraph shall not apply if the tax on such products is~~
9 ~~reported and paid as cigarette tax under Sections 301 through 325 of~~
10 ~~this title;~~

11 ~~2.~~ Cigars. Upon all ~~other~~ cigars of all descriptions made of
12 tobacco, or any substitute therefor, and weighing more than three
13 (3) pounds per thousand, Ninety Dollars (\$90.00) per thousand. For
14 the purpose of computing the tax, cheroots, stogies, etc., are
15 hereby classed as cigars;

16 ~~3.~~ 2. Smoking Tobacco. Upon all smoking tobacco including
17 granulated, plug cut, crimp cut, ready rubbed and other kinds and
18 forms of tobacco prepared in such manner as to be suitable for
19 smoking in a pipe or cigarette, the tax shall be forty percent (40%)
20 of the factory list price exclusive of any trade discount, special
21 discount or deals; and

22 ~~4.~~ 3. Chewing Tobacco. Upon chewing tobacco, smokeless
23 tobacco, and snuff, the tax shall be thirty percent (30%) of the
24

1 factory list price exclusive of any trade discount, special discount
2 or deals.

3 B. Except as provided in subsection C of this section, the
4 revenue resulting from the additional tax levied in subsection A of
5 this section shall be apportioned by the Oklahoma Tax Commission and
6 transmitted to the State Treasurer as follows:

7 1. Twenty-two and six-hundredths percent (22.06%) shall be
8 placed to the credit of the Health Employee and Economy Improvement
9 Act Revolving Fund created in Section 1010.1 of Title 56 of the
10 Oklahoma Statutes;

11 2. Three and nine-hundredths percent (3.09%) shall be placed to
12 the credit of the Comprehensive Cancer Center Debt Service Revolving
13 Fund created in Section 160.1 of Title 62 of the Oklahoma Statutes;

14 3. Before July 1, 2008, seven and fifty-hundredths percent
15 (7.50%) shall be placed to the credit of the Trauma Care Assistance
16 Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of Title 63 of the
17 Oklahoma Statutes. On and after July 1, 2008, seven and fifty-
18 hundredths percent (7.50%) shall be allocated as follows:

19 a. every month, an amount equal to the actual amount
20 placed to the credit of the Trauma Care Assistance
21 Revolving Fund pursuant to this paragraph for the same
22 month of the 2008 fiscal year shall be credited to the
23 Trauma Care Assistance Revolving Fund,
24

- b. every month, any amount over and above the amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to subparagraph a of this paragraph shall be credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund as created in Section ~~8~~ 1-2512.1 of ~~this act~~ Title 63 of the Oklahoma Statutes until the combined amount credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund pursuant to this section and Section 302-5 of this title is equal to Two Million Five Hundred Thousand Dollars (\$2,500,000.00) each year, and
- c. any additional revenue allocated pursuant to this paragraph shall be placed to the credit of the Trauma Care Assistance Revolving Fund;

4. Three and nine-hundredths percent (3.09%) shall be placed to the credit of the Oklahoma State University College of Osteopathic Medicine Revolving Fund created in Section 160.2 of Title 62 of the Oklahoma Statutes;

5. Twenty-six and thirty-eight-hundredths percent (26.38%) shall be placed to the credit of the Oklahoma Health Care Authority Medicaid Program Fund created in Section 5020 of Title 63 of the Oklahoma Statutes for the purposes of maintaining programs and

1 services funded under the federal "Jobs and Growth Tax Relief
2 Reconciliation Act of 2003", reimbursing city/county-owned
3 hospitals, increasing emergency room physician rates, and providing
4 TEFRA 134, also known as "Katie Beckett" services;

5 6. Two and sixty-five-hundredths percent (2.65%) shall be
6 placed to the credit of the Department of Mental Health and
7 Substance Abuse Services Revolving Fund created in Section 2-303 of
8 Title 43A of the Oklahoma Statutes;

9 7. Forty-four-hundredths of one percent (0.44%) shall be placed
10 to the credit of the Belle Maxine Hilliard Breast and Cervical
11 Cancer Treatment Revolving Fund created in Section 1-559 of Title 63
12 of the Oklahoma Statutes;

13 8. One percent (1%) shall be placed to the credit of the
14 Teachers' Retirement System Revolving Fund created in Section 158 of
15 Title 62 of the Oklahoma Statutes;

16 9. Two and seven-hundredths percent (2.07%) shall be placed to
17 the credit of the Education Reform Revolving Fund created in Section
18 ~~41.29b~~ 34.89 of Title 62 of the Oklahoma Statutes;

19 10. Sixty-six-hundredths percent (0.66%) shall be placed to the
20 credit of the Tobacco Prevention and Cessation Revolving Fund
21 created in Section 1-105d of Title 63 of the Oklahoma Statutes;

22 11. Sixteen and eighty-three-hundredths percent (16.83%) shall
23 be placed to the credit of the General Revenue Fund; and
24

1 12. For fiscal years beginning July 1, 2004, and ending June
2 30, 2006, fourteen and twenty-three-hundredths percent (14.23%)
3 shall be apportioned to municipalities and counties that levy a
4 sales tax, in the proportions which total municipal and county sales
5 tax revenue was apportioned by the Tax Commission in the preceding
6 month.

7 For fiscal years beginning July 1, 2006, and thereafter, the
8 apportionment percentage specified in paragraph 12 of this
9 subsection will be adjusted by dividing the total municipal and
10 county sales tax revenue collected in the calendar year immediately
11 preceding the commencement of the fiscal year by the sum of the
12 state sales tax revenue and total municipal and county sales tax
13 revenue collected in the same year. This ratio shall be divided by
14 the ratio of the total municipal and county sales tax revenue
15 collected in the calendar year beginning January 1, 2004, and ending
16 December 31, 2004, divided by the sum of the state sales tax revenue
17 and total municipal and county sales tax revenue collected in the
18 same year. The resulting quotient shall be multiplied by fourteen
19 and twenty-three-hundredths percent (14.23%) to determine the
20 apportionment percentage for the fiscal year.

21 For fiscal years beginning July 1, 2006, and thereafter, any
22 adjustment to the percentage of revenues apportioned to
23 municipalities and counties shall be reflected in the percent of
24 revenues apportioned to the General Revenue Fund.

1 C. The net amount of any revenue resulting from a payment in
2 lieu of excise taxes on little cigars, cigars, smoking tobacco and
3 chewing tobacco levied by this section, pursuant to a compact with a
4 federally recognized Indian tribe or nation after deductions for
5 deposits into trust accounts pursuant to such compacts, shall be
6 apportioned by the Tax Commission and transmitted to the State
7 Treasurer as follows:

8 1. Thirty-three and forty-nine-hundredths percent (33.49%)
9 shall be placed to the credit of the Health Employee and Economy
10 Improvement Act Revolving Fund created in Section 1010.1 of Title 56
11 of the Oklahoma Statutes;

12 2. Four and sixty-nine-hundredths percent (4.69%) shall be
13 placed to the credit of the Comprehensive Cancer Center Debt Service
14 Revolving Fund created in Section 160.1 of Title 62 of the Oklahoma
15 Statutes;

16 3. Before July 1, 2008, eleven and thirty-nine-hundredths
17 percent (11.39%) shall be placed to the credit of the Trauma Care
18 Assistance Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of
19 Title 63 of the Oklahoma Statutes. On and after July 1, 2008,
20 eleven and thirty-nine-hundredths percent (11.39%) shall be
21 allocated as follows:

22 a. every month, an amount equal to the actual amount
23 placed to the credit of the Trauma Care Assistance
24 Revolving Fund pursuant to this paragraph for the same

1 month of the 2008 fiscal year shall be credited to the
2 Trauma Care Assistance Revolving Fund,

3 b. every month, any amount over and above the amount
4 placed to the credit of the Trauma Care Assistance
5 Revolving Fund pursuant to subparagraph a of this
6 paragraph shall be credited to the Oklahoma Emergency
7 Response Systems Stabilization and Improvement
8 Revolving Fund as created in Section ~~8~~ 1-2512.1 of
9 ~~this act~~ Title 63 of the Oklahoma Statutes until the
10 combined amount credited to the Oklahoma Emergency
11 Response Systems Stabilization and Improvement
12 Revolving Fund pursuant to this section and Section
13 302-5 of this title is equal to Two Million Five
14 Hundred Thousand Dollars (\$2,500,000.00) each year,
15 and

16 c. any additional revenue allocated pursuant to this
17 paragraph shall be placed to the credit of the Trauma
18 Care Assistance Revolving Fund;

19 4. Four and sixty-nine-hundredths percent (4.69%) shall be
20 placed to the credit of the Oklahoma State University College of
21 Osteopathic Medicine Revolving Fund created in Section 160.2 of
22 Title 62 of the Oklahoma Statutes;

23 5. Forty and six-hundredths percent (40.06%) shall be placed to
24 the credit of the Oklahoma Health Care Authority Medicaid Program

1 Fund created in Section 5020 of Title 63 of the Oklahoma Statutes
2 for the purposes of maintaining programs and services funded under
3 the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003",
4 reimbursing city/county-owned hospitals, increasing emergency room
5 physician rates, and providing TEFRA 134, also known as "Katie
6 Beckett" services;

7 6. Four and one-hundredths percent (4.01%) shall be placed to
8 the credit of the Department of Mental Health and Substance Abuse
9 Services Revolving Fund created in Section 2-303 of Title 43A of the
10 Oklahoma Statutes;

11 7. Sixty-seven-hundredths percent (0.67%) shall be placed to
12 the credit of the Belle Maxine Hilliard Breast and Cervical Cancer
13 Treatment Revolving Fund created in Section 1-559 of Title 63 of the
14 Oklahoma Statutes; and

15 8. One percent (1%) shall be placed to the credit of the
16 Tobacco Prevention and Cessation Revolving Fund created in Section
17 1-105d of Title 63 of the Oklahoma Statutes.

18 D. It shall not be permissible for a retailer to advertise that
19 the retailer will absorb the tax due on the taxable merchandise
20 described herein. Such tax shall be paid by the consumer.

21 SECTION 8. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 402-4 of Title 68, unless there
23 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, in addition to the tax levied in
3 Sections 402, 402-1 and 402-3 of Title 68 of the Oklahoma Statutes,
4 there shall be levied, assessed, collected and paid in respect to
5 the articles containing tobacco enumerated in Section 401 et seq. of
6 Title 68 of the Oklahoma Statutes, a tax in the following amounts:

7 Chewing Tobacco. Upon chewing tobacco, smokeless tobacco and
8 snuff, the tax shall be ten percent (10%) of the factory list price
9 exclusive of any trade discount, special discount or deals.

10 B. 1. Except as provided in paragraph 2 of this subsection,
11 the revenue resulting from the additional tax levied in subsection A
12 of this section shall be apportioned as provided in paragraph 3 of
13 this subsection.

14 2. The net amount of any revenue resulting from a payment in
15 lieu of excise taxes on chewing tobacco levied by this section,
16 which net amount shall be calculated after deductions for rebates
17 owed pursuant to a compact with a federally recognized Indian tribe
18 or nation, shall be apportioned as provided in paragraph 3 of this
19 subsection.

20 3. a. Prior to July 1, 2019, the resulting revenues as
21 described by paragraphs 1 and 2 of this subsection
22 shall be apportioned by the Oklahoma Tax Commission
23 and transmitted to the State Treasurer who shall
24 deposit such revenue in the General Revenue Fund.

1 b. Beginning July 1, 2019, the resulting revenues as
2 described by paragraphs 1 and 2 of this subsection
3 shall be apportioned by the Oklahoma Tax Commission
4 and transmitted to the State Treasurer, who shall
5 deposit such revenue to the credit of the State Health
6 Care Enhancement Fund created in Section 4 of this
7 act.

8 C. No retailer shall advertise that the retailer will absorb
9 the tax due on the taxable merchandise described in this section.
10 Such tax shall be paid by the consumer.

11 SECTION 9. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 500.4B of Title 68, unless there
13 is created a duplication in numbering, reads as follows:

14 A. For the purpose of providing revenue for the support of the
15 functions of state government, in addition to the tax imposed by
16 Section 500.4 of Title 68 of the Oklahoma Statutes, there is hereby
17 imposed a tax of six cents (\$0.06) per gallon on all:

- 18 1. Gasoline used or consumed in this state; and
- 19 2. Diesel fuel used or consumed in this state.

20 B. All remaining revenue from the tax imposed by subsection A
21 of this section and penalties and interest thereon collected by the
22 Oklahoma Tax Commission, after the requirements of Section 500.63 of
23 Title 68 of the Oklahoma Statutes have been fulfilled, shall be
24 deposited as follows:

1 1. Prior to July 1, 2019, the remaining revenue shall be
2 apportioned by the Oklahoma Tax Commission and transmitted to the
3 State Treasurer who shall deposit such revenue in the General
4 Revenue Fund; and

5 2. Beginning July 1, 2019, the remaining revenue shall be
6 apportioned by the Oklahoma Tax Commission and transmitted to the
7 State Treasurer who shall deposit such revenue in the Rebuilding
8 Oklahoma Access and Driver Safety Fund created in Section 1521 of
9 Title 69 of the Oklahoma Statutes.

10 SECTION 10. AMENDATORY 68 O.S. 2011, Section 500.10, is
11 amended to read as follows:

12 Section 500.10 Subject to the procedural requirements and
13 conditions set out in this section and Sections 500.11 through
14 500.17 of this title, the following are exempt from the ~~tax~~ taxes on
15 motor fuel imposed by Section 500.4 of this title ~~on motor fuel and~~
16 Section 9 of this act:

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

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

23 2. Motor fuel which was acquired by an unlicensed exporter and
24 as to which the tax imposed by Section 500.4 of this title has

1 previously been paid or accrued and was subsequently exported by
2 transport truck by or on behalf of the licensed exporter in a
3 diversion across state boundaries properly reported in conformity
4 with Section 500.46 of this title;

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

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

18 5. Motor fuel sold to the United States or any agency or
19 instrumentality thereof;

20 6. Motor fuel used solely and exclusively in district-owned
21 public school vehicles or FFA and 4-H Club trucks for the purpose of
22 legally transporting public school children, and motor fuel
23 purchased by any school district for use exclusively in school buses
24 leased or hired for the purpose of legally transporting public

1 school children, or in the operation of vehicles used in driver
2 training;

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

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

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

23 10. Motor fuel sold within an Indian reservation or within
24 Indian country by a federally recognized Indian tribe to a member of

1 that tribe and used in motor vehicles owned by that member of the
2 tribe. This exemption does not apply to sales within an Indian
3 reservation or within Indian country by a federally recognized
4 Indian tribe to non-Indian consumers or to Indian consumers who are
5 not members of the tribe selling the motor fuel;

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

8 a. used to operate equipment attached to a motor vehicle,
9 if the diesel fuel was placed into the fuel supply
10 tank of a motor vehicle that has a common fuel
11 reservoir for travel on a highway and for the
12 operation of equipment, or

13 b. consumed by the vehicle while the vehicle is parked
14 off the highways of this state;

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

18 13. Diesel fuel used as heating oil, or in railroad locomotives
19 or any other motorized flanged-wheel rail equipment, or used for
20 other nonhighway purposes other than as expressly exempted under
21 another provision;

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

1 15. Taxable diesel which had been accidentally contaminated by
2 dye so as to be unsaleable as highway fuel as proved by proper
3 documentation;

4 16. Dyed diesel fuel;

5 17. Motor fuel sold to the Oklahoma Space Industry Development
6 Authority or any spaceport user as defined in the Oklahoma Space
7 Industry Development Act; and

8 18. Biofuels or biodiesel produced by an individual with crops
9 grown on property owned by the same individual and used in a vehicle
10 owned by the same individual on the public roads and highways of
11 this state.

12 SECTION 11. AMENDATORY 68 O.S. 2011, Section 1001, as
13 last amended by Section 1, Chapter 5, 1st Extraordinary Session,
14 O.S.L. 2017 (68 O.S. Supp. 2017, Section 1001), is amended to read
15 as follows:

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

19 B. 1. Effective July 1, 2013, through June 30, 2015, except as
20 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
21 this section, there shall be levied upon the production of oil a tax
22 equal to seven percent (7%) of the gross value of the production of
23 oil based on a per barrel measurement of forty-two (42) U.S. gallons
24

1 of two hundred thirty-one (231) cubic inches per gallon, computed at
2 a temperature of sixty (60) degrees Fahrenheit.

3 2. Effective July 1, 2013, through June 30, 2015, except as
4 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
5 this section, there shall be levied a tax equal to seven percent
6 (7%) of the gross value of the production of gas.

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

10 a. upon the production of oil a tax equal to seven
11 percent (7%) of the gross value of the production of
12 oil based on a per barrel measurement of forty-two
13 (42) U.S. gallons of two hundred thirty-one (231)
14 cubic inches per gallon, computed at a temperature of
15 sixty (60) degrees Fahrenheit,

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

19 c. notwithstanding the levies in subparagraphs a and b of
20 this paragraph, the production of oil, gas, or oil and
21 gas from wells spudded on or after July 1, 2015, and
22 prior to the effective date of this act, shall be
23 taxed at a rate of two percent (2%) commencing with
24 the month of first production for a period of thirty-

1 six (36) months; provided however, such production
2 occurring on or after the effective date of this act
3 for the remainder of such thirty-six-month period
4 shall be taxed at a rate of four percent (4%).

5 Thereafter, the production shall be taxed as provided
6 in subparagraphs a and b of this paragraph, and

7 d. notwithstanding the levies in subparagraphs a and b of
8 this paragraph, the production of oil, gas or oil and
9 gas from wells spudded on or after the effective date
10 of this act shall be taxed at a rate of four percent
11 (4%) commencing with the month of first production for
12 a period of thirty-six (36) months. Thereafter, the
13 production shall be taxed as provided in subparagraphs
14 a and b of this paragraph.

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

18 D. 1. Except as otherwise provided in this section, for
19 secondary recovery projects approved or having an initial project
20 beginning date on or after July 1, 2000, and before July 1, 2017,
21 any incremental production attributable to the working interest
22 owners which results from such secondary recovery projects shall be
23 exempt from the gross production tax levied pursuant to this section
24 for a period not to exceed five (5) years from the initial project

1 beginning date or for a period ending upon the termination of the
2 secondary recovery process, whichever occurs first; provided
3 however, that the exemption provided by this paragraph shall not
4 apply to production occurring on or after July 1, 2017.

5 2. Except as otherwise provided in this section, for tertiary
6 recovery projects approved and having a project beginning date on or
7 after July 1, 1993, and before July 1, 2017, any incremental
8 production attributable to the working interest owners which results
9 from such tertiary recovery projects shall be exempt from the gross
10 production tax levied pursuant to this section from the project
11 beginning date until project payback is achieved, but not to exceed
12 a period of ten (10) years; provided however, that the exemption
13 provided by this paragraph shall not apply to production occurring
14 on or after July 1, 2017. Project payback pursuant to this
15 paragraph shall be determined by appropriate payback indicators
16 which will provide for the recovery of capital expenses and
17 operating expenses, excluding administrative expenses, in
18 determining project payback. The capital expenses of pipelines
19 constructed to transport carbon dioxide to a tertiary recovery
20 project shall not be included in determining project payback
21 pursuant to this paragraph.

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

1 4. For purposes of this subsection:

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

22 5. The Corporation Commission shall promulgate rules for the
23 qualification for this exemption which shall include, but not be
24 limited to, procedures for determining incremental production as

1 defined in subparagraph a of paragraph 4 of this subsection, and the
2 establishment of appropriate payback indicators as approved by the
3 Tax Commission for the determination of project payback for each of
4 the exemptions authorized by this subsection.

5 6. For new secondary recovery projects and tertiary recovery
6 projects approved by the Corporation Commission on or after July 1,
7 1993, and before July 1, 2017, such approval shall constitute
8 qualification for an exemption.

9 7. Any person seeking an exemption shall file an application
10 for such exemption with the Tax Commission which, upon determination
11 of qualification by the Corporation Commission, shall approve the
12 application for such exemption.

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

16 9. Upon the expiration of the exemption granted pursuant to
17 this subsection, the Tax Commission shall collect the gross
18 production tax levied pursuant to this section.

19 E. 1. Except as otherwise provided in this section, the
20 production of oil, gas or oil and gas from a horizontally drilled
21 well producing prior to July 1, 2011, which production commenced
22 after July 1, 2002, shall be exempt from the gross production tax
23 levied pursuant to subsection B of this section from the project
24 beginning date until project payback is achieved but not to exceed a

1 period of forty-eight (48) months commencing with the month of
2 initial production from the horizontally drilled well. For purposes
3 of subsection D of this section and this subsection, project payback
4 shall be determined as of the date of the completion of the well and
5 shall not include any expenses beyond the completion date of the
6 well, and subject to the approval of the Tax Commission.

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

10 3. For production commenced on or after July 1, 2011, and prior
11 to July 1, 2015, the tax levied pursuant to the provisions of this
12 section on the production of oil, gas or oil and gas from a
13 horizontally drilled well shall be reduced to a rate of one percent
14 (1%) for a period of forty-eight (48) months from the month of
15 initial production; provided however, such production occurring on
16 or after July 1, 2017, for the remainder of such forty-eight-month
17 period shall be subject to a reduced rate of four percent (4%);
18 further provided, any reduced rate provided by this paragraph shall
19 not apply to production occurring during or after the first full
20 month following the effective date of this act. The taxes collected
21 from the production of oil shall be apportioned pursuant to the
22 provisions of paragraph 7 of subsection B of Section 1004 of this
23 title. The taxes collected from the production of gas shall be
24

1 apportioned pursuant to the provisions of paragraph 3 of subsection
2 B of Section 1004 of this 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;
19 provided however, that the exemption provided by this paragraph
20 shall not apply to production occurring on or after July 1, 2017.
21 This exemption shall take effect July 1, 1994, and shall apply to
22 wells for which work to reestablish or enhance production began on
23 or after July 1, 1994, and for which production is reestablished
24 prior to July 1, 2017. For all such production, a refund against

1 gross production taxes shall be issued as provided in subsection L
2 of this section.

3 2. As used in this subsection, for wells for which production
4 is reestablished prior to July 1, 1997, "inactive well" means any
5 well that has not produced oil, gas or oil and gas for a period of
6 not less than two (2) years as evidenced by the appropriate forms on
7 file with the Corporation Commission reflecting the well's status.
8 As used in this subsection, for wells for which production is
9 reestablished on or after July 1, 1997, and prior to July 1, 2017,
10 "inactive well" means any well that has not produced oil, gas or oil
11 and gas for a period of not less than one (1) year as evidenced by
12 the appropriate forms on file with the Corporation Commission
13 reflecting the well's status. Wells which experience mechanical
14 failure or loss of mechanical integrity, as defined by the
15 Corporation Commission, including but not limited to, casing leaks,
16 collapse of casing or loss of equipment in a wellbore, or any
17 similar event which causes cessation of production, shall also be
18 considered inactive wells.

19 G. 1. ~~Except~~ On or after the effective date of this act,
20 except as otherwise provided by this section, any incremental
21 production which results from a production enhancement project shall
22 be ~~exempt from the gross production tax levied pursuant to~~
23 ~~subsection B of this section for a period of twenty eight (28)~~
24 ~~months from the date of first sale after project completion of~~

1 subject to a reduced tax rate of four percent (4%) until the
2 expiration of thirty-six (36) months commencing with the month of
3 initial production from the production enhancement project; provided
4 however, that the ~~exemption~~ rate reduction provided by this
5 paragraph shall not apply to production occurring ~~on or after July~~
6 1, 2017 prior to the effective date of this act. This ~~exemption~~
7 ~~shall take effect July 1, 1994, and shall apply to production~~
8 ~~enhancement projects having a project beginning date on or after~~
9 ~~July 1, 1994, and prior to July 1, 2017. For all such production, a~~
10 ~~refund against gross production taxes shall be issued as provided in~~
11 ~~subsection L of this section.~~

12 2. As used in this subsection:

- 13 a. ~~for production enhancement projects having a project~~
14 ~~beginning date on or after July 1, 1997, and prior to~~
15 ~~July 1, 2017, "production enhancement project" means~~
16 ~~any workover as defined in this paragraph,~~
17 ~~recompletion as defined in this paragraph, reentry of~~
18 ~~plugged and abandoned wellbores, or addition of a well~~
19 ~~or field compression~~ reestablishment of production
20 from an inactive well as defined in this paragraph,
21 b. "incremental production" means the amount of crude
22 oil, natural gas or other hydrocarbons which are
23 produced as a result of the production enhancement
24 project in excess of the base production,

1 c. "base production" means the average monthly amount of
2 production for the twelve-month period immediately
3 prior to the commencement of the project or the
4 average monthly amount of production for the twelve-
5 month period immediately prior to the commencement of
6 the project less the monthly rate of production
7 decline for the project for each month beginning one
8 hundred eighty (180) days prior to the commencement of
9 the project. For instances where the production from
10 a production enhancement project is not commingled
11 with previously existing production within the well
12 for which the project is being conducted, the base
13 production amount as defined herein shall be
14 considered to be zero. The monthly rate of production
15 decline shall be equal to the average extrapolated
16 monthly decline rate for the twelve-month period
17 immediately prior to the commencement of the project
18 based on the production history of the well. If the
19 well or wells covered in the application had
20 production for less than the full twelve-month period
21 prior to the filing of the application for the
22 production enhancement project, the base production
23 shall be the average monthly production for the months
24 during that period that the well or wells produced,

1 d. ~~for production enhancement projects having a project~~
2 ~~beginning date on or after July 1, 1997, and prior to~~
3 ~~July 1, 2017, "recompletion" means any downhole~~
4 ~~operation in an existing oil or gas well that is~~
5 ~~conducted to establish production of oil or gas from~~
6 ~~any geologic interval not currently completed or~~
7 ~~producing in such existing oil or gas well within the~~
8 ~~same or a different geologic formation, and~~

9 e. ~~"workover" means any downhole operation in an existing~~
10 ~~oil or gas well that is designed to sustain, restore~~
11 ~~or increase the production rate or ultimate recovery~~
12 ~~in a geologic interval currently completed or~~
13 ~~producing in the existing oil or gas well. For~~
14 ~~production enhancement projects having a project~~
15 ~~beginning date on or after July 1, 1997, and prior to~~
16 ~~July 1, 2017, "workover" includes, but is not limited~~
17 ~~to:~~

18 ~~(1) acidizing,~~

19 ~~(2) reperforating,~~

20 ~~(3) fracture treating,~~

21 ~~(4) sand/paraffin/scale removal or other wellbore~~
22 ~~cleanouts,~~

23 ~~(5) casing repair,~~

24 ~~(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.~~

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

"inactive well" means any well that has not produced oil, gas or oil and gas for a period of not less than twelve (12) months prior to the date of production being reestablished as evidenced by the appropriate forms on file with the Corporation Commission reflecting the well's status. Wells which experience mechanical failure or loss of mechanical integrity, as

1 defined by the Corporation Commission, including but
2 not limited to casing leaks, collapse of casing or
3 loss of equipment in a wellbore, or any similar event
4 which causes cessation of production, shall also be
5 considered inactive wells.

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

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

11 a. the production of oil, gas or oil and gas from wells
12 spudded between July 1, 1997, and July 1, 2005, and
13 drilled to a depth of twelve thousand five hundred
14 (12,500) feet or greater and wells spudded between
15 July 1, 2005, and July 1, 2015, and drilled to a depth
16 between twelve thousand five hundred (12,500) feet and
17 fourteen thousand nine hundred ninety-nine (14,999)
18 feet shall be exempt from the gross production tax
19 levied pursuant to subsection B of this section from
20 the date of first sales for a period of twenty-eight
21 (28) months; provided however, that the exemption
22 provided by this subparagraph shall not apply to
23 production occurring on or after July 1, 2017,

- b. the production of oil, gas or oil and gas from wells spudded between July 1, 2002, and July 1, 2005, and drilled to a depth of fifteen thousand (15,000) feet or greater and wells spudded between July 1, 2005, and July 1, 2011, and drilled to a depth between fifteen thousand (15,000) feet and seventeen thousand four hundred ninety-nine (17,499) feet shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of forty-eight (48) months,
- c. the production of oil, gas or oil and gas from wells spudded between July 1, 2002, and July 1, 2011, and drilled to a depth of seventeen thousand five hundred (17,500) feet or greater shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of sixty (60) months,
- d. the tax levied pursuant to the provisions of this section on the production of oil, gas or oil and gas from wells spudded between July 1, 2011, and July 1, 2015, and drilled to a depth between fifteen thousand (15,000) feet and seventeen thousand four hundred ninety-nine (17,499) feet shall be reduced to a rate of four percent (4%) for a period of forty-eight (48)

1 months from the date of first sales; provided, the
2 reduced rate provided by this subparagraph shall not
3 apply to production occurring during or after the
4 first full month following the effective date of this
5 act. The taxes collected from the production of oil
6 shall be apportioned pursuant to the provisions of
7 paragraph 7 of subsection B of Section 1004 of this
8 title. The taxes collected from the production of gas
9 shall be apportioned pursuant to the provisions of
10 paragraph 3 of subsection B of Section 1004 of this
11 title,

- 12 e. the tax levied pursuant to the provisions of this
13 section on the production of oil, gas or oil and gas
14 from wells spudded between July 1, 2011, and July 1,
15 2015, and drilled to a depth of seventeen thousand
16 five hundred (17,500) feet or greater shall be reduced
17 to a rate of four percent (4%) for a period of sixty
18 (60) months from the date of first sales; provided
19 however, the reduced rate provided by this
20 subparagraph shall not apply to production occurring
21 during or after the first full month following the
22 effective date of this act. The taxes collected from
23 the production of oil shall be apportioned pursuant to
24 the provisions of paragraph 7 of subsection B of

1 Section 1004 of this title. The taxes collected from
2 the production of gas shall be apportioned pursuant to
3 the provisions of paragraph 3 of subsection B of
4 Section 1004 of this title, and

5 f. the provisions of subparagraphs b and c of this
6 paragraph shall only apply to the production of wells
7 qualifying for the exemption provided under these
8 subparagraphs prior to July 1, 2011. The production
9 of oil, gas or oil and gas on or after July 1, 2011,
10 and before July 1, 2015, from wells qualifying under
11 subparagraph b of this paragraph shall be taxed at a
12 rate of four percent (4%) until the expiration of
13 forty-eight (48) months from the date of first sales
14 and the production of oil, gas or oil and gas on or
15 after July 1, 2011, and before July 1, 2015, from
16 wells qualifying under subparagraph c of this
17 paragraph shall be taxed at a rate of four percent
18 (4%) until the expiration of sixty (60) months from
19 the date of first sales.

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

23 I. Except as otherwise provided by this section, the production
24 of oil, gas or oil and gas from wells spudded or reentered between

1 July 1, 1995, and July 1, 2015, which qualify as a new discovery
2 pursuant to this subsection shall be exempt from the gross
3 production tax levied pursuant to subsection B of this section from
4 the date of first sales for a period of twenty-eight (28) months;
5 provided however, that the exemption provided by this subsection
6 shall not apply to production occurring on or after July 1, 2017.
7 For all such wells spudded or reentered, a refund against gross
8 production taxes shall be issued as provided in subsection L of this
9 section. As used in this subsection, "new discovery" means
10 production of oil, gas or oil and gas from:

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

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

20 3. For wells spudded or reentered on or after July 1, 1997, and
21 prior to July 1, 2015, a well that discovers natural gas in paying
22 quantities that is more than two (2) miles from the nearest gas well
23 producing from the same producing interval; or
24

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

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

13 1. If the three-dimensional seismic shoot is shot prior to July
14 1, 2000, for a period of eighteen (18) months; and

15 2. If the three-dimensional seismic shoot is shot on or after
16 July 1, 2000, for a period of twenty-eight (28) months; provided
17 however, that the exemption provided by this subsection shall not
18 apply to production occurring on or after July 1, 2017. For all
19 such production, a refund against gross production taxes shall be
20 issued as provided in subsection L of this section.

21 K. 1. The exemptions provided for in subsections F, ~~G~~, I and J
22 of this section, the exemption provided for in subparagraph a of
23 paragraph 2 of subsection H of this section, and the exemptions
24 provided for in subparagraphs b and c of paragraph 2 of subsection H

1 of this section for production from wells spudded before July 1,
2 2005, shall not apply:

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

16 (1) The "average annual index price" will be
17 calculated by multiplying the West Texas
18 Intermediate closing price by the "index price
19 ratio". The index price ratio is defined as the
20 immediate preceding three-year historical average
21 ratio of the actual weighted average wellhead
22 price to the West Texas Intermediate close price
23 published on the last business day of each month.
24

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

4 (3) If the West Texas Intermediate Crude price is
5 unavailable for any reason, an industry benchmark
6 price may be substituted and used for the
7 calculation of the index price as determined by
8 the Tax Commission,

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

13 c. to the severance or production of gas, upon
14 determination by the Tax Commission that the average
15 annual index price of Oklahoma gas exceeds Five
16 Dollars (\$5.00) per thousand cubic feet (mcf)
17 calculated on an annual calendar year basis as
18 adjusted for inflation using the Consumer Price Index-
19 All Urban Consumers (CPI-U) as published by the Bureau
20 of Labor Statistics of the U.S. Department of Labor or
21 its successor agency. Such adjustment shall be based
22 on the most current data available for the preceding
23 twelve-month period and shall be applied for the
24 fiscal year which begins on the July 1 date

1 immediately following the release of the CPI-U data by
2 the Bureau of Statistics.

3 (1) The "average annual index price" will be
4 calculated by multiplying the Henry Hub 3-Day
5 Average Close price by the "index price ratio".
6 The index price ratio is defined as the immediate
7 preceding three-year historical average ratio of
8 the actual weighted average wellhead price to the
9 Henry Hub 3-Day Average Close price published on
10 the last business day of each month.

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

14 (3) If the Henry Hub 3-Day Average Close price is
15 unavailable for any reason, an industry benchmark
16 price may be substituted and used for the
17 calculation of the index price as determined by
18 the Tax Commission.

19 2. Notwithstanding the exemptions granted pursuant to
20 subsections F, ~~G~~, I, J, paragraph 1 of subsection E, and
21 subparagraph a of paragraph 2 of subsection H of this section, there
22 shall continue to be levied upon the production of petroleum or
23 other crude or mineral oil or natural gas or casinghead gas, as
24 provided in subsection B of this section, from any wells provided

1 for in subsections F, ~~G~~, I, J, paragraph 1 of subsection E, and
2 subparagraph a of paragraph 2 of subsection H of this section, a tax
3 equal to one percent (1%) of the gross value of the production of
4 petroleum or other crude or mineral oil or natural gas or casinghead
5 gas. The tax hereby levied shall be apportioned as follows:

6 a. fifty percent (50%) of the sum collected shall be
7 apportioned to the County Highway Fund as provided in
8 subparagraph b of paragraph 1 of subsection B of
9 Section 1004 of this title, and

10 b. fifty percent (50%) of the sum collected shall be
11 apportioned to the appropriate school district as
12 provided in subparagraph c of paragraph 1 of
13 subsection B of Section 1004 of this title.

14 Upon the expiration of the exemption granted pursuant to
15 subsection E, F, ~~G~~, H, I or J of this section, the provisions of
16 this paragraph shall have no force or effect.

17 L. 1. Prior to July 1, 2015, and except as provided in
18 subsection M of this section, for all oil and gas production exempt
19 from gross production taxes pursuant to subsections E, F, ~~G~~, H, I
20 and J of this section during a given fiscal year, a refund of gross
21 production taxes shall be issued to the well operator or a designee
22 in the amount of such gross production taxes paid during such
23 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 one
18 percent (1%) as specified in subsection B of this
19 section, and
- 20 e. no refund shall be paid unless the person making the
21 claim for refund demonstrates by affidavit or other
22 means prescribed by the Tax Commission that an amount
23 equal to or greater than the amount of the refund has
24 been invested in the exploration for or production of

1 crude oil or natural gas in this state by such person
2 not more than three (3) years prior to the date of the
3 claim. No amount of investment used to qualify for a
4 refund pursuant to the provisions of this subsection
5 may be used to qualify for another refund pursuant to
6 the provisions of this subsection.

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

12 2. On or after July 1, 2015, for all oil and gas production
13 exempt from gross production taxes pursuant to ~~subsections~~
14 subsection F and ~~G~~ of this section during a given fiscal year, a
15 refund of gross production taxes shall be issued to the well
16 operator or a designee in the amount of such gross production taxes
17 paid during such period, subject to the following provisions:

18 a. a refund shall not be claimed until after the end of
19 such fiscal year. As used in this subsection, a
20 fiscal year shall be deemed to begin on July 1 of one
21 calendar year and shall end on June 30 of the
22 subsequent calendar year,

23 b. unless otherwise specified, no claims for refunds
24 pursuant to the provisions of this subsection shall be

- 1 filed more than eighteen (18) months after the first
2 day of the fiscal year in which the refund is first
3 available, or September 30, 2017, whichever is sooner,
- 4 c. no claims for refunds pursuant to the provisions of
5 this subsection shall be filed by or on behalf of
6 persons other than the operator or a working interest
7 owner of record at the time of production,
- 8 d. no refunds shall be claimed or paid pursuant to the
9 provisions of this subsection for oil or gas
10 production upon which a tax is paid at a rate of two
11 percent (2%), and
- 12 e. no refund shall be paid unless the person making the
13 claim for refund demonstrates by affidavit or other
14 means prescribed by the Tax Commission that an amount
15 equal to or greater than the amount of the refund has
16 been invested in the exploration for or production of
17 crude oil or natural gas in this state by such person
18 not more than three (3) years prior to the date of the
19 claim. No amount of investment used to qualify for a
20 refund pursuant to the provisions of this paragraph
21 may be used to qualify for another refund pursuant to
22 the provisions of this paragraph.

23 If there are insufficient funds collected from the production of
24 oil or gas to satisfy the refunds claimed for oil or gas production

1 pursuant to subsection F ~~or~~ G of this section, the Tax Commission
2 shall pay the balance of the refund claims out of the gross
3 production taxes collected from either the production of oil or gas,
4 as necessary.

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

10 4. Notwithstanding any other provision of this section, no
11 claims for refunds pursuant to the provisions of subsections F, ~~G~~, I
12 and J, and subparagraph a of paragraph 2 of subsection H of this
13 section, or provisions of subsection G as they existed in law prior
14 to the effective date of this act, shall be filed or accepted on or
15 after October 1, 2017.

16 M. Claims for refunds pursuant to the provisions of subsections
17 F, ~~G~~, I and J and subparagraph a of paragraph 2 of subsection H of
18 this section or provisions of subsection G as they existed in law
19 prior to the effective date of this act for production periods
20 ending on or before June 30, 2017, shall be paid pursuant to the
21 provisions of this subsection. The claims for refunds referenced
22 herein shall be paid in equal payments over a period of thirty-six
23 (36) months. The first payment shall be made after July 1, 2018,
24 but prior to August 1, 2018. The Tax Commission shall provide, not

1 later than June 30, 2018, to the operator or designated interest
2 owner, a schedule of rebates to be paid out over the thirty-six-
3 month period.

4 N. 1. The Corporation Commission and the Tax Commission shall
5 promulgate joint rules for the qualification for the exemptions and
6 reduced tax rates provided for in this section and the rules shall
7 contain provisions for verification of any wells from which
8 production may be qualified for ~~the~~ such exemptions and reduced tax
9 rates. The Tax Commission shall adopt rules and regulations which
10 establish guidelines:

11 a. for production of oil or gas after July 1, 2011, which
12 is exempt from tax pursuant to the provisions of
13 paragraph 1 of subsection E and subparagraphs b and c
14 of paragraph 2 of subsection H of this section, to
15 remit tax at the reduced rate provided in paragraph 2
16 of subsection E and subparagraphs d and e of paragraph
17 2 of subsection H of this section until the end of the
18 qualifying exemption period, and

19 b. for production of oil or gas after the effective date
20 of this act, which is subject to a reduced tax rate
21 pursuant to the provisions of subsection G of this
22 section, to remit tax at the reduced rate until the
23 end of the qualifying period.
24

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

6 3. Any person seeking an exemption or reduced rate shall:

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

12 b. provide a copy of the approved application to the
13 remitter of the gross production tax.

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

17 5. Upon the expiration of an exemption or reduced rate granted
18 pursuant to this section, the Tax Commission shall collect the gross
19 production tax ~~levied pursuant to~~ otherwise applicable under the
20 provisions of this section. If a person who qualifies for the
21 exemption or reduced rate elects to remit his or her own gross
22 production tax during the exemption or reduced rate period, the
23 first purchaser shall not be liable to withhold or remit the tax
24 until the first day of the month following the receipt of written

1 notification from the person who is qualified for such exemption or
2 reduced rate stating that such exemption or reduced rate has expired
3 and directing the first purchaser to resume tax remittance on his or
4 her behalf at the otherwise applicable rate.

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

15 2. On or after July 1, 2015, all persons shall only be entitled
16 to either the exemption granted pursuant to subsection D of this
17 section or the exemption granted pursuant to subsection F ~~or G~~ of
18 this section for each oil, gas, or oil and gas well drilled or
19 recompleted in this state. However, any person who qualifies for
20 the exemption granted pursuant to ~~subsections~~ subsection F ~~and G~~ of
21 this section shall not be prohibited from qualification for the
22 exemption granted pursuant to subsection D of this section if the
23 exemption granted pursuant to subsection F ~~or G~~ of this section has
24 expired. Further, the exemption granted pursuant to subsection D of

1 this section shall not apply to any production upon which a tax is
2 paid at a rate of two percent (2%).

3 P. The Tax Commission shall have the power to require any such
4 person engaged in mining or the production or the purchase of such
5 asphalt, mineral ores aforesaid, oil, or gas, or the owner of any
6 royalty interest therein to furnish any additional information by it
7 deemed to be necessary for the purpose of correctly computing the
8 amount of the tax; and to examine the books, records and files of
9 such person; and shall have power to conduct hearings and compel the
10 attendance of witnesses, and the production of books, records and
11 papers of any person.

12 Q. Any person or any member of any firm or association, or any
13 officer, official, agent or employee of any corporation who shall
14 fail or refuse to testify; or who shall fail or refuse to produce
15 any books, records or papers which the Tax Commission shall require;
16 or who shall fail or refuse to furnish any other evidence or
17 information which the Tax Commission may require; or who shall fail
18 or refuse to answer any competent questions which may be put to him
19 or her by the Tax Commission, touching the business, property,
20 assets or effects of any such person relating to the gross
21 production tax imposed by this article or exemption authorized
22 pursuant to this section or other laws, shall be guilty of a
23 misdemeanor, and, upon conviction thereof, shall be punished by a
24 fine of not more than Five Hundred Dollars (\$500.00), or

1 imprisonment in the jail of the county where such offense shall have
2 been committed, for not more than one (1) year, or by both such fine
3 and imprisonment; and each day of such refusal on the part of such
4 person shall constitute a separate and distinct offense.

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

15 S. The payment of the taxes herein levied shall be in full, and
16 in lieu of all taxes by the state, counties, cities, towns, school
17 districts and other municipalities upon any property rights attached
18 to or inherent in the right to the minerals, upon producing leases
19 for the mining of asphalt and ores bearing lead, zinc, jack or
20 copper, or for oil, or for gas, upon the mineral rights and
21 privileges for the minerals aforesaid belonging or appertaining to
22 land, upon the machinery, appliances and equipment used in and
23 around any well producing oil, or gas, or any mine producing asphalt
24 or any of the mineral ores aforesaid and actually used in the

1 operation of such well or mine. The payment of gross production tax
2 shall also be in lieu of all taxes upon the oil, gas, asphalt or
3 ores bearing minerals hereinbefore mentioned during the tax year in
4 which the same is produced, and upon any investment in any of the
5 leases, rights, privileges, minerals or other property described
6 herein. Any interest in the land, other than that herein
7 enumerated, and oil in storage, asphalt and ores bearing minerals
8 hereinbefore named, mined, produced and on hand at the date as of
9 which property is assessed for general and ad valorem taxation for
10 any subsequent tax year, shall be assessed and taxed as other
11 property within the taxing district in which such property is
12 situated at the time.

13 T. No equipment, material or property shall be exempt from the
14 payment of ad valorem tax by reason of the payment of the gross
15 production tax except such equipment, machinery, tools, material or
16 property as is actually necessary and being used and in use in the
17 production of asphalt or of ores bearing lead, zinc, jack or copper
18 or of oil or gas. Provided, the exemption shall include the
19 wellbore and non-recoverable down-hole material, including casing,
20 actually used in the disposal of waste materials produced with such
21 oil or gas. It is expressly declared that no ice plants, hospitals,
22 office buildings, garages, residences, gasoline extraction or
23 absorption plants, water systems, fuel systems, rooming houses and
24

1 other buildings, nor any equipment or material used in connection
2 therewith, shall be exempt from ad valorem tax.

3 U. The exemption from ad valorem tax set forth in subsections S
4 and T of this section shall continue to apply to all property from
5 which production of oil, gas or oil and gas is exempt from gross
6 production tax pursuant to subsection D, E, F, G, H, I or J of this
7 section.

8 SECTION 12. AMENDATORY 68 O.S. 2011, Section 1004, as
9 last amended by Section 2, Chapter 355, O.S.L. 2017 (68 O.S. Supp.
10 2017, Section 1004), is amended to read as follows:

11 Section 1004. A. As used in this section:

12 1. "Moving five-year average amount for gas" means, for
13 purposes of the apportionments prescribed by this section, the
14 amount of gross production tax on natural gas collected for each of
15 the five (5) complete fiscal years, as computed by the State Board
16 of Equalization pursuant to Section 34.103 of Title 62 of the
17 Oklahoma Statutes; and

18 2. "Moving five-year average amount for oil" means, for
19 purposes of the apportionments prescribed by this section, the
20 amount of gross production tax on oil collected for each of the five
21 (5) complete fiscal years, as computed by the State Board of
22 Equalization pursuant to Section 34.103 of Title 62 of the Oklahoma
23 Statutes.

1 B. Beginning July 1, 2017, the gross production tax provided
2 for in Section 1001 of this title is hereby levied and shall be
3 collected and apportioned as follows:

4 1. For all monies collected from the tax levied on asphalt or
5 ores bearing uranium, lead, zinc, jack, gold, silver or copper:

6 a. eighty-five and seventy-two one-hundredths percent
7 (85.72%) shall be paid to the State Treasurer of the
8 state to be placed in the General Revenue Fund of the
9 state and used for the general expense of state
10 government, to be paid out pursuant to direct
11 appropriation by the Legislature,

12 b. seven and fourteen one-hundredths percent (7.14%) of
13 the sum collected from natural gas and/or casinghead
14 gas or asphalt or ores bearing uranium, lead, zinc,
15 jack, gold, silver or copper shall be paid to the
16 various county treasurers to be credited to the County
17 Highway Fund as follows: Each county shall receive a
18 proportionate share of the funds available based upon
19 the proportion of the total value of production from
20 such county in the corresponding month of the
21 preceding year, and

22 c. seven and fourteen one-hundredths percent (7.14%)
23 shall be allocated to each county as provided for in
24 subparagraph b of this paragraph and shall be

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

9 2. For all monies collected from the tax levied on natural gas
10 and/or casinghead gas at a tax rate of seven percent (7%) pursuant
11 to the provisions of subsection B of Section 1001 of this title:

12 a. after the total revenue apportioned to the General
13 Revenue Fund as prescribed by subparagraph b of this
14 paragraph equals the moving five-year average amount
15 for gas as defined by paragraph 1 of subsection A of
16 this section, there shall be apportioned from the
17 gross production tax levy imposed pursuant to Section
18 1001 of this title on natural gas and/or casinghead
19 gas to the Revenue Stabilization Fund created by
20 Section 34.102 of Title 62 of the Oklahoma Statutes,
21 the amount of revenue, if any, which exceeds the
22 moving five-year average amount for gas as defined
23 pursuant to paragraph 1 of subsection A of this
24 section,

- b. until the apportionment to the General Revenue Fund equals the moving five-year average amount for gas as prescribed by paragraph 1 of subsection A of this section, eighty-five and seventy-two one-hundredths percent (85.72%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,
- c. before any other apportionment of revenue has been made pursuant to this paragraph, seven and fourteen one-hundredths percent (7.14%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and
- d. before any other apportionment of revenue has been made pursuant to this paragraph, seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided for in subparagraph c of this paragraph and shall be apportioned, on an average

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

9 3. For all monies collected from the tax levied on natural gas
10 and/or casinghead gas at a tax rate of four percent (4%) pursuant to
11 the provisions of subsections B, ~~and E~~ and G of Section 1001 of this
12 title:

13 a. after the total revenue apportioned to the General
14 Revenue Fund as prescribed by subparagraph b of this
15 paragraph equals the moving five-year average amount
16 for gas as defined by paragraph 1 of subsection A of
17 this section, there shall be apportioned from the
18 gross production tax levy imposed pursuant to Section
19 1001 of this title on natural gas and/or casinghead
20 gas to the Revenue Stabilization Fund created pursuant
21 to Section 34.102 of Title 62 of the Oklahoma
22 Statutes, the amount of revenue, if any, which exceeds
23 the moving five-year average amount for gas as defined
24

1 pursuant to paragraph 1 of subsection A of this
2 section,

3 b. until the apportionment to the General Revenue Fund
4 equals the moving five-year average amount for gas as
5 prescribed by paragraph 1 of subsection A of this
6 section, seventy-five percent (75%) shall be paid to
7 the State Treasurer of the state to be placed in the
8 General Revenue Fund of the state and used for the
9 general expense of state government, to be paid out
10 pursuant to direct appropriation by the Legislature,

11 c. before any other apportionment of revenue has been
12 made pursuant to this paragraph, twelve and one-half
13 percent (12.5%) of the sum collected from natural gas
14 and/or casinghead gas shall be paid to the various
15 county treasurers to be credited to the County Highway
16 Fund as follows: Each county shall receive a
17 proportionate share of the funds available based upon
18 the proportion of the total value of production from
19 such county in the corresponding month of the
20 preceding year, and

21 d. before any other apportionment of revenue has been
22 made pursuant to this paragraph, twelve and one-half
23 percent (12.5%) shall be allocated to each county as
24 provided for in subparagraph c of this paragraph and

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

9 4. For all monies collected from the tax levied on natural gas
10 and/or casinghead gas at a tax rate of one percent (1%) pursuant to
11 the provisions of subsection B of Section 1001 of this title:

12 a. fifty percent (50%) of the sum collected from natural
13 gas and/or casinghead gas shall be paid to the various
14 county treasurers to be credited to the County Highway
15 Fund as follows: Each county shall receive a
16 proportionate share of the funds available based upon
17 the proportion of the total value of production from
18 such county in the corresponding month of the
19 preceding year, and

20 b. fifty percent (50%) shall be allocated to each county
21 as provided for in subparagraph a of this paragraph
22 and shall be apportioned, on an average daily
23 attendance per capita distribution basis, as certified
24 by the State Superintendent of Public Instruction to

1 the school districts of the county where such pupils
2 attend school regardless of residence of such pupil,
3 provided the school district makes an ad valorem tax
4 levy of fifteen (15) mills for the current year and
5 maintains twelve (12) years of instruction;

6 5. For all monies collected from the tax levied on natural gas
7 and/or casinghead gas at a tax rate of two percent (2%) pursuant to
8 the provisions of subparagraph c of paragraph 3 of subsection B of
9 Section 1001 of this title:

- 10 a. after the total revenue apportioned to the General
11 Revenue Fund as prescribed by subparagraph b of this
12 paragraph equals the moving five-year average amount
13 for gas as defined by paragraph 1 of subsection A of
14 this section, there shall be apportioned from the
15 gross production tax levy imposed pursuant to Section
16 1001 of this title on gas to the Revenue Stabilization
17 Fund created by Section 34.102 of Title 62 of the
18 Oklahoma Statutes, the amount of revenue, if any,
19 which exceeds the moving five-year average amount for
20 natural gas and/or casinghead gas as defined pursuant
21 to paragraph 1 of subsection A of this section,
- 22 b. until the apportionment to the General Revenue Fund
23 equals the moving five-year average amount for gas as
24 prescribed by paragraph 1 of subsection A of this

1 section, fifty percent (50%) shall be paid to the
2 State Treasurer to be placed in the General Revenue
3 Fund of the state and used for the general expense of
4 state government, to be paid out pursuant to direct
5 appropriation by the Legislature,

6 c. before any other apportionment of revenue has been
7 made pursuant to this paragraph, twenty-five percent
8 (25%) of the sum collected from natural gas and/or
9 casinghead gas shall be paid to the various county
10 treasurers to be credited to the County Highway Fund
11 as follows: Each county shall receive a proportionate
12 share of the funds available based upon the proportion
13 of the total value of production from such county in
14 the corresponding month of the preceding year, and

15 d. before any other apportionment of revenue has been
16 made pursuant to this paragraph, twenty-five percent
17 (25%) shall be allocated to each county as provided
18 for in subparagraph c of this paragraph and shall be
19 apportioned on an average daily attendance per capita
20 distribution basis, as certified by the State
21 Superintendent of Public Instruction, to the school
22 districts of the county where such pupils attend
23 school regardless of residence of such pupil, provided
24 the school district makes an ad valorem tax levy of

1 fifteen (15) mills for the current year and maintains
2 twelve (12) years of instruction;

3 6. For all monies collected from the tax levied on oil at a tax
4 rate of seven percent (7%) pursuant to the provisions of subsection
5 B of Section 1001 of this title:

6 a. there shall be apportioned from the gross production
7 tax levy imposed pursuant to Section 1001 of this
8 title on oil to the Revenue Stabilization Fund created
9 by Section 34.102 of Title 62 of the Oklahoma
10 Statutes, after the applicable maximum amount
11 prescribed by subsection C of this section has been
12 deposited to the funds therein specified, the amount
13 of revenue, if any, which would otherwise be
14 apportioned to the General Revenue Fund and which
15 exceeds the moving five-year average amount for oil as
16 defined pursuant to paragraph 2 of subsection A of
17 this section,

18 b. before any other apportionment of revenue has been
19 made pursuant to this paragraph, twenty-five and
20 seventy-two one-hundredths percent (25.72%) shall be
21 paid to the State Treasurer to be placed in the Common
22 Education Technology Revolving Fund created in Section
23 34.90 of Title 62 of the Oklahoma Statutes,

- c. before any other apportionment of revenue has been made pursuant to this paragraph, twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Higher Education Capital Revolving Fund created in Section 34.91 of Title 62 of the Oklahoma Statutes,
- d. before any other apportionment of revenue has been made pursuant to this paragraph, twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Oklahoma Student Aid Revolving Fund created in Section 34.92 of Title 62 of the Oklahoma Statutes,
- e. before any other apportionment of revenue has been made pursuant to this paragraph, three and seven hundred forty-five one-thousandths percent (3.745%) shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the

1 formula currently used for the distribution of monies
2 in the County Bridge Program funds, but shall also
3 take into consideration the effect of the terrain and
4 traffic volume as related to county road improvement
5 and maintenance costs,

6 f. before any other apportionment of revenue has been
7 made pursuant to this paragraph, four and twenty-eight
8 one-hundredths percent (4.28%) shall be paid to the
9 State Treasurer to be apportioned to:

10 (1) the following sources and in the following
11 amounts through the fiscal year ending June 30,
12 2019:

13 (a) thirty-three and one-third percent (33 1/3%)
14 to the Oklahoma Tourism and Recreation
15 Department Capital Expenditure Revolving
16 Fund created pursuant to Section 2254.1 of
17 Title 74 of the Oklahoma Statutes,

18 (b) thirty-three and one-third percent (33 1/3%)
19 to the Oklahoma Conservation Commission
20 Infrastructure Revolving Fund created
21 pursuant to Section 3-2-110 of Title 27A of
22 the Oklahoma Statutes, and

23 (c) thirty-three and one-third percent (33 1/3%)
24 to the Community Water Infrastructure

1 Development Revolving Fund created pursuant
2 to Section 1085.7A of Title 82 of the
3 Oklahoma Statutes, and

4 (2) the Oklahoma Water Resources Board Rural Economic
5 Action Plan Water Projects Fund for the fiscal
6 year beginning July 1, 2019, and for each fiscal
7 year thereafter,

8 g. before any other apportionment of revenue has been
9 made pursuant to this paragraph, seven and fourteen
10 one-hundredths percent (7.14%) of the sum collected
11 from oil shall be paid to the various county
12 treasurers, to be credited to the County Highway Fund
13 as follows: Each county shall receive a proportionate
14 share of the funds available based upon the proportion
15 of the total value of production from such county in
16 the corresponding month of the preceding year,

17 h. before any other apportionment of revenue has been
18 made pursuant to this paragraph, seven and fourteen
19 one-hundredths percent (7.14%) shall be allocated to
20 each county as provided in subparagraph g of this
21 paragraph and shall be apportioned, on an average
22 daily attendance per capita distribution basis, as
23 certified by the State Superintendent of Public
24 Instruction, to the school districts of the county

1 where such pupils attend school regardless of
2 residence of such pupil, provided the school district
3 makes an ad valorem tax levy of fifteen (15) mills for
4 the current year and maintains twelve (12) years of
5 instruction, and

- 6 i. before any other apportionment of revenue has been
7 made pursuant to this paragraph, five hundred thirty-
8 five one-thousandths percent (0.535%) of the levy
9 shall be transmitted by the Oklahoma Tax Commission to
10 the Statewide Circuit Engineering District Revolving
11 Fund as created in Section 687.2 of Title 69 of the
12 Oklahoma Statutes;

13 7. For all monies collected from the tax levied on oil at a tax
14 rate of four percent (4%) pursuant to the provisions of subsections
15 B, ~~and E~~ and G of Section 1001 of this title:

- 16 a. there shall be apportioned from the gross production
17 tax levy imposed pursuant to Section 1001 of this
18 title on oil to the Revenue Stabilization Fund created
19 by Section 34.102 of Title 62 of the Oklahoma
20 Statutes, after the applicable maximum amount
21 prescribed by subsection C of this section has been
22 deposited to the funds therein specified, the amount
23 of revenue, if any, which would otherwise be
24 apportioned to the General Revenue Fund and which

1 exceeds the moving five-year average amount for oil as
2 defined pursuant to paragraph 2 of subsection A of
3 this section,

4 b. before any other apportionment of revenue has been
5 made pursuant to this paragraph, twenty-two and one-
6 half percent (22.5%) shall be paid to the State
7 Treasurer to be placed in the Common Education
8 Technology Revolving Fund created in Section 34.90 of
9 Title 62 of the Oklahoma Statutes,

10 c. before any other apportionment of revenue has been
11 made pursuant to this paragraph, twenty-two and one-
12 half percent (22.5%) shall be paid to the State
13 Treasurer to be placed in the Higher Education Capital
14 Revolving Fund created in Section 34.91 of Title 62 of
15 the Oklahoma Statutes,

16 d. before any other apportionment of revenue has been
17 made pursuant to this paragraph, twenty-two and one-
18 half percent (22.5%) shall be paid to the State
19 Treasurer to be placed in the Oklahoma Student Aid
20 Revolving Fund created in Section 34.92 of Title 62 of
21 the Oklahoma Statutes,

22 e. before any other apportionment of revenue has been
23 made pursuant to this paragraph, three and twenty-
24 eight one-hundredths percent (3.28%) shall be

1 distributed to the various counties of the state for
2 deposit into the County Bridge and Road Improvement
3 Fund of each county based on a formula developed by
4 the Department of Transportation and approved by the
5 Department of Transportation County Advisory Board
6 created pursuant to Section 302.1 of Title 69 of the
7 Oklahoma Statutes to be used for the purposes set
8 forth in the County Bridge and Road Improvement Act.
9 The formula shall be similar to the formula currently
10 used for the distribution of monies in the County
11 Bridge Program funds, but shall also take into
12 consideration the effect of the terrain and traffic
13 volume as related to county road improvement and
14 maintenance costs,

15 f. before any other apportionment of revenue has been
16 made pursuant to this paragraph, three and seventy-
17 five one-hundredths percent (3.75%) shall be paid to
18 the State Treasurer to be apportioned to:

19 (1) the following sources and in the following
20 amounts through the fiscal year ending June 30,
21 2019:

22 (a) thirty-three and one-third percent (33 1/3%)
23 to the Oklahoma Tourism and Recreation
24 Department Capital Expenditure Revolving

Fund created pursuant to Section 2254.1 of
Title 74 of the Oklahoma Statutes,

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

(c) thirty-three and one-third percent (33 1/3%)
to the Community Water Infrastructure
Development Revolving Fund created pursuant
to Section 1085.7A of Title 82 of the
Oklahoma Statutes, and

(2) the Oklahoma Water Resources Board Rural Economic
Action Plan Water Projects Fund for the fiscal
year beginning July 1, 2019, and for each fiscal
year thereafter,

g. before any other apportionment of revenue has been
made pursuant to this paragraph, twelve and one-half
percent (12.5%) of the sum collected from oil shall be
paid to the various county treasurers, to be credited
to the County Highway Fund as follows: Each county
shall receive a proportionate share of the funds
available based upon the proportion of the total value

1 of production from such county in the corresponding
2 month of the preceding year,

3 h. before any other apportionment of revenue has been
4 made pursuant to this paragraph, twelve and one-half
5 percent (12.5%) shall be allocated to each county as
6 provided in subparagraph g of this paragraph and shall
7 be apportioned on an average daily attendance per
8 capita distribution basis, as certified by the State
9 Superintendent of Public Instruction, to the school
10 districts of the county where such pupils attend
11 school regardless of residence of such pupil, provided
12 the school district makes an ad valorem tax levy of
13 fifteen (15) mills for the current year and maintains
14 twelve (12) years of instruction, and

15 i. before any other apportionment of revenue has been
16 made pursuant to this paragraph, forty-seven one-
17 hundredths percent (0.47%) of the levy shall be
18 transmitted by the Tax Commission to the Statewide
19 Circuit Engineering District Revolving Fund as created
20 in Section 687.2 of Title 69 of the Oklahoma Statutes;

21 8. For all monies collected from the tax levied on oil at a tax
22 rate of one percent (1%) pursuant to the provisions of subsection B
23 of Section 1001 of this title:
24

1 a. fifty percent (50%) of the sum collected shall be paid
2 to the various county treasurers, to be credited to
3 the County Highway Fund as follows: Each county shall
4 receive a proportionate share of the funds available
5 based upon the proportion of the total value of
6 production from such county in the corresponding month
7 of the preceding year, and

8 b. fifty percent (50%) shall be allocated to each county
9 as provided for in subparagraph a of this paragraph
10 and shall be apportioned on an average daily
11 attendance per capita distribution basis, as certified
12 by the State Superintendent of Public Instruction, to
13 the school districts of the county where such pupils
14 attend school regardless of residence of such pupil,
15 provided the school district makes an ad valorem tax
16 levy of fifteen (15) mills for the current year and
17 maintains twelve (12) years of instruction;

18 9. For all monies collected from the tax levied on oil at a tax
19 rate of two percent (2%) pursuant to the provisions of subparagraph
20 c of paragraph 3 of subsection B of Section 1001 of this title:

21 a. there shall be apportioned from the gross production
22 tax levy imposed pursuant to Section 1001 of this
23 title on oil to the Revenue Stabilization Fund created
24 by Section 34.102 of Title 62 of the Oklahoma

1 Statutes, the amount of revenue, if any, which exceeds
2 the moving five-year average amount for oil as defined
3 pursuant to paragraph 2 of subsection A of this
4 section,

5 b. until the apportionment to the General Revenue Fund
6 equals the moving five-year average amount for oil as
7 prescribed by paragraph 2 of subsection A of this
8 section, fifty percent (50%) shall be paid to the
9 State Treasurer to be placed in the General Revenue
10 Fund of the state and used for the general expense of
11 state government, to be paid out pursuant to direct
12 appropriation by the Legislature,

13 c. before any other apportionment of revenue has been
14 made pursuant to this paragraph, twenty-five percent
15 (25%) of the sum collected from oil shall be paid to
16 the various county treasurers, to be credited to the
17 County Highway Fund as follows: Each county shall
18 receive a proportionate share of the funds available
19 based upon the proportion of the total value of
20 production from such county in the corresponding month
21 of the preceding year, and

22 d. before any other apportionment of revenue has been
23 made pursuant to this paragraph, twenty-five percent
24 (25%) shall be allocated to each county as provided in

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

10 C. Provided, notwithstanding any other provision of this
11 section, the total amounts deposited to the Common Education
12 Technology Revolving Fund, the Higher Education Capital Revolving
13 Fund, the Oklahoma Student Aid Revolving Fund, the Rural Economic
14 Action Plan Water Projects Fund, the Oklahoma Tourism and Recreation
15 Department Capital Expenditure Revolving Fund, the Oklahoma
16 Conservation Commission Infrastructure Revolving Fund and the
17 Community Water Infrastructure Development Revolving Fund pursuant
18 to paragraphs 6 and 7 of subsection B of this section shall not
19 exceed One Hundred Fifty Million Dollars (\$150,000,000.00) in any
20 fiscal year. Except as otherwise provided in this subsection, all
21 sums in excess of One Hundred Fifty Million Dollars
22 (\$150,000,000.00) in any fiscal year which would otherwise be
23 deposited in such funds shall be apportioned by the Oklahoma Tax
24 Commission to the General Revenue Fund of the state.

1 SECTION 13. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6201 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 Sections 13 through 20 of this act shall be known and may be
5 cited as the "Oklahoma Zero-Emission Facility Energy Tax Act of
6 2018".

7 SECTION 14. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6202 of Title 68, unless there
9 is created a duplication in numbering, reads as follows:

10 As required by Section 19 of Article X of the Oklahoma
11 Constitution, the purpose of the levy imposed pursuant to the
12 provisions of this act is to provide revenue for general government
13 functions.

14 SECTION 15. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 6203 of Title 68, unless there
16 is created a duplication in numbering, reads as follows:

17 As used in this act:

18 1. "Commercial wind turbine" means a device manufactured for
19 the purpose of producing electric power by means of wind energy and
20 which converts the energy from naturally occurring winds into
21 mechanical energy through the rotation of blades or rotors and the
22 production of an electric current and which has a nameplate capacity
23 of more than fifty kilowatts (50 kw); and
24

1 2. "Manufacturer nameplate capacity" means the maximum amount
2 of electric power capable of being produced by a commercial wind
3 turbine according to information affixed to a wind turbine or its
4 associated structures and which nameplate is installed or affixed by
5 the business entity which manufactured the wind turbine.

6 SECTION 16. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 6204 of Title 68, unless there
8 is created a duplication in numbering, reads as follows:

9 A. There is hereby levied upon the production of electricity by
10 each commercial wind turbine in this state which is a zero-emission
11 facility, and any other zero-emission facility as defined by Section
12 2357.32A of Title 68 of the Oklahoma Statutes, a tax of One Dollar
13 (\$1.00) for each megawatt hour, or portion thereof, which is
14 produced in this state from and after the effective date of this
15 section. The tax shall be paid by the person or entity producing
16 such electricity from a commercial wind turbine or other zero-
17 emission facility as defined by Section 2357.32A of Title 68 of the
18 Oklahoma Statutes.

19 B. The tax levied pursuant to this section is in addition to,
20 and is not in lieu of, any other taxes or fees currently levied or
21 assessed, or levied or assessed in the future, on each commercial
22 wind turbine in the state which is a zero-emission facility, or any
23 other zero-emission facility as defined by Section 2357.32A of Title
24

1 68 of the Oklahoma Statutes including, but not limited to, ad
2 valorem taxes.

3 SECTION 17. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6205 of Title 68, unless there
5 is created a duplication in numbering, reads as follows:

6 A. No wind turbine with a nameplate capacity of less than fifty
7 kilowatts (50 kw) shall be subject to the tax imposed pursuant to
8 the provisions of Section 16 of this act.

9 B. No wind turbine located on the private property of one or
10 more natural persons which is attached to a single-family
11 residential dwelling or located in close proximity to the single-
12 family residential dwelling and used, in whole or in part, to supply
13 electric power to the dwelling and its occupants shall be subject to
14 the tax imposed pursuant to Section 16 of this act if the wind
15 turbine has a manufacturer nameplate capacity of less than fifty
16 kilowatts (50 kw).

17 C. No wind turbine located on the property of a for-profit
18 business entity, other than a business entity engaged in the
19 production of electric power by wind and having the North American
20 Industry Classification Code (NAICS) 221115, which is attached to
21 improvements used by the business entity to conduct its primary
22 business activity or in close proximity to such improvements and the
23 electric power from which is used, in whole or in part, by the
24 business entity to conduct its for-profit business activity shall be

1 subject to the tax imposed pursuant to the provisions of Section 16
2 of this act if the wind turbine has a nameplate capacity of less
3 than fifty kilowatts (50 kw).

4 SECTION 18. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6206 of Title 68, unless there
6 is created a duplication in numbering, reads as follows:

7 The tax imposed pursuant to the provisions of this act shall be
8 remitted by the owner of the commercial wind turbine or other zero-
9 emission facility as defined by Section 2357.32A of Title 68 of the
10 Oklahoma Statutes. The tax shall be remitted monthly and shall be
11 due not later than the twentieth day of the month following the
12 month during which electric power was produced. The tax shall be
13 remitted to the Oklahoma Tax Commission on such form as the Tax
14 Commission may prescribe for such purpose.

15 SECTION 19. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6207 of Title 68, unless there
17 is created a duplication in numbering, reads as follows:

18 If not paid by the delinquent date, there shall be imposed a
19 penalty equal to ten percent (10%) of the principal amount of tax
20 due and owing and interest computed as provided in Section 217 of
21 Title 68 of the Oklahoma Statutes until the accrued liability is
22 paid.

1 SECTION 20. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6208 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 All revenues derived from the tax imposed pursuant to the
5 provisions of the Oklahoma Zero-Emission Facility Energy Tax Act of
6 2018 shall be apportioned to the General Revenue Fund of the State
7 Treasury.

8 SECTION 21. REPEALER 68 O.S. 2011, Section 402-2, is
9 hereby repealed.

10
11 56-2EX-50342 JM 02/05/18

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