

1 STATE OF OKLAHOMA

2 1st Extraordinary Session of the 56th Legislature (2017)

3 HOUSE BILL 1095

By: Thomsen

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7 AS INTRODUCED

8 An Act relating to revenue and taxation; stating
9 purpose; imposing additional tax levy upon
10 cigarettes; specifying amount of additional levy;
11 providing for apportionment of revenues; exempting
12 levy from inclusion in determination of certain
13 amounts; requiring certain collections and
14 administration of levy; prohibiting sale of cigarette
15 excise tax stamps to wholesalers in excess of certain
16 amount; providing exception; stating purpose;
17 imposing tax on gasoline and diesel fuel;
18 establishing amount of tax per gallon; requiring
19 deposit of certain revenue, penalties and interest in
20 certain fund; amending 68 O.S. 2011, Section 500.10,
21 which relates to exemption from motor fuels tax;
22 extending exemptions to additional tax levy; amending
23 68 O.S. 2011, Section 1001, as last amended by
24 Section 1, Chapter 355, O.S.L. 2017 (68 O.S. Supp.
2017, Section 1001), which relates to gross
production tax; limiting period where certain reduced
rates are applicable; implementing an additional
reduced rate for certain periods; 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 the apportionment and use of
proceeds of gross production tax; providing for
apportionment of certain tax proceeds; amending 68
O.S. 2011, Sections 1352, as amended by Section 2,
Chapter 311, O.S.L. 2016 and 1359, as last amended by
Section 2, Chapter 317, O.S.L. 2016 (68 O.S. Supp.
2017, Sections 1352 and 1359), which relate to sales
tax exemptions; modifying definitions; excluding
sales related to certain use from eligibility for
exemption on or after certain date; providing for

1 codification; providing for noncodification; and
2 declaring an emergency.

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

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

9 A. For the purpose of providing revenue for the support of the
10 functions of state government, in addition to the tax levied in
11 Sections 302, 302-1, 302-2, 302-3, 302-4 and 302-5 of Title 68 of
12 the Oklahoma Statutes, there is hereby levied upon the sale, use,
13 gift, possession or consumption of cigarettes, as defined in
14 Sections 301 through 325 of Title 68 of the Oklahoma Statutes,
15 within this state, a tax at the rate of fifty (50) mills per
16 cigarette.

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

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

1 nation, shall be apportioned as provided in paragraph 3 of this
2 subsection.

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

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

10 1. The State of Oklahoma Building Bonds of 1961 Sinking Fund
11 pursuant to the provisions of Sections 57.31 through 57.43 of Title
12 62 of the Oklahoma Statutes;

13 2. The State of Oklahoma Institutional Building Bonds of 1965
14 Sinking Fund pursuant to the provisions of Sections 57.61 through
15 57.73 of Title 62 of the Oklahoma Statutes;

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

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

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

1 D. The cigarette taxes levied in this section shall be
2 collected and administered as provided by law for other cigarette
3 taxes now levied, collected and administered pursuant to the
4 provisions of Sections 301 through 325 of Title 68 of the Oklahoma
5 Statutes.

6 SECTION 2. NEW LAW A new section of law not to be
7 codified in the Oklahoma Statutes reads as follows:

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

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 500.4B of Title 68, unless there
19 is created a duplication in numbering, reads as follows:

20 A. For the purpose of providing revenue for the support of the
21 functions of state government, in addition to the tax imposed by
22 Section 500.4 of Title 68 of the Oklahoma Statutes, there is hereby
23 imposed a tax of three cents (\$0.03) per gallon on all:

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

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

2 B. All remaining revenue from the tax imposed by subsection A
3 of this section and penalties and interest thereon collected by the
4 Oklahoma Tax Commission, after the requirements of Section 500.63 of
5 this title have been fulfilled, shall be deposited in the State
6 Treasury to the credit of the Rebuilding Oklahoma Access and Driver
7 Safety Fund created in Section 1521 of Title 69 of the Oklahoma
8 Statutes.

9 SECTION 4. AMENDATORY 68 O.S. 2011, Section 500.10, is
10 amended to read as follows:

11 Section 500.10 Subject to the procedural requirements and
12 conditions set out in this section and Sections 500.11 through
13 500.17 of this title, the following are exempt from the ~~tax~~ taxes on
14 motor fuel imposed by Section 500.4 of this title ~~on motor fuel and~~
15 Section 3 of this act:

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

18 a. exported by a supplier who is licensed in the
19 destination state, or

20 b. sold by a supplier to a licensed exporter for
21 immediate export;

22 2. Motor fuel which was acquired by an unlicensed exporter and
23 as to which the tax imposed by Section 500.4 of this title has
24 previously been paid or accrued and was subsequently exported by

1 transport truck by or on behalf of the licensed exporter in a
2 diversion across state boundaries properly reported in conformity
3 with Section 500.46 of this title;

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

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

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

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

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;

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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 5. AMENDATORY 68 O.S. 2011, Section 1001, as
13 last amended by Section 1, Chapter 355, O.S.L. 2017 (68 O.S. Supp.
14 2017, Section 1001), is amended to read as follows:

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

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

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

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

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

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

17 c. notwithstanding the levies in subparagraphs a and b of
18 this paragraph, the production of oil, gas, or oil and
19 gas from wells spudded on or after July 1, 2015, and
20 prior to the effective date of this act, shall be
21 taxed at a rate of two percent (2%) commencing with
22 the month of first production for a period of thirty-
23 six (36) months. Thereafter, the production shall be
24

1 taxed as provided in subparagraphs a and b of this
2 paragraph, and

3 d. notwithstanding the levies in subparagraphs a and b of
4 this paragraph, the production of oil, gas, or oil and
5 gas from wells spudded on or after the effective date
6 of this act shall be subject to a reduced rate of four
7 and five-tenths percent (4.5%) commencing with the
8 month of first production for a period of thirty-six
9 (36) months.

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

13 D. 1. Except as otherwise provided in this section, for
14 secondary recovery projects approved or having an initial project
15 beginning date on or after July 1, 2000, and before July 1, 2017,
16 any incremental production attributable to the working interest
17 owners which results from such secondary recovery projects shall be
18 exempt from the gross production tax levied pursuant to this section
19 for a period not to exceed five (5) years from the initial project
20 beginning date or for a period ending upon the termination of the
21 secondary recovery process, whichever occurs first; provided
22 however, that the exemption provided by this paragraph shall not
23 apply to production occurring on or after July 1, 2017.

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

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

21 4. For purposes of this subsection:

22 a. "incremental production" means the amount of crude oil
23 or other liquid hydrocarbons which is produced during
24 an enhanced recovery project and which is in excess of

1 the base production amount of crude oil or other
2 liquid hydrocarbons. The base production amount shall
3 be the average monthly amount of production for the
4 twelve-month period immediately prior to the project
5 beginning date minus the monthly rate of production
6 decline for the project for each month beginning one
7 hundred eighty (180) days prior to the project
8 beginning date. The monthly rate of production
9 decline shall be equal to the average extrapolated
10 monthly decline rate for the twelve-month period
11 immediately prior to the project beginning date as
12 determined by the Corporation Commission based on the
13 production history of the field, its current status,
14 and sound reservoir engineering principles, and

15 b. "project beginning date" means the date on which the
16 injection of liquids, gases, or other matter begins on
17 an enhanced recovery project.

18 5. The Corporation Commission shall promulgate rules for the
19 qualification for this exemption which shall include, but not be
20 limited to, procedures for determining incremental production as
21 defined in subparagraph a of paragraph 4 of this subsection, and the
22 establishment of appropriate payback indicators as approved by the
23 Tax Commission for the determination of project payback for each of
24 the exemptions authorized by this subsection.

1 6. For new secondary recovery projects and tertiary recovery
2 projects approved by the Corporation Commission on or after July 1,
3 1993, and before July 1, 2017, such approval shall constitute
4 qualification for an exemption.

5 7. Any person seeking an exemption shall file an application
6 for such exemption with the Tax Commission which, upon determination
7 of qualification by the Corporation Commission, shall approve the
8 application for such exemption.

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

12 9. Upon the expiration of the exemption granted pursuant to
13 this subsection, the Tax Commission shall collect the gross
14 production tax levied pursuant to this section.

15 E. 1. Except as otherwise provided in this section, the
16 production of oil, gas or oil and gas from a horizontally drilled
17 well producing prior to July 1, 2011, which production commenced
18 after July 1, 2002, shall be exempt from the gross production tax
19 levied pursuant to subsection B of this section from the project
20 beginning date until project payback is achieved but not to exceed a
21 period of forty-eight (48) months commencing with the month of
22 initial production from the horizontally drilled well. For purposes
23 of subsection D of this section and this subsection, project payback
24 shall be determined as of the date of the completion of the well and

1 shall not include any expenses beyond the completion date of the
2 well, and subject to the approval of the Tax Commission.

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

6 3. For production commenced on or after July 1, 2011, and prior
7 to July 1, 2015, the tax levied pursuant to the provisions of this
8 section on the production of oil, gas or oil and gas from a
9 horizontally drilled well shall be reduced to a rate of one percent
10 (1%) for a period of forty-eight (48) months from the month of
11 initial production; provided however, such production occurring on
12 or after the effective date of this act for the remainder of such
13 forty-eight-month period shall be subject to a reduced rate of four
14 percent (4%). The taxes collected from the production of oil shall
15 be apportioned pursuant to the provisions of paragraph 7 of
16 subsection B of Section 1004 of this title. The taxes collected
17 from the production of gas shall be apportioned pursuant to the
18 provisions of paragraph 3 of subsection B of Section 1004 of this
19 title.

20 4. The production of oil, gas or oil and gas on or after July
21 1, 2011, and prior to July 1, 2015, from these qualifying wells
22 shall be taxed at a rate of one percent (1%) until the expiration of
23 forty-eight (48) months commencing with the month of initial
24 production.

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

7 F. 1. Except as otherwise provided by this section, the
8 severance or production of oil, gas or oil and gas from an inactive
9 well shall be exempt from the gross production tax levied pursuant
10 to subsection B of this section for a period of twenty-eight (28)
11 months from the date upon which production is reestablished;
12 provided however, that the exemption provided by this paragraph
13 shall not apply to production occurring on or after July 1, 2017.
14 This exemption shall take effect July 1, 1994, and shall apply to
15 wells for which work to reestablish or enhance production began on
16 or after July 1, 1994, and for which production is reestablished
17 prior to July 1, 2017. For all such production, a refund against
18 gross production taxes shall be issued as provided in subsection L
19 of this section.

20 2. As used in this subsection, for wells for which production
21 is reestablished prior to July 1, 1997, "inactive well" means any
22 well that has not produced oil, gas or oil and gas for a period of
23 not less than two (2) years as evidenced by the appropriate forms on
24 file with the Corporation Commission reflecting the well's status.

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

12 G. 1. Except as otherwise provided by this section, any
13 incremental production which results from a production enhancement
14 project shall be exempt from the gross production tax levied
15 pursuant to subsection B of this section for a period of twenty-
16 eight (28) months from the date of first sale after project
17 completion of the production enhancement project; provided however,
18 that the exemption provided by this paragraph shall not apply to
19 production occurring on or after July 1, 2017. This exemption shall
20 take effect July 1, 1994, and shall apply to production enhancement
21 projects having a project beginning date on or after July 1, 1994,
22 and prior to July 1, 2017. For all such production, a refund
23 against gross production taxes shall be issued as provided in
24 subsection L of this section.

1 2. As used in this subsection:

2 a. for production enhancement projects having a project
3 beginning date on or after July 1, 1997, and prior to
4 July 1, 2017, "production enhancement project" means
5 any workover as defined in this paragraph,
6 recompletion as defined in this paragraph, reentry of
7 plugged and abandoned wellbores, or addition of a well
8 or field compression,

9 b. "incremental production" means the amount of crude
10 oil, natural gas or other hydrocarbons which are
11 produced as a result of the production enhancement
12 project in excess of the base production,

13 c. "base production" means the average monthly amount of
14 production for the twelve-month period immediately
15 prior to the commencement of the project or the
16 average monthly amount of production for the twelve-
17 month period immediately prior to the commencement of
18 the project less the monthly rate of production
19 decline for the project for each month beginning one
20 hundred eighty (180) days prior to the commencement of
21 the project. The monthly rate of production decline
22 shall be equal to the average extrapolated monthly
23 decline rate for the twelve-month period immediately
24 prior to the commencement of the project based on the

1 production history of the well. If the well or wells
2 covered in the application had production for less
3 than the full twelve-month period prior to the filing
4 of the application for the production enhancement
5 project, the base production shall be the average
6 monthly production for the months during that period
7 that the well or wells produced,

8 d. for production enhancement projects having a project
9 beginning date on or after July 1, 1997, and prior to
10 July 1, 2017, "recompletion" means any downhole
11 operation in an existing oil or gas well that is
12 conducted to establish production of oil or gas from
13 any geologic interval not currently completed or
14 producing in such existing oil or gas well within the
15 same or a different geologic formation, and

16 e. "workover" means any downhole operation in an existing
17 oil or gas well that is designed to sustain, restore
18 or increase the production rate or ultimate recovery
19 in a geologic interval currently completed or
20 producing in the existing oil or gas well. For
21 production enhancement projects having a project
22 beginning date on or after July 1, 1997, and prior to
23 July 1, 2017, "workover" includes, but is not limited
24 to:

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

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

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

4 2. Except as otherwise provided in subsection K of this
5 section:

6 a. the production of oil, gas or oil and gas from wells
7 spudded between July 1, 1997, and July 1, 2005, and
8 drilled to a depth of twelve thousand five hundred
9 (12,500) feet or greater and wells spudded between
10 July 1, 2005, and July 1, 2015, and drilled to a depth
11 between twelve thousand five hundred (12,500) feet and
12 fourteen thousand nine hundred ninety-nine (14,999)
13 feet shall be exempt from the gross production tax
14 levied pursuant to subsection B of this section from
15 the date of first sales for a period of twenty-eight
16 (28) months; provided however, that the exemption
17 provided by this subparagraph shall not apply to
18 production occurring on or after July 1, 2017,

19 b. the production of oil, gas or oil and gas from wells
20 spudded between July 1, 2002, and July 1, 2005, and
21 drilled to a depth of fifteen thousand (15,000) feet
22 or greater and wells spudded between July 1, 2005, and
23 July 1, 2011, and drilled to a depth between fifteen
24 thousand (15,000) feet and seventeen thousand four

1 hundred ninety-nine (17,499) feet shall be exempt from
2 the gross production tax levied pursuant to subsection
3 B of this section from the date of first sales for a
4 period of forty-eight (48) months,

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

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

1 apportioned pursuant to the provisions of paragraph 3
2 of subsection B of Section 1004 of this title,
3 e. the tax levied pursuant to the provisions of this
4 section on the production of oil, gas or oil and gas
5 from wells spudded between July 1, 2011, and July 1,
6 2015, and drilled to a depth of seventeen thousand
7 five hundred (17,500) feet or greater shall be reduced
8 to a rate of four percent (4%) for a period of sixty
9 (60) months from the date of first sales. The taxes
10 collected from the production of oil shall be
11 apportioned pursuant to the provisions of paragraph 7
12 of subsection B of Section 1004 of this title. The
13 taxes collected from the production of gas shall be
14 apportioned pursuant to the provisions of paragraph 3
15 of subsection B of Section 1004 of this title, and
16 f. the provisions of subparagraphs b and c of this
17 paragraph shall only apply to the production of wells
18 qualifying for the exemption provided under these
19 subparagraphs prior to July 1, 2011. The production
20 of oil, gas or oil and gas on or after July 1, 2011,
21 and before July 1, 2015, from wells qualifying under
22 subparagraph b of this paragraph shall be taxed at a
23 rate of four percent (4%) until the expiration of
24 forty-eight (48) months from the date of first sales

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

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

10 I. Except as otherwise provided by this section, the production
11 of oil, gas or oil and gas from wells spudded or reentered between
12 July 1, 1995, and July 1, 2015, which qualify as a new discovery
13 pursuant to this subsection shall be exempt from the gross
14 production tax levied pursuant to subsection B of this section from
15 the date of first sales for a period of twenty-eight (28) months;
16 provided however, that the exemption provided by this subsection
17 shall not apply to production occurring on or after July 1, 2017.
18 For all such wells spudded or reentered, a refund against gross
19 production taxes shall be issued as provided in subsection L of this
20 section. As used in this subsection, "new discovery" means
21 production of oil, gas or oil and gas from:

22 1. For wells spudded or reentered on or after July 1, 1997, and
23 prior to July 1, 2015, a well that discovers crude oil in paying
24

1 quantities that is more than one (1) mile from the nearest oil well
2 producing from the same producing interval of the same formation;

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

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

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

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

24

1 1. If the three-dimensional seismic shoot is shot prior to July
2 1, 2000, for a period of eighteen (18) months; and

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

9 K. 1. The exemptions provided for in subsections F, G, I and J
10 of this section, the exemption provided for in subparagraph a of
11 paragraph 2 of subsection H of this section, and the exemptions
12 provided for in subparagraphs b and c of paragraph 2 of subsection H
13 of this section for production from wells spudded before July 1,
14 2005, shall not apply:

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

1 and shall be applied for the fiscal year which begins
2 on the July 1 date immediately following the release
3 of the CPI-U data by the Bureau of Statistics.

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

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

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

20 b. to the severance or production of oil or gas upon
21 which gross production taxes are paid at a rate of one
22 percent (1%) pursuant to the provisions of subsection
23 B of this section, and
24

1 c. to the severance or production of gas, upon
2 determination by the Tax Commission that the average
3 annual index price of Oklahoma gas exceeds Five
4 Dollars (\$5.00) per thousand cubic feet (mcf)
5 calculated on an annual calendar year basis as
6 adjusted for inflation using the Consumer Price Index-
7 All Urban Consumers (CPI-U) as published by the Bureau
8 of Labor Statistics of the U.S. Department of Labor or
9 its successor agency. Such adjustment shall be based
10 on the most current data available for the preceding
11 twelve-month period and shall be applied for the
12 fiscal year which begins on the July 1 date
13 immediately following the release of the CPI-U data by
14 the Bureau of Statistics.

15 (1) The "average annual index price" will be
16 calculated by multiplying the Henry Hub 3-Day
17 Average Close price by the "index price ratio".
18 The index price ratio is defined as the immediate
19 preceding three-year historical average ratio of
20 the actual weighted average wellhead price to the
21 Henry Hub 3-Day Average Close price published on
22 the last business day of each month.
23
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 Henry Hub 3-Day Average Close 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 2. Notwithstanding the exemptions granted pursuant to
10 subsections F, G, I, J, paragraph 1 of subsection E, and
11 subparagraph a of paragraph 2 of subsection H of this section, there
12 shall continue to be levied upon the production of petroleum or
13 other crude or mineral oil or natural gas or casinghead gas, as
14 provided in subsection B of this section, from any wells provided
15 for in subsections F, G, I, J, paragraph 1 of subsection E, and
16 subparagraph a of paragraph 2 of subsection H of this section, a tax
17 equal to one percent (1%) of the gross value of the production of
18 petroleum or other crude or mineral oil or natural gas or casinghead
19 gas. The tax hereby levied shall be apportioned as follows:

20 a. fifty percent (50%) of the sum collected shall be
21 apportioned to the County Highway Fund as provided in
22 subparagraph b of paragraph 1 of subsection B of
23 Section 1004 of this title, and
24

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

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

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

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

20 b. unless otherwise specified, no claims for refunds
21 pursuant to the provisions of this subsection shall be
22 filed more than eighteen (18) months after the first
23 day of the fiscal year in which the refund is first
24 available,

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

5 d. no refunds shall be claimed or paid pursuant to the
6 provisions of this subsection for oil or gas
7 production upon which a tax is paid at a rate of one
8 percent (1%) as specified in subsection B of this
9 section, and

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

21 If there are insufficient funds collected from the production of
22 oil to satisfy the refunds claimed for oil production pursuant to
23 subsection E, F, G, H, I or J of this section, the Tax Commission
24

1 shall pay the balance of the refund claims out of the gross
2 production taxes collected from the production of gas.

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

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

14 b. unless otherwise specified, no claims for refunds
15 pursuant to the provisions of this subsection shall be
16 filed more than eighteen (18) months after the first
17 day of the fiscal year in which the refund is first
18 available, or September 30, 2017, whichever is sooner,

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

23 d. no refunds shall be claimed or paid pursuant to the
24 provisions of this subsection for oil or gas

1 production upon which a tax is paid at a rate of two
2 percent (2%), and

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

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

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

1 4. Notwithstanding any other provision of this section, no
2 claims for refunds pursuant to the provisions of subsections F, G, I
3 and J and subparagraph a of paragraph 2 of subsection H of this
4 section shall be filed or accepted on or after October 1, 2017.

5 M. Claims for refunds pursuant to the provisions of subsections
6 F, G, I and J and subparagraph a of paragraph 2 of subsection H of
7 this section for production periods ending on or before June 30,
8 2017, shall be paid pursuant to the provisions of this subsection.
9 The claims for refunds referenced herein shall be paid in equal
10 payments over a period of thirty-six (36) months. The first payment
11 shall be made after July 1, 2018, but prior to August 1, 2018. The
12 Tax Commission shall provide, not later than June 30, 2018, to the
13 operator or designated interest owner, a schedule of rebates to be
14 paid out over the thirty-six-month period.

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

1 subparagraphs d and e of paragraph 2 of subsection H of this section
2 until the end of the qualifying exemption period.

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

7 3. Any person seeking an exemption shall:

8 a. file an application for the exemption with the Tax
9 Commission which, upon determination of qualification
10 by the Corporation Commission, shall approve the
11 application for an exemption, 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 granted pursuant to this
18 section, the Tax Commission shall collect the gross production tax
19 levied pursuant to this section. If a person who qualifies for the
20 exemption elects to remit his or her own gross production tax during
21 the exemption period, the first purchaser shall not be liable to
22 withhold or remit the tax until the first day of the month following
23 the receipt of written notification from the person who is qualified
24 for such exemption stating that such exemption has expired and

1 directing the first purchaser to resume tax remittance on his or her
2 behalf.

3 0. 1. Prior to July 1, 2015, persons shall only be entitled to
4 either the exemption granted pursuant to subsection D of this
5 section or the exemption granted pursuant to subsection E, F, G, H,
6 I or J of this section for each oil, gas or oil and gas well drilled
7 or recompleted in this state. However, any person who qualifies for
8 the exemption granted pursuant to subsection E, F, G, H, I or J of
9 this section shall not be prohibited from qualification for the
10 exemption granted pursuant to subsection D of this section, if the
11 exemption granted pursuant to subsection E, F, G, H, I or J of this
12 section has expired.

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

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

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

1 and imprisonment; and each day of such refusal on the part of such
2 person shall constitute a separate and distinct offense.

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

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

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

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

24

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

6 SECTION 6. AMENDATORY 68 O.S. 2011, Section 1004, as
7 last amended by Section 2, Chapter 355, O.S.L. 2017 (68 O.S. Supp.
8 2017, Section 1004), is amended to read as follows:

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

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

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

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

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

3 a. eighty-five and seventy-two one-hundredths percent
4 (85.72%) shall be paid to the State Treasurer of the
5 state to be placed in the General Revenue Fund of the
6 state and used for the general expense of state
7 government, to be paid out pursuant to direct
8 appropriation by the Legislature,

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

19 c. seven and fourteen one-hundredths percent (7.14%)
20 shall be allocated to each county as provided for in
21 subparagraph b of this paragraph and shall be
22 apportioned, on an average daily attendance per capita
23 distribution basis, as certified by the State
24 Superintendent of Public Instruction to the school

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

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

9 a. after the total revenue apportioned to the General
10 Revenue Fund as prescribed by subparagraph b of this
11 paragraph equals the moving five-year average amount
12 for gas as defined by paragraph 1 of subsection A of
13 this section, there shall be apportioned from the
14 gross production tax levy imposed pursuant to Section
15 1001 of this title on natural gas and/or casinghead
16 gas to the Revenue Stabilization Fund created by
17 Section 34.102 of Title 62 of the Oklahoma Statutes,
18 the amount of revenue, if any, which exceeds the
19 moving five-year average amount for gas as defined
20 pursuant to paragraph 1 of subsection A of this
21 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, eighty-five and seventy-two one-hundredths
2 percent (85.72%) shall be paid to the State Treasurer
3 of the state to be placed in the General Revenue Fund
4 of the state and used for the general expense of state
5 government, to be paid out pursuant to direct
6 appropriation by the Legislature,

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

17 d. 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 for in subparagraph c 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;

6 3. For all monies collected from the tax levied on natural gas
7 and/or casinghead gas at a tax rate of four percent (4%) pursuant to
8 the provisions of subsections B and E and subparagraphs d and e of
9 paragraph 2 of subsection H of 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 natural gas and/or casinghead
17 gas to the Revenue Stabilization Fund created pursuant
18 to Section 34.102 of Title 62 of the Oklahoma
19 Statutes, the amount of revenue, if any, which exceeds
20 the moving five-year average amount for gas as defined
21 pursuant to paragraph 1 of subsection A of this
22 section,

23 b. until the apportionment to the General Revenue Fund
24 equals the moving five-year average amount for gas as

1 prescribed by paragraph 1 of subsection A of this
2 section, seventy-five percent (75%) shall be paid to
3 the State Treasurer of the state to be placed in the
4 General Revenue Fund of the state and used for the
5 general expense of state government, to be paid out
6 pursuant to direct appropriation by the Legislature,

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

17 d. before any other apportionment of revenue has been
18 made pursuant to this paragraph, twelve and one-half
19 percent (12.5%) shall be allocated to each county as
20 provided for in subparagraph c of this paragraph and
21 shall be apportioned, on an average daily attendance
22 per capita distribution basis, as certified by the
23 State Superintendent of Public Instruction to the
24 school districts of the county where such pupils

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

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

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

16 b. fifty percent (50%) shall be allocated to each county
17 as provided for in subparagraph a of this paragraph
18 and shall be apportioned, on an average daily
19 attendance per capita distribution basis, as certified
20 by the State Superintendent of Public Instruction to
21 the school districts of the county where such pupils
22 attend school regardless of residence of such pupil,
23 provided the school district makes an ad valorem tax
24

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

3 5. For all monies collected from the tax levied on natural gas
4 and/or casinghead gas at a tax rate of two percent (2%) or four and
5 five-tenths percent (4.5%) pursuant to the provisions of
6 ~~subparagraph~~ subparagraphs c and d of paragraph 3 of subsection B of
7 Section 1001 of this title:

- 8 a. after the total revenue apportioned to the General
9 Revenue Fund as prescribed by subparagraph b of this
10 paragraph equals the moving five-year average amount
11 for gas as defined by paragraph 1 of subsection A of
12 this section, there shall be apportioned from the
13 gross production tax levy imposed pursuant to Section
14 1001 of this title on gas to the Revenue Stabilization
15 Fund created by Section 34.102 of Title 62 of the
16 Oklahoma Statutes, the amount of revenue, if any,
17 which exceeds the moving five-year average amount for
18 natural gas and/or casinghead gas as defined pursuant
19 to paragraph 1 of subsection A of this section,
- 20 b. until the apportionment to the General Revenue Fund
21 equals the moving five-year average amount for gas as
22 prescribed by paragraph 1 of subsection A of this
23 section, fifty percent (50%) shall be paid to the
24 State Treasurer to be placed in the General Revenue

1 Fund of the state and used for the general expense of
2 state government, to be paid out pursuant to direct
3 appropriation by the Legislature,

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

13 d. before any other apportionment of revenue has been
14 made pursuant to this paragraph, twenty-five percent
15 (25%) shall be allocated to each county as provided
16 for in subparagraph c of this paragraph and shall be
17 apportioned on an average daily attendance per capita
18 distribution basis, as certified by the State
19 Superintendent of Public Instruction, to the school
20 districts of the county where such pupils attend
21 school regardless of residence of such pupil, provided
22 the school district makes an ad valorem tax levy of
23 fifteen (15) mills for the current year and maintains
24 twelve (12) years of instruction;

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

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

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

22 c. before any other apportionment of revenue has been
23 made pursuant to this paragraph, twenty-five and
24 seventy-two one-hundredths percent (25.72%) shall be

1 paid to the State Treasurer to be placed in the Higher
2 Education Capital Revolving Fund created in Section
3 34.91 of Title 62 of the Oklahoma Statutes,

4 d. before any other apportionment of revenue has been
5 made pursuant to this paragraph, twenty-five and
6 seventy-two one-hundredths percent (25.72%) shall be
7 paid to the State Treasurer to be placed in the
8 Oklahoma Student Aid Revolving Fund created in Section
9 34.92 of Title 62 of the Oklahoma Statutes,

10 e. before any other apportionment of revenue has been
11 made pursuant to this paragraph, three and seven
12 hundred forty-five one-thousandths percent (3.745%)
13 shall be distributed to the various counties of the
14 state for deposit into the County Bridge and Road
15 Improvement Fund of each county based on a formula
16 developed by the Department of Transportation and
17 approved by the Department of Transportation County
18 Advisory Board created pursuant to Section 302.1 of
19 Title 69 of the Oklahoma Statutes to be used for the
20 purposes set forth in the County Bridge and Road
21 Improvement Act. The formula shall be similar to the
22 formula currently used for the distribution of monies
23 in the County Bridge Program funds, but shall also
24 take into consideration the effect of the terrain and

1 traffic volume as related to county road improvement
2 and maintenance costs,

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

7 (1) the following sources and in the following
8 amounts through the fiscal year ending June 30,
9 2019:

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

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

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

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

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

14 h. before any other apportionment of revenue has been
15 made pursuant to this paragraph, seven and fourteen
16 one-hundredths percent (7.14%) shall be allocated to
17 each county as provided in subparagraph g of this
18 paragraph and shall be apportioned, on an average
19 daily attendance per capita distribution basis, as
20 certified by the State Superintendent of Public
21 Instruction, to the school districts of the county
22 where such pupils attend school regardless of
23 residence of such pupil, provided the school district
24 makes an ad valorem tax levy of fifteen (15) mills for

1 the current year and maintains twelve (12) years of
2 instruction, and

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

10 7. For all monies collected from the tax levied on oil at a tax
11 rate of four percent (4%) pursuant to the provisions of subsections
12 B and E and subparagraphs d and e of paragraph 2 of subsection H of
13 Section 1001 of this title:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 g. before any other apportionment of revenue has been
18 made pursuant to this paragraph, twelve and one-half
19 percent (12.5%) of the sum collected from oil shall be
20 paid to the various county treasurers, to be credited
21 to the County Highway Fund as follows: Each county
22 shall receive a proportionate share of the funds
23 available based upon the proportion of the total value
24

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:

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%) or four and five-tenths percent (4.5%)
20 pursuant to the provisions of ~~subparagraph~~ subparagraphs c and d of
21 paragraph 3 of subsection B of Section 1001 of this title:

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

1 by Section 34.102 of Title 62 of the Oklahoma
2 Statutes, the amount of revenue, if any, which exceeds
3 the moving five-year average amount for oil as defined
4 pursuant to paragraph 2 of subsection A of this
5 section,

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

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

23 d. before any other apportionment of revenue has been
24 made pursuant to this paragraph, twenty-five percent

1 (25%) shall be allocated to each county as provided in
2 subparagraph c of this paragraph and shall be
3 apportioned on an average daily attendance per capita
4 distribution basis, as certified by the State
5 Superintendent of Public Instruction, to the school
6 districts of the county where such pupils attend
7 school regardless of residence of such pupil, provided
8 the school district makes an ad valorem tax levy of
9 fifteen (15) mills for the current year and maintains
10 twelve (12) years of instruction.

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

1 deposited in such funds shall be apportioned by the Oklahoma Tax
2 Commission to the General Revenue Fund of the state.

3 SECTION 7. AMENDATORY 68 O.S. 2011, Section 1352, as
4 amended by Section 2, Chapter 311, O.S.L. 2016 (68 O.S. Supp. 2017,
5 Section 1352), is amended to read as follows:

6 Section 1352. As used in the Oklahoma Sales Tax Code:

7 1. "Bundled transaction" means the retail sale of two or more
8 products, except real property and services to real property, where
9 the products are otherwise distinct and identifiable, and the
10 products are sold for one nonitemized price. A "bundled
11 transaction" does not include the sale of any products in which the
12 sales price varies, or is negotiable, based on the selection by the
13 purchaser of the products included in the transaction. As used in
14 this paragraph:

15 a. "distinct and identifiable products" does not include:
16 (1) packaging such as containers, boxes, sacks, bags,
17 and bottles, or other materials such as wrapping,
18 labels, tags, and instruction guides, that
19 accompany the retail sale of the products and are
20 incidental or immaterial to the retail sale
21 thereof, including but not limited to, grocery
22 sacks, shoeboxes, dry cleaning garment bags and
23 express delivery envelopes and boxes,

24

1 (2) a product provided free of charge with the
2 required purchase of another product. A product
3 is provided free of charge if the sales price of
4 the product purchased does not vary depending on
5 the inclusion of the product provided free of
6 charge, or

7 (3) items included in the definition of gross
8 receipts or sales price, pursuant to this
9 section,

10 b. "one nonitemized price" does not include a price that
11 is separately identified by product on binding sales
12 or other supporting sales-related documentation made
13 available to the customer in paper or electronic form
14 including, but not limited to an invoice, bill of
15 sale, receipt, contract, service agreement, lease
16 agreement, periodic notice of rates and services, rate
17 card, or price list,

18 A transaction that otherwise meets the definition of a bundled
19 transaction shall not be considered a bundled transaction if it is:

20 (1) the retail sale of tangible personal property and
21 a service where the tangible personal property is
22 essential to the use of the service, and is
23 provided exclusively in connection with the
24

1 service, and the true object of the transaction
2 is the service,

3 (2) the retail sale of services where one service is
4 provided that is essential to the use or receipt
5 of a second service and the first service is
6 provided exclusively in connection with the
7 second service and the true object of the
8 transaction is the second service,

9 (3) a transaction that includes taxable products and
10 nontaxable products and the purchase price or
11 sales price of the taxable products is de
12 minimis. For purposes of this subdivision, "de
13 minimis" means the seller's purchase price or
14 sales price of taxable products is ten percent
15 (10%) or less of the total purchase price or
16 sales price of the bundled products. Sellers
17 shall use either the purchase price or the sales
18 price of the products to determine if the taxable
19 products are de minimis. Sellers may not use a
20 combination of the purchase price and sales price
21 of the products to determine if the taxable
22 products are de minimis. Sellers shall use the
23 full term of a service contract to determine if
24 the taxable products are de minimis, or

1 (4) the retail sale of exempt tangible personal
2 property and taxable tangible personal property
3 where:

4 (a) the transaction includes food and food
5 ingredients, drugs, durable medical
6 equipment, mobility enhancing equipment,
7 over-the-counter drugs, prosthetic devices
8 or medical supplies, and

9 (b) the seller's purchase price or sales price
10 of the taxable tangible personal property is
11 fifty percent (50%) or less of the total
12 purchase price or sales price of the bundled
13 tangible personal property. Sellers may not
14 use a combination of the purchase price and
15 sales price of the tangible personal
16 property when making the fifty percent (50%)
17 determination for a transaction;

18 2. "Business" means any activity engaged in or caused to be
19 engaged in by any person with the object of gain, benefit, or
20 advantage, either direct or indirect;

21 3. "Commission" or "Tax Commission" means the Oklahoma Tax
22 Commission;

1 4. "Computer" means an electronic device that accepts
2 information in digital or similar form and manipulates it for a
3 result based on a sequence of instructions;

4 5. "Computer software" means a set of coded instructions
5 designed to cause a "computer" or automatic data processing
6 equipment to perform a task;

7 6. "Consumer" or "user" means a person to whom a taxable sale
8 of tangible personal property is made or to whom a taxable service
9 is furnished. "Consumer" or "user" includes all contractors to whom
10 a taxable sale of materials, supplies, equipment, or other tangible
11 personal property is made or to whom a taxable service is furnished
12 to be used or consumed in the performance of any contract;

13 7. "Contractor" means any person who performs any improvement
14 upon real property and who, as a necessary and incidental part of
15 performing such improvement, incorporates tangible personal property
16 belonging to or purchased by the person into the real property being
17 improved;

18 8. "Drug" means a compound, substance or preparation, and any
19 component of a compound, substance or preparation:

20 a. recognized in the official United States
21 Pharmacopoeia, official Homeopathic Pharmacopoeia of
22 the United States, or official National Formulary, and
23 supplement to any of them,
24

- 1 b. intended for use in the diagnosis, cure, mitigation,
2 treatment, or prevention of disease, or
3 c. intended to affect the structure or any function of
4 the body;

5 9. "Electronic" means relating to technology having electrical,
6 digital, magnetic, wireless, optical, electromagnetic, or similar
7 capabilities;

8 10. "Established place of business" means the location at which
9 any person regularly engages in, conducts, or operates a business in
10 a continuous manner for any length of time, that is open to the
11 public during the hours customary to such business, in which a stock
12 of merchandise for resale is maintained, and which is not exempted
13 by law from attachment, execution, or other species of forced sale
14 barring any satisfaction of any delinquent tax liability accrued
15 under the Oklahoma Sales Tax Code;

16 11. "Fair authority" means:

- 17 a. any county, municipality, school district, public
18 trust or any other political subdivision of this
19 state, or
20 b. any not-for-profit corporation acting pursuant to an
21 agency, operating or management agreement which has
22 been approved or authorized by the governing body of
23 any of the entities specified in subparagraph a of
24 this paragraph which conduct, operate or produce a

1 fair commonly understood to be a county, district or
2 state fair;

3 12. a. "Gross receipts", "gross proceeds" or "sales price"

4 means the total amount of consideration, including
5 cash, credit, property and services, for which
6 personal property or services are sold, leased or
7 rented, valued in money, whether received in money or
8 otherwise, without any deduction for the following:

9 (1) the seller's cost of the property sold,

10 (2) the cost of materials used, labor or service
11 cost,

12 (3) interest, losses, all costs of transportation to
13 the seller, all taxes imposed on the seller, and
14 any other expense of the seller,

15 (4) charges by the seller for any services necessary
16 to complete the sale, other than delivery and
17 installation charges,

18 (5) delivery charges and installation charges, unless
19 separately stated on the invoice, billing or
20 similar document given to the purchaser, and

21 (6) credit for any trade-in.

22 b. Such term shall not include:

23 (1) discounts, including cash, term, or coupons that
24 are not reimbursed by a third party that are

1 allowed by a seller and taken by a purchaser on a
2 sale,

3 (2) interest, financing, and carrying charges from
4 credit extended on the sale of personal property
5 or services, if the amount is separately stated
6 on the invoice, bill of sale or similar document
7 given to the purchaser, and

8 (3) any taxes legally imposed directly on the
9 consumer that are separately stated on the
10 invoice, bill of sale or similar document given
11 to the purchaser.

12 c. Such term shall include consideration received by the
13 seller from third parties if:

14 (1) the seller actually receives consideration from a
15 party other than the purchaser and the
16 consideration is directly related to a price
17 reduction or discount on the sale,

18 (2) the seller has an obligation to pass the price
19 reduction or discount through to the purchaser,

20 (3) the amount of the consideration attributable to
21 the sale is fixed and determinable by the seller
22 at the time of the sale of the item to the
23 purchaser, and

24 (4) one of the following criteria is met:

1 (a) the purchaser presents a coupon, certificate
2 or other documentation to the seller to
3 claim a price reduction or discount where
4 the coupon, certificate or documentation is
5 authorized, distributed or granted by a
6 third party with the understanding that the
7 third party will reimburse any seller to
8 whom the coupon, certificate or
9 documentation is presented,

10 (b) the purchaser identifies himself or herself
11 to the seller as a member of a group or
12 organization entitled to a price reduction
13 or discount; provided, a "preferred
14 customer" card that is available to any
15 patron does not constitute membership in
16 such a group, or

17 (c) the price reduction or discount is
18 identified as a third-party price reduction
19 or discount on the invoice received by the
20 purchaser or on a coupon, certificate or
21 other documentation presented by the
22 purchaser;

23 13. a. "Maintaining a place of business in this state" means
24 and shall be presumed to include:

- 1 (1) (a) utilizing or maintaining in this state,
2 directly or by subsidiary, an office,
3 distribution house, sales house, warehouse,
4 or other physical place of business, whether
5 owned or operated by the vendor or any other
6 person, other than a common carrier acting
7 in its capacity as such, or
8 (b) having agents operating in this state,
9 whether the place of business or agent
10 is within this state temporarily or
11 permanently or whether the person or
12 agent is authorized to do business
13 within this state, and
14 (2) the presence of any person, other than a common
15 carrier acting in its capacity as such, that has
16 substantial nexus in this state and that:
17 (a) sells a similar line of products as the
18 vendor and does so under the same or a
19 similar business name,
20 (b) uses trademarks, service marks or trade
21 names in this state that are the same
22 or substantially similar to those used
23 by the vendor,
24

1 (c) delivers, installs, assembles or
2 performs maintenance services for the
3 vendor,

4 (d) facilitates the vendor's delivery of
5 property to customers in the state by
6 allowing the vendor's customers to pick
7 up property sold by the vendor at an
8 office, distribution facility,
9 warehouse, storage place or similar
10 place of business maintained by the
11 person in this state, or

12 (e) conducts any other activities in this state
13 that are significantly associated with the
14 vendor's ability to establish and maintain a
15 market in this state for the vendor's sale.

16 b. The presumptions in divisions (1) and (2) of
17 subparagraph a of this paragraph may be rebutted by
18 demonstrating that the person's activities in this
19 state are not significantly associated with the
20 vendor's ability to establish and maintain a market in
21 this state for the vendor's sales.

22 c. Any ruling, agreement or contract, whether written or
23 oral, express or implied, between a person and
24 executive branch of this state, or any other state

1 agency or department, stating, agreeing or ruling that
2 the person is not "maintaining a place of business in
3 this state" or is not required to collect sales and
4 use tax in this state despite the presence of a
5 warehouse, distribution center or fulfillment center
6 in this state that is owned or operated by the vendor
7 or an affiliated person of the vendor shall be null
8 and void unless it is specifically approved by a
9 majority vote of each house of the Oklahoma
10 Legislature;

11 14. "Manufacturing" means and includes the activity of
12 converting or conditioning tangible personal property by changing
13 the form, composition, or quality of character of some existing
14 material or materials, including natural resources, by procedures
15 commonly regarded by the average person as manufacturing,
16 compounding, processing or assembling, into a material or materials
17 with a different form or use. "Manufacturing" does not include
18 extractive industrial activities such as mining, quarrying, logging,
19 and drilling for oil, gas and water, nor oil and gas field
20 processes, such as natural pressure reduction, mechanical
21 separation, heating, cooling, dehydration and compression and, on or
22 after the effective date of this act, does not include electric
23 power generation by means of wind;
24

1 15. "Manufacturing operation" means the designing,
2 manufacturing, compounding, processing, assembling, warehousing, or
3 preparing of articles for sale as tangible personal property. A
4 manufacturing operation begins at the point where the materials
5 enter the manufacturing site and ends at the point where a finished
6 product leaves the manufacturing site. "Manufacturing operation"
7 does not include administration, sales, distribution,
8 transportation, site construction, or site maintenance and, on or
9 after the effective date of this act, does not include electric
10 power generation by means of wind. Extractive activities and field
11 processes shall not be deemed to be a part of a manufacturing
12 operation even when performed by a person otherwise engaged in
13 manufacturing;

14 16. "Manufacturing site" means a location where a manufacturing
15 operation is conducted, including a location consisting of one or
16 more buildings or structures in an area owned, leased, or controlled
17 by a manufacturer;

18 17. "Over-the-counter drug" means a drug that contains a label
19 that identifies the product as a drug as required by 21 C.F.R.,
20 Section 201.66. The over-the-counter-drug label includes:

- 21 a. a "Drug Facts" panel, or
- 22 b. a statement of the "active ingredient(s)" with a list
23 of those ingredients contained in the compound,
24 substance or preparation;

1 18. "Person" means any individual, company, partnership, joint
2 venture, joint agreement, association, mutual or otherwise, limited
3 liability company, corporation, estate, trust, business trust,
4 receiver or trustee appointed by any state or federal court or
5 otherwise, syndicate, this state, any county, city, municipality,
6 school district, any other political subdivision of the state, or
7 any group or combination acting as a unit, in the plural or singular
8 number;

9 19. "Prescription" means an order, formula or recipe issued in
10 any form of oral, written, electronic, or other means of
11 transmission by a duly licensed "practitioner" as defined in Section
12 1357.6 of this title;

13 20. "Prewritten computer software" means "computer software",
14 including prewritten upgrades, which is not designed and developed
15 by the author or other creator to the specifications of a specific
16 purchaser. The combining of two or more prewritten computer
17 software programs or prewritten portions thereof does not cause the
18 combination to be other than prewritten computer software.
19 Prewritten software includes software designed and developed by the
20 author or other creator to the specifications of a specific
21 purchaser when it is sold to a person other than the purchaser.
22 Where a person modifies or enhances computer software of which the
23 person is not the author or creator, the person shall be deemed to
24 be the author or creator only of such person's modifications or

1 enhancements. Prewritten software or a prewritten portion thereof
2 that is modified or enhanced to any degree, where such modification
3 or enhancement is designed and developed to the specifications of a
4 specific purchaser, remains prewritten software; provided, however,
5 that where there is a reasonable, separately stated charge or an
6 invoice or other statement of the price given to the purchaser for
7 such modification or enhancement, such modification or enhancement
8 shall not constitute prewritten computer software;

9 21. "Repairman" means any person who performs any repair
10 service upon tangible personal property of the consumer, whether or
11 not the repairman, as a necessary and incidental part of performing
12 the service, incorporates tangible personal property belonging to or
13 purchased by the repairman into the tangible personal property being
14 repaired;

15 22. "Sale" means the transfer of either title or possession of
16 tangible personal property for a valuable consideration regardless
17 of the manner, method, instrumentality, or device by which the
18 transfer is accomplished in this state, or other transactions as
19 provided by this paragraph, including but not limited to:

- 20 a. the exchange, barter, lease, or rental of tangible
21 personal property resulting in the transfer of the
22 title to or possession of the property,
23 b. the disposition for consumption or use in any business
24 or by any person of all goods, wares, merchandise, or

1 property which has been purchased for resale,
2 manufacturing, or further processing,

3 c. the sale, gift, exchange, or other disposition of
4 admission, dues, or fees to clubs, places of
5 amusement, or recreational or athletic events or for
6 the privilege of having access to or the use of
7 amusement, recreational, athletic or entertainment
8 facilities,

9 d. the furnishing or rendering of services taxable under
10 the Oklahoma Sales Tax Code, and

11 e. any use of motor fuel or diesel fuel by a supplier, as
12 defined in Section 500.3 of this title, upon which
13 sales tax has not previously been paid, for purposes
14 other than to propel motor vehicles over the public
15 highways of this state. Motor fuel or diesel fuel
16 purchased outside the state and used for purposes
17 other than to propel motor vehicles over the public
18 highways of this state shall not constitute a sale
19 within the meaning of this paragraph;

20 23. "Sale for resale" means:

21 a. a sale of tangible personal property to any purchaser
22 who is purchasing tangible personal property for the
23 purpose of reselling it within the geographical limits
24 of the United States of America or its territories or

1 possessions, in the normal course of business either
2 in the form or condition in which it is purchased or
3 as an attachment to or integral part of other tangible
4 personal property,

5 b. a sale of tangible personal property to a purchaser
6 for the sole purpose of the renting or leasing, within
7 the geographical limits of the United States of
8 America or its territories or possessions, of the
9 tangible personal property to another person by the
10 purchaser, but not if incidental to the renting or
11 leasing of real estate,

12 c. a sale of tangible goods and products within this
13 state if, simultaneously with the sale, the vendor
14 issues an export bill of lading, or other
15 documentation that the point of delivery of such goods
16 for use and consumption is in a foreign country and
17 not within the territorial confines of the United
18 States. If the vendor is not in the business of
19 shipping the tangible goods and products that are
20 purchased from the vendor, the buyer or purchaser of
21 the tangible goods and products is responsible for
22 providing an export bill of lading or other
23 documentation to the vendor from whom the tangible
24 goods and products were purchased showing that the

1 point of delivery of such goods for use and
2 consumption is a foreign country and not within the
3 territorial confines of the United States, or
4 d. a ~~sales~~ sale of any carrier access services, right of
5 access services, telecommunications services to be
6 resold, or telecommunications used in the subsequent
7 provision of, use as a component part of, or
8 integrated into, end-to-end telecommunications
9 service;

10 24. "Tangible personal property" means personal property that
11 can be seen, weighed, measured, felt, or touched or that is in any
12 other manner perceptible to the senses. "Tangible personal
13 property" includes electricity, water, gas, steam and prewritten
14 computer software. This definition shall be applicable only for
15 purposes of the Oklahoma Sales Tax Code;

16 25. "Taxpayer" means any person liable to pay a tax imposed by
17 the Oklahoma Sales Tax Code;

18 26. "Tax period" or "taxable period" means the calendar period
19 or the taxpayer's fiscal period for which a taxpayer has obtained a
20 permit from the Tax Commission to use a fiscal period in lieu of a
21 calendar period;

22 27. "Tax remitter" means any person required to collect,
23 report, or remit the tax imposed by the Oklahoma Sales Tax Code. A
24 tax remitter who fails, for any reason, to collect, report, or remit

1 the tax shall be considered a taxpayer for purposes of assessment,
2 collection, and enforcement of the tax imposed by the Oklahoma Sales
3 Tax Code; and

4 28. "Vendor" means:

- 5 a. any person making sales of tangible personal property
6 or services in this state, the gross receipts or gross
7 proceeds from which are taxed by the Oklahoma Sales
8 Tax Code,
- 9 b. any person maintaining a place of business in this
10 state and making sales of tangible personal property
11 or services, whether at the place of business or
12 elsewhere, to persons within this state, the gross
13 receipts or gross proceeds from which are taxed by the
14 Oklahoma Sales Tax Code,
- 15 c. any person who solicits business by employees,
16 independent contractors, agents, or other
17 representatives in this state, and thereby makes sales
18 to persons within this state of tangible personal
19 property or services, the gross receipts or gross
20 proceeds from which are taxed by the Oklahoma Sales
21 Tax Code, or
- 22 d. any person, pursuant to an agreement with the person
23 with an ownership interest in or title to tangible
24 personal property, who has been entrusted with the

1 possession of any such property and has the power to
2 designate who is to obtain title, to physically
3 transfer possession of, or otherwise make sales of the
4 property.

5 SECTION 8. AMENDATORY 68 O.S. 2011, Section 1359, as
6 last amended by Section 2, Chapter 317, O.S.L. 2016 (68 O.S. Supp.
7 2017, Section 1359), is amended to read as follows:

8 Section 1359. Exemptions - Manufacturing.

9 There are hereby specifically exempted from the tax levied by
10 Section 1350 et seq. of this title:

11 1. Sales of goods, wares, merchandise, tangible personal
12 property, machinery and equipment to a manufacturer for use in a
13 manufacturing operation. Goods, wares, merchandise, property,
14 machinery and equipment used in a nonmanufacturing activity or
15 process as set forth in paragraph 14 of Section 1352 of this title
16 shall not be eligible for the exemption provided for in this
17 subsection by virtue of the activity or process being performed in
18 conjunction with or integrated into a manufacturing operation. On
19 or after the effective date of this act, sales for use in electric
20 power generation by means of wind shall not be eligible for the
21 exemption provided for in this section.

22 For the purposes of this paragraph, sales made to any person,
23 firm or entity that has entered into a contractual relationship for
24 the construction and improvement of manufacturing goods, wares,

1 merchandise, property, machinery and equipment for use in a
2 manufacturing operation shall be considered sales made to a
3 manufacturer which is defined or classified in the North American
4 Industry Classification System (NAICS) Manual under Industry Group
5 No. 324110. Such purchase shall be evidenced by a copy of the sales
6 ticket or invoice to be retained by the vendor indicating that the
7 purchases are made for and on behalf of such manufacturer and set
8 out the name of such manufacturer as well as include a copy of the
9 Manufacturing Exemption Permit of the manufacturer. Any person who
10 wrongfully or erroneously certifies that purchases are being made on
11 behalf of such manufacturer or who otherwise violates this paragraph
12 shall be guilty of a misdemeanor and upon conviction thereof shall
13 be fined an amount equal to double the amount of sales tax involved
14 or incarcerated for not more than sixty (60) days or both;

15 2. Ethyl alcohol when sold and used for the purpose of blending
16 same with motor fuel on which motor fuel tax is levied by Section
17 500.4 of this title;

18 3. Sales of containers when sold to a person regularly engaged
19 in the business of reselling empty or filled containers or when
20 purchased for the purpose of packaging raw products of farm, garden,
21 or orchard for resale to the consumer or processor. This exemption
22 shall not apply to the sale of any containers used more than once
23 and which are ordinarily known as returnable containers, except
24 returnable soft drink bottles and the cartons, crates, pallets, and

1 containers used to transport returnable soft drink bottles. Each
2 and every transfer of title or possession of such returnable
3 containers in this state to any person who is not regularly engaged
4 in the business of selling, reselling or otherwise transferring
5 empty or filled containers shall be taxable under this Code.
6 Additionally, this exemption shall not apply to the sale of labels
7 or other materials delivered along with items sold but which are not
8 necessary or absolutely essential to the sale of the sold
9 merchandise;

10 4. Sales of or transfers of title to or possession of any
11 containers, after June 30, 1987, used or to be used more than once
12 and which are ordinarily known as returnable containers and which do
13 or will contain beverages defined by paragraphs 4 and 14 of Section
14 506 of Title 37 of the Oklahoma Statutes, or water for human
15 consumption and the cartons, crates, pallets, and containers used to
16 transport such returnable containers;

17 5. Sale of tangible personal property when sold by the
18 manufacturer to a person who transports it to a state other than
19 Oklahoma for immediate and exclusive use in a state other than
20 Oklahoma. Provided, no sales at a retail outlet shall qualify for
21 the exemption under this paragraph;

22 6. Machinery, equipment, fuels and chemicals or other materials
23 incorporated into and directly used or consumed in the process of
24 treatment to substantially reduce the volume or harmful properties

1 of hazardous waste at treatment facilities specifically permitted
2 pursuant to the Oklahoma Hazardous Waste Management Act and operated
3 at the place of waste generation, or facilities approved by the
4 Department of Environmental Quality for the cleanup of a site of
5 contamination. The term "hazardous" waste may include low-level
6 radioactive waste for the purpose of this paragraph;

7 7. Except as otherwise provided by subsection I of Section 3658
8 of this title pursuant to which the exemption authorized by this
9 paragraph may not be claimed, sales of tangible personal property to
10 a qualified manufacturer or distributor to be consumed or
11 incorporated in a new manufacturing or distribution facility or to
12 expand an existing manufacturing or distribution facility. For
13 purposes of this paragraph, sales made to a contractor or
14 subcontractor that has previously entered into a contractual
15 relationship with a qualified manufacturer or distributor for
16 construction or expansion of a manufacturing or distribution
17 facility shall be considered sales made to a qualified manufacturer
18 or distributor. For the purposes of this paragraph, "qualified
19 manufacturer or distributor" means:

20 a. any manufacturing enterprise whose total cost of
21 construction of a new or expanded facility exceeds the
22 sum of Five Million Dollars (\$5,000,000.00) and in
23 which at least one hundred (100) new full-time-
24 equivalent employees, as certified by the Oklahoma

1 Employment Security Commission, are added and
2 maintained for a period of at least thirty-six (36)
3 months as a direct result of the new or expanded
4 facility,

5 b. any manufacturing enterprise whose total cost of
6 construction of a new or expanded facility exceeds the
7 sum of Ten Million Dollars (\$10,000,000.00) and the
8 combined cost of construction material, machinery,
9 equipment and other tangible personal property exempt
10 from sales tax under the provisions of this paragraph
11 exceeds the sum of Fifty Million Dollars
12 (\$50,000,000.00) and in which at least seventy-five
13 (75) new full-time-equivalent employees, as certified
14 by the Oklahoma Employment Security Commission, are
15 added and maintained for a period of at least thirty-
16 six (36) months as a direct result of the new or
17 expanded facility,

18 c. any manufacturing enterprise whose total cost of
19 construction of an expanded facility exceeds the sum
20 of Three Hundred Million Dollars (\$300,000,000.00) and
21 in which the manufacturer has and maintains an average
22 employment level of at least one thousand seven
23 hundred fifty (1,750) full-time-equivalent employees,
24 as certified by the Employment Security Commission, or

1 d. any enterprise primarily engaged in the general
2 wholesale distribution of groceries defined or
3 classified in the North American Industry
4 Classification System (NAICS) Manual under Industry
5 Groups No. 4244 and 4245 and which has at least
6 seventy-five percent (75%) of its total sales to in-
7 state customers or buyers and whose total cost of
8 construction of a new or expanded facility exceeds the
9 sum of Forty Million Dollars (\$40,000,000.00) with
10 such construction commencing on or after July 1, 2005,
11 and before December 31, 2005, and which at least fifty
12 new full-time-equivalent employees, as certified by
13 the Oklahoma Employment Security Commission, are added
14 and maintained for a period of at least thirty-six
15 (36) months as a direct result of the new or expanded
16 facility.

17 For purposes of this paragraph, the total cost of construction
18 shall include building and construction material and engineering and
19 architectural fees or charges directly associated with the
20 construction of a new or expanded facility. The total cost of
21 construction shall not include attorney fees. For purposes of
22 subparagraph c of this paragraph, the total cost of construction
23 shall also include the cost of qualified depreciable property as
24 defined in Section 2357.4 of this title and labor services performed

1 in the construction of an expanded facility. For the purpose of
2 subparagraph d of this paragraph, the total cost of construction
3 shall also include the cost of all parking, security and dock
4 structures or facilities necessary to manage, process or secure
5 vehicles used to receive and/or distribute groceries through such a
6 facility. The employment requirement of this paragraph can be
7 satisfied by the employment of a portion of the required number of
8 new full-time-equivalent employees at a manufacturing or
9 distribution facility that is related to or supported by the new or
10 expanded manufacturing or distribution facility as long as both
11 facilities are owned by one person or business entity. For purposes
12 of this section, "manufacturing facility" shall mean building and
13 land improvements used in manufacturing as defined in Section 1352
14 of this title and shall also mean building and land improvements
15 used for the purpose of packing, repackaging, labeling or assembling
16 for distribution to market, products at least seventy percent (70%)
17 of which are made in Oklahoma by the same company but at an off-
18 site, in-state manufacturing or distribution facility or facilities.
19 It shall not include a retail outlet unless the retail outlet is
20 operated in conjunction with and on the same site or premises as the
21 manufacturing facility. Up to ten percent (10%) of the square feet
22 of a manufacturing or distribution facility building may be devoted
23 to office space used to provide clerical support for the
24 manufacturing operation. Such ten percent (10%) may be in a

1 separate building as long as it is part of the same contiguous tract
2 of property on which the manufacturing or distribution facility is
3 located. Only sales of tangible personal property made after June
4 1, 1988, shall be eligible for the exemption provided by this
5 paragraph. The exemption authorized pursuant to subparagraph d of
6 this paragraph shall only become effective when the governing body
7 of the municipality in which the enterprise is located approves a
8 resolution expressing the municipality's support for the
9 construction for such new or expanded facility. Upon approval by
10 the municipality, the municipality shall forward a copy of such
11 resolution to the Oklahoma Tax Commission;

12 8. Sales of tangible personal property purchased and used by a
13 licensed radio or television station in broadcasting. This
14 exemption shall not apply unless such machinery and equipment is
15 used directly in the manufacturing process, is necessary for the
16 proper production of a broadcast signal or is such that the failure
17 of the machinery or equipment to operate would cause broadcasting to
18 cease. This exemption begins with the equipment used in producing
19 live programming or the electronic equipment directly behind the
20 satellite receiving dish or antenna, and ends with the transmission
21 of the broadcast signal from the broadcast antenna system. For
22 purposes of this paragraph, "proper production" shall include, but
23 not be limited to, machinery or equipment required by Federal
24 Communications Commission rules and regulations;

1 9. Sales of tangible personal property purchased or used by a
2 licensed cable television operator in cablecasting. This exemption
3 shall not apply unless such machinery and equipment is used directly
4 in the manufacturing process, is necessary for the proper production
5 of a cablecast signal or is such that the failure of the machinery
6 or equipment to operate would cause cablecasting to cease. This
7 exemption begins with the equipment used in producing local
8 programming or the electronic equipment behind the satellite
9 receiving dish, microwave tower or antenna, and ends with the
10 transmission of the signal from the cablecast head-end system. For
11 purposes of this paragraph, "proper production" shall include, but
12 not be limited to, machinery or equipment required by Federal
13 Communications Commission rules and regulations;

14 10. Sales of packaging materials for use in packing, shipping
15 or delivering tangible personal property for sale when sold to a
16 producer of agricultural products. This exemption shall not apply
17 to the sale of any packaging material which is ordinarily known as a
18 returnable container;

19 11. Sales of any pattern used in the process of manufacturing
20 iron, steel or other metal castings. The exemption provided by this
21 paragraph shall be applicable irrespective of ownership of the
22 pattern provided that such pattern is used in the commercial
23 production of metal castings;

24

1 12. Deposits or other charges made and which are subsequently
2 refunded for returnable cartons, crates, pallets, and containers
3 used to transport cement and cement products;

4 13. Beginning January 1, 1998, machinery, electricity, fuels,
5 explosives and materials, excluding chemicals, used in the mining of
6 coal in this state;

7 14. Deposits, rent or other charges made for returnable
8 cartons, crates, pallets, and containers used to transport mushrooms
9 or mushroom products from a farm for resale to the consumer or
10 processor;

11 15. Sales of tangible personal property and services used or
12 consumed in all phases of the extraction and manufacturing of
13 crushed stone and sand, including but not limited to site
14 preparation, dredging, overburden removal, explosive placement and
15 detonation, onsite material hauling and/or transfer, material
16 washing, screening and/or crushing, product weighing and site
17 reclamation; and

18 16. Sale, use or consumption of paper stock and other raw
19 materials which are manufactured into commercial printed material in
20 this state primarily for use and delivery outside this state. For
21 the purposes of this section, "commercial printed material" shall
22 include magazines, catalogs, retail inserts and direct mail.

23 SECTION 9. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof Sections 5, 6, 7, and 8 this
2 act shall take effect and be in full force from and after its
3 passage and approval.

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