

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Extraordinary Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1054

By: Wallace and Casey of the
House

and

David and Fields of the
Senate

11 COMMITTEE SUBSTITUTE

12 An Act relating to revenue and taxation; stating
13 purpose; imposing additional tax levy upon
14 cigarettes; specifying amount of additional levy;
15 providing for apportionment of revenues; exempting
16 levy from inclusion in determination of certain
17 amounts; requiring certain collections and
18 administration of levy; prohibiting sale of cigarette
19 excise tax stamps to wholesalers in excess of certain
20 amount; providing exception; creating the State
21 Health Care Enhancement Fund; exempting fund from
22 fiscal year limitations; identifying funding source;
23 authorizing appropriations from fund for certain
24 purpose; amending 68 O.S. 2011, Sections 402, 402-1
 and 402-3, which relate to tax levies on tobacco
 products; providing that little cigars be taxed in
 the same rate and manner as cigarettes; clarifying
 language; imposing additional tax levy upon chewing
 tobacco; specifying amount of additional levy;
 providing for apportionment of revenues; prohibiting
 certain acts; declaring levy as a tax on the
 consumer; stating purpose; imposing tax on gasoline
 and diesel fuel; establishing amount of tax per
 gallon; requiring deposit of certain revenue,
 penalties and interest in certain fund; amending 68
 O.S. 2011, Section 500.10, which relates to exemption

1 from motor fuels tax; extending exemptions to
2 additional tax levy; amending 69 O.S. 2011, Section
3 1521, as last amended by Section 93, Chapter 15,
4 O.S.L. 2013 (69 O.S. Supp. 2017, Section 1521), which
5 relates to the Rebuilding Oklahoma Access and Driver
6 Safety Fund; modifying calculation of certain annual
7 apportionments; amending 37 O.S. 2011, Section 576,
8 as last amended by Section 18, Chapter 298, O.S.L.
9 2014 (37 O.S. Supp. 2017, Section 576), which relates
10 to gross receipts taxes on products sold by certain
11 licensees; making applicable to low-point beer;
12 defining term; providing that tax be in addition to
13 other taxes; amending 68 O.S. 2011, Section 1001, as
14 last amended by Section 1, Chapter 355, O.S.L. 2017
15 (68 O.S. Supp. 2017, Section 1001), which relates to
16 gross production tax; limiting period where certain
17 reduced rates are applicable; implementing an
18 additional reduced rate for certain periods;
19 repealing 37 O.S. 2011, Section 576, as last amended
20 by Section 11 of this act, which relates to gross
21 receipts taxes on products sold by certain licensees;
22 repealing 68 O.S. 2011, Section 402-2, which relates
23 to additional tax on tobacco products; providing for
24 codification; providing for noncodification; and
providing effective dates.

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

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

A. For the purpose of providing revenue for the support of the
functions of state government, in addition to the tax levied in
Sections 302, 302-1, 302-2, 302-3, 302-4 and 302-5 of Title 68 of
the Oklahoma Statutes, there is hereby levied upon the sale, use,
gift, possession or consumption of cigarettes, as defined in

1 Sections 301 through 325 of Title 68 of the Oklahoma Statutes,
2 within this state, a tax at the rate of seventy-five (75) mills per
3 cigarette.

4 B. 1. Except as provided in paragraph 2 of this subsection,
5 the revenue resulting from the additional tax levied in subsection A
6 of this section shall be apportioned as provided in paragraph 3 of
7 this subsection.

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

14 3. a. Prior to July 1, 2018, the resulting revenues as
15 described by paragraphs 1 and 2 of this subsection
16 shall be apportioned by the Oklahoma Tax Commission
17 and transmitted to the State Treasurer who shall
18 deposit such revenue in the General Revenue Fund.

19 b. Beginning July 1, 2018, the resulting revenues as
20 described by paragraphs 1 and 2 of this subsection
21 shall be apportioned by the Oklahoma Tax Commission
22 and transmitted to the State Treasurer, who shall
23 deposit such revenue to the credit of the State Health
24

Care Enhancement Fund, created in Section 3 of this act.

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

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

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

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

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

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

D. The cigarette taxes levied in this section shall be collected and administered as provided by law for other cigarette taxes now levied, collected and administered pursuant to the

1 provisions of Sections 301 through 325 of Title 68 of the Oklahoma
2 Statutes.

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

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

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

17 There is hereby created in the State Treasury a fund to be
18 designated the "State Health Care Enhancement Fund". The fund shall
19 be a continuing fund, not subject to fiscal year limitations, and
20 shall consist of monies received pursuant to Sections 1 and 7 of
21 this act and any monies designated to the fund by law. All monies
22 accruing to the credit of the fund shall be appropriated at the
23 discretion of the Legislature for the purpose of enhancing the
24 health of Oklahomans.

1 SECTION 4. AMENDATORY 68 O.S. 2011, Section 402, is
2 amended to read as follows:

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

6 1. Little Cigars. Upon cigars of all descriptions made of
7 tobacco, or any substitute therefor, and weighing not more than
8 three (3) pounds per thousand, ~~four (4) mills for each cigar.~~
9 ~~Provided, that~~ the tax levied on the products coming under this
10 paragraph shall ~~not apply if~~ be equal to the tax on such products
11 that is reported and paid as cigarette tax under Sections 301
12 through 325 of this title. Further, the tax levied herein shall be
13 paid in the same manner as required in Sections 301 through 325 of
14 this title;

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

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

1 4. Smoking Tobacco. Upon all smoking tobacco including
2 granulated, plug cut, crimp cut, ready rubbed and other kinds and
3 forms of tobacco prepared in such manner as to be suitable for
4 smoking in a pipe or cigarette, the tax shall be twenty-five percent
5 (25%) of the factory list price exclusive of any trade discount,
6 special discount or deals; and

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

10 It shall not be permissible for a retailer to advertise that the
11 retailer will absorb the tax due on the taxable merchandise
12 described herein. Such tax shall be paid by the consumer.
13 Notwithstanding any other provision of law, the tax levied pursuant
14 to the provisions of Section 401 et seq. of this title shall be part
15 of the gross proceeds or gross receipts from the sale of cigars or
16 tobacco products, or both, as those terms are defined in paragraph 7
17 12 of Section 1352 of this title.

18 SECTION 5. AMENDATORY 68 O.S. 2011, Section 402-1, is
19 amended to read as follows:

20 Section 402-1. In addition to the tax levied by Section 402 of
21 this title, there is hereby levied upon the sale, use, exchange or
22 possession of articles containing tobacco as defined in said Section
23 402, a tax in the following amounts:
24

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

8 ~~(b)~~ Upon cigars of all descriptions made of tobacco, or any
9 substitute therefor, and weighing more than three (3) pounds per
10 thousand, and having a manufacturer's recommended retail selling
11 price, under the Federal Code, of more than four cents (\$0.04) for
12 each cigar, Ten Dollars (\$10.00) per thousand. For the purpose of
13 computing the tax, cheroots, stogies, etc., are hereby classed as
14 cigars-;

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

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

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

3 ~~(e)~~ The tax herein levied on tobacco products shall be evidenced
4 by stamps and collected on the same basis and in the same manner and
5 in all respects as the tax levied by the Tobacco Products Tax Law.
6 The revenue from this additional tax shall be apportioned by the
7 Oklahoma Tax Commission in the same manner as provided in Section
8 404 of this title, for the apportionment of other tobacco products
9 tax revenue.

10 SECTION 6. AMENDATORY 68 O.S. 2011, Section 402-3, is
11 amended to read as follows:

12 Section 402-3. A. In addition to the tax levied in Sections
13 402, and 402-1 ~~and 402-2~~ of this title, effective January 1, 2005,
14 there shall be levied, assessed, collected, and paid in respect to
15 the articles containing tobacco enumerated in Section 401 et seq. of
16 this title, a tax in the following amounts:

17 1. ~~Little Cigars. Upon cigars of all descriptions made of~~
18 ~~tobacco, or any substitute therefor, and weighing not more than~~
19 ~~three (3) pounds per thousand, twenty seven (27) mills for each~~
20 ~~cigar. Provided, that the tax levied on the products coming under~~
21 ~~this paragraph shall not apply if the tax on such products is~~
22 ~~reported and paid as cigarette tax under Sections 301 through 325 of~~
23 ~~this title.~~

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

6 ~~3.~~ 2. Smoking Tobacco. Upon all smoking tobacco including
7 granulated, plug cut, crimp cut, ready rubbed and other kinds and
8 forms of tobacco prepared in such manner as to be suitable for
9 smoking in a pipe or cigarette, the tax shall be forty percent (40%)
10 of the factory list price exclusive of any trade discount, special
11 discount or deals; and

12 ~~4.~~ 3. Chewing Tobacco. Upon chewing tobacco, smokeless
13 tobacco, and snuff, the tax shall be thirty percent (30%) of the
14 factory list price exclusive of any trade discount, special discount
15 or deals.

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

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

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

4 3. Before July 1, 2008, seven and fifty-hundredths percent
5 (7.50%) shall be placed to the credit of the Trauma Care Assistance
6 Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of Title 63 of the
7 Oklahoma Statutes. On and after July 1, 2008, seven and fifty-
8 hundredths percent (7.50%) shall be allocated as follows:

9 a. every month, an amount equal to the actual amount
10 placed to the credit of the Trauma Care Assistance
11 Revolving Fund pursuant to this paragraph for the same
12 month of the 2008 fiscal year shall be credited to the
13 Trauma Care Assistance Revolving Fund,

14 b. every month, any amount over and above the amount
15 placed to the credit of the Trauma Care Assistance
16 Revolving Fund pursuant to subparagraph a of this
17 paragraph shall be credited to the Oklahoma Emergency
18 Response Systems Stabilization and Improvement
19 Revolving Fund as created in Section ~~&~~ 1-2512.1 of
20 ~~this act~~ Title 63 of the Oklahoma Statutes until the
21 combined amount credited to the Oklahoma Emergency
22 Response Systems Stabilization and Improvement
23 Revolving Fund pursuant to this section and Section
24 302-5 of this title is equal to Two Million Five

1 Hundred Thousand Dollars (\$2,500,000.00) each year,
2 and

3 c. any additional revenue allocated pursuant to this
4 paragraph shall be placed to the credit of the Trauma
5 Care Assistance Revolving Fund;

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

10 5. Twenty-six and thirty-eight-hundredths percent (26.38%)
11 shall be placed to the credit of the Oklahoma Health Care Authority
12 Medicaid Program Fund created in Section 5020 of Title 63 of the
13 Oklahoma Statutes for the purposes of maintaining programs and
14 services funded under the federal "Jobs and Growth Tax Relief
15 Reconciliation Act of 2003", reimbursing city/county-owned
16 hospitals, increasing emergency room physician rates, and providing
17 TEFRA 134, also known as "Katie Beckett" services;

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

22 7. Forty-four-hundredths of one percent (0.44%) shall be placed
23 to the credit of the Belle Maxine Hilliard Breast and Cervical
24

1 Cancer Treatment Revolving Fund created in Section 1-559 of Title 63
2 of the Oklahoma Statutes;

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

6 9. Two and seven-hundredths percent (2.07%) shall be placed to
7 the credit of the Education Reform Revolving Fund created in Section
8 ~~41.29b~~ 34.89 of Title 62 of the Oklahoma Statutes;

9 10. Sixty-six-hundredths percent (.66%) shall be placed to the
10 credit of the Tobacco Prevention and Cessation Revolving Fund
11 created in Section 1-105d of Title 63 of the Oklahoma Statutes;

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

14 12. For fiscal years beginning July 1, 2004, and ending June
15 30, 2006, fourteen and twenty-three-hundredths percent (14.23%)
16 shall be apportioned to municipalities and counties that levy a
17 sales tax, in the proportions which total municipal and county sales
18 tax revenue was apportioned by the Tax Commission in the preceding
19 month.

20 For fiscal years beginning July 1, 2006, and thereafter, the
21 apportionment percentage specified in paragraph 12 of this
22 subsection will be adjusted by dividing the total municipal and
23 county sales tax revenue collected in the calendar year immediately
24 preceding the commencement of the fiscal year by the sum of the

1 state sales tax revenue and total municipal and county sales tax
2 revenue collected in the same year. This ratio shall be divided by
3 the ratio of the total municipal and county sales tax revenue
4 collected in the calendar year beginning January 1, 2004, and ending
5 December 31, 2004, divided by the sum of the state sales tax revenue
6 and total municipal and county sales tax revenue collected in the
7 same year. The resulting quotient shall be multiplied by fourteen
8 and twenty-three-hundredths percent (14.23%) to determine the
9 apportionment percentage for the fiscal year.

10 For fiscal years beginning July 1, 2006, and thereafter, any
11 adjustment to the percentage of revenues apportioned to
12 municipalities and counties shall be reflected in the percent of
13 revenues apportioned to the General Revenue Fund.

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

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

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

5 3. Before July 1, 2008, eleven and thirty-nine-hundredths
6 percent (11.39%) shall be placed to the credit of the Trauma Care
7 Assistance Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of
8 Title 63 of the Oklahoma Statutes. On and after July 1, 2008,
9 eleven and thirty-nine-hundredths percent (11.39%) shall be
10 allocated as follows:

11 a. every month, an amount equal to the actual amount
12 placed to the credit of the Trauma Care Assistance
13 Revolving Fund pursuant to this paragraph for the same
14 month of the 2008 fiscal year shall be credited to the
15 Trauma Care Assistance Revolving Fund,

16 b. every month, any amount over and above the amount
17 placed to the credit of the Trauma Care Assistance
18 Revolving Fund pursuant to subparagraph a of this
19 paragraph shall be credited to the Oklahoma Emergency
20 Response Systems Stabilization and Improvement
21 Revolving Fund as created in Section ~~8~~ 1-2512.1 of
22 ~~this act~~ Title 63 of the Oklahoma Statutes until the
23 combined amount credited to the Oklahoma Emergency
24 Response Systems Stabilization and Improvement

1 Revolving Fund pursuant to this section and Section
2 302-5 of this title is equal to Two Million Five
3 Hundred Thousand Dollars (\$2,500,000.00) each year,
4 and

5 c. any additional revenue allocated pursuant to this
6 paragraph shall be placed to the credit of the Trauma
7 Care Assistance Revolving Fund;

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

12 5. Forty and six-hundredths percent (40.06%) shall be placed to
13 the credit of the Oklahoma Health Care Authority Medicaid Program
14 Fund created in Section 5020 of Title 63 of the Oklahoma Statutes
15 for the purposes of maintaining programs and services funded under
16 the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003",
17 reimbursing city/county-owned hospitals, increasing emergency room
18 physician rates, and providing TEFRA 134, also known as "Katie
19 Beckett" services;

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

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

5 8. One percent (1%) shall be placed to the credit of the
6 Tobacco Prevention and Cessation Revolving Fund created in Section
7 1-105d of Title 63 of the Oklahoma Statutes.

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

11 SECTION 7. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 402-4 of Title 68, unless there
13 is created a duplication in numbering, reads as follows:

14 A. For the purpose of providing revenue for the support of the
15 functions of state government, in addition to the tax levied in
16 Sections 402, 402-1 and 402-3 of Title 68 of the Oklahoma Statutes,
17 there shall be levied, assessed, collected and paid in respect to
18 the articles containing tobacco enumerated in Section 401 et seq. of
19 Title 68 of the Oklahoma Statutes, a tax in the following amounts:

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

23 B. 1. Except as provided in paragraph 2 of this subsection,
24 the revenue resulting from the additional tax levied in subsection A

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

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

9 3. a. Prior to July 1, 2018, the resulting revenues as
10 described by paragraphs 1 and 2 of this subsection
11 shall be apportioned by the Oklahoma Tax Commission
12 and transmitted to the State Treasurer who shall
13 deposit such revenue in the General Revenue Fund.

14 b. Beginning July 1, 2018, the resulting revenues as
15 described by paragraphs 1 and 2 of this subsection
16 shall be apportioned by the Oklahoma Tax Commission
17 and transmitted to the State Treasurer, who shall
18 deposit such revenue to the credit of the State Health
19 Care Enhancement Fund created in Section 3 of this
20 act.

21 c. No retailer shall advertise that the retailer will absorb
22 the tax due on the taxable merchandise described in this section.
23 Such tax shall be paid by the consumer.
24

1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 500.4B of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

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

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

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

10 B. All remaining revenue from the tax imposed by subsection A
11 of this section and penalties and interest thereon collected by the
12 Oklahoma Tax Commission, after the requirements of Section 500.63 of
13 this title have been fulfilled, shall be deposited as follows:

14 1. Prior to July 1, 2018, the remaining revenue shall be
15 apportioned by the Oklahoma Tax Commission and transmitted to the
16 State Treasurer who shall deposit such revenue in the General
17 Revenue Fund; and

18 2. Beginning July 1, 2018, the remaining revenue shall be
19 apportioned by the Oklahoma Tax Commission and transmitted to the
20 State Treasurer who shall deposit such revenue in the Rebuilding
21 Oklahoma Access and Driver Safety Fund created in Section 1521 of
22 Title 69 of the Oklahoma Statutes.

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

1 Section 500.10 Subject to the procedural requirements and
2 conditions set out in this section and Sections 500.11 through
3 500.17 of this title, the following are exempt from the ~~tax~~ taxes on
4 motor fuel imposed by Section 500.4 of this title ~~on motor fuel~~ and
5 Section 8 of this act:

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

8 a. exported by a supplier who is licensed in the
9 destination state, or

10 b. sold by a supplier to a licensed exporter for
11 immediate export;

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

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

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

8 5. Motor fuel sold to the United States or any agency or
9 instrumentality thereof;

10 6. Motor fuel used solely and exclusively in district-owned
11 public school vehicles or FFA and 4-H Club trucks for the purpose of
12 legally transporting public school children, and motor fuel
13 purchased by any school district for use exclusively in school buses
14 leased or hired for the purpose of legally transporting public
15 school children, or in the operation of vehicles used in driver
16 training;

17 7. Motor fuel used solely and exclusively as fuel to propel
18 motor vehicles on the public roads and highways of this state, when
19 leased or owned and being operated for the sole benefit of a county,
20 city, town, a volunteer fire department with a state certification
21 and rating, rural electric cooperatives, rural water and sewer
22 districts, rural irrigation districts organized under the Oklahoma
23 Irrigation District Act, conservancy districts and master
24 conservancy districts organized under the Conservancy Act of

1 Oklahoma, rural ambulance service districts, or federally recognized
2 Indian tribes;

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

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

13 10. Motor fuel sold within an Indian reservation or within
14 Indian country by a federally recognized Indian tribe to a member of
15 that tribe and used in motor vehicles owned by that member of the
16 tribe. This exemption does not apply to sales within an Indian
17 reservation or within Indian country by a federally recognized
18 Indian tribe to non-Indian consumers or to Indian consumers who are
19 not members of the tribe selling the motor fuel;

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

22 a. used to operate equipment attached to a motor vehicle,
23 if the diesel fuel was placed into the fuel supply
24 tank of a motor vehicle that has a common fuel

1 reservoir for travel on a highway and for the
2 operation of equipment, or

3 b. consumed by the vehicle while the vehicle is parked
4 off the highways of this state;

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

8 13. Diesel fuel used as heating oil, or in railroad locomotives
9 or any other motorized flanged-wheel rail equipment, or used for
10 other nonhighway purposes other than as expressly exempted under
11 another provision;

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

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

17 16. Dyed diesel fuel;

18 17. Motor fuel sold to the Oklahoma Space Industry Development
19 Authority or any spaceport user as defined in the Oklahoma Space
20 Industry Development Act; and

21 18. Biofuels or biodiesel produced by an individual with crops
22 grown on property owned by the same individual and used in a vehicle
23 owned by the same individual on the public roads and highways of
24 this state.

1 SECTION 10. AMENDATORY 69 O.S. 2011, Section 1521, as
2 last amended by Section 93, Chapter 15, O.S.L. 2013 (69 O.S. Supp.
3 2017, Section 1521), is amended to read as follows:

4 Section 1521. A. There is hereby created in the State Treasury
5 a fund to be known as the "Rebuilding Oklahoma Access and Driver
6 Safety Fund". The fund shall be a continuing fund, not subject to
7 fiscal year limitations, and shall consist of all appropriations and
8 transfers made by the Legislature. All monies accruing to the
9 credit of the fund are hereby appropriated and may be budgeted and
10 expended each fiscal year by the Department of Transportation for
11 the purposes authorized by subsection G of this section.

12 Expenditures from the fund shall be made upon warrants issued by the
13 State Treasurer against claims filed as prescribed by law with the
14 Director of the Office of Management and Enterprise Services for
15 approval and payment.

16 B. ~~There~~ Beginning July 1, 2018, except for an amount
17 equivalent to the amount of revenue apportioned pursuant to Section
18 8 of this act, there shall be apportioned to the funds specified in
19 this subsection from the monies that would otherwise be apportioned
20 to the General Revenue Fund by Section 2352 of Title 68 of the
21 Oklahoma Statutes from the revenues derived pursuant to subsections
22 A, B and E of Section 2355 of Title 68 of the Oklahoma Statutes
23 amounts as follows:
24

1 1. For each fiscal year, subject to the provisions of paragraph
2 3 of this subsection, and, except for the amount prescribed by
3 subparagraph a of this paragraph, subject to any reductions required
4 by subsection F of this section, there shall be apportioned to the
5 Rebuilding Oklahoma Access and Driver Safety Fund:

6 a. for the fiscal year beginning July 1, 2011, the first
7 Thirty-five Million Seven Hundred Thousand Dollars
8 (\$35,700,000.00), for the fiscal year beginning July
9 1, 2012, the first Forty-one Million Seven Hundred
10 Thousand Dollars (\$41,700,000.00) and for the fiscal
11 year beginning July 1, 2013, and for each fiscal year
12 thereafter, Fifty-nine Million Seven Hundred Thousand
13 Dollars (\$59,700,000.00), which shall be allocated and
14 used by the Department of Transportation first for the
15 purpose of making any required payments for principal,
16 interest or other costs of borrowing with respect to
17 the obligations issued pursuant to Section 341 of
18 Title 73 of the Oklahoma Statutes and after any such
19 required payment has been made then for the purposes
20 otherwise authorized by this section, plus

21 b. the total amount apportioned to the Rebuilding
22 Oklahoma Access and Driver Safety Fund for the
23 preceding fiscal year which, except for the amount
24 prescribed by subparagraph a of this paragraph, shall

1 be apportioned before any other amount is apportioned
2 pursuant to Section 2352 of Title 68 of the Oklahoma
3 Statutes, plus

- 4 c. an additional incremental amount which shall not be in
5 excess of the amount prescribed by subparagraph a of
6 this paragraph and that is required in order for the
7 total apportionment to the Rebuilding Oklahoma Access
8 and Driver Safety Fund from all sources for such
9 fiscal year to equal Five Hundred Seventy-five Million
10 Dollars (\$575,000,000.00).

11 All amounts apportioned pursuant to this paragraph shall be
12 divided into twelve equal amounts to be apportioned each month
13 during the fiscal year except the amount specified in subparagraph a
14 of this paragraph which amount shall be allocated in its full amount
15 in cash not later than July 30 each year or such later date as may
16 be required in order for the amount to be allocated in cash;

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

- 19 a. the next Two Million Dollars (\$2,000,000.00) shall be
20 apportioned to the Oklahoma Tourism and Passenger Rail
21 Revolving Fund created pursuant to Section 325 of
22 Title 66 of the Oklahoma Statutes to be used for
23 capital and operating costs for the "Heartland Flyer"
24 rail project, and

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

6 All amounts apportioned pursuant to this paragraph shall be
7 divided into twelve equal amounts to be apportioned each month
8 during the fiscal year; and

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

1 C. The apportionments of revenues required by subparagraphs a,
2 b and c of paragraph 1 of subsection B of this section shall be made
3 until the total annual apportionment from such sources in addition
4 to the apportionment made pursuant to Section 8 of this act to the
5 Rebuilding Oklahoma Access and Driver Safety Fund equals Five
6 Hundred Seventy-five Million Dollars (\$575,000,000.00). After such
7 annual apportionment level is reached, the apportionment to the fund
8 shall be governed by the provisions of paragraph 3 of subsection B
9 of this section.

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

13 E. In order to ensure that the funds from the ROADS Fund are
14 used to enhance and not supplant state funding for the Department of
15 Transportation, the State Board of Equalization shall examine and
16 investigate expenditures from the fund each year. For purposes of
17 this examination, monies used to retire outstanding debt obligations
18 for which the Department of Transportation is responsible shall be
19 excluded. At the meeting of the State Board of Equalization held
20 within five (5) days after the monthly apportionment in February of
21 each year, the State Board of Equalization shall issue a finding and
22 report which shall state whether expenditures from the ROADS Fund
23 were used to enhance or supplant state funding for the Department of
24 Transportation. If the State Board of Equalization finds that state

1 funding for the Department of Transportation was supplanted by funds
2 from the ROADS Fund, the Board shall specify the amount by which
3 such funding was supplanted. In this event, the Legislature shall
4 not make any appropriations for the ensuing fiscal year until an
5 appropriation in that amount is made to replenish state funding for
6 the Department of Transportation.

7 F. In the event that the Director of the Office of Management
8 and Enterprise Services declares a General Revenue Fund revenue
9 failure pursuant to Section 34.49 of Title 62 of the Oklahoma
10 Statutes, and agency allocations are reduced pursuant to the
11 provisions of Section 34.49 of Title 62 of the Oklahoma Statutes,
12 the amounts that would otherwise be apportioned to the ROADS Fund
13 by:

14 1. Subparagraph a of paragraph 1 of subsection B of this
15 section, only to the extent that the amount is not required for debt
16 service related to the obligations authorized pursuant to Section
17 341 of Title 73 of the Oklahoma Statutes;

18 2. Subparagraphs b and c of paragraph 1 of subsection B of this
19 section; and

20 3. Subparagraphs a and b of paragraph 2 of subsection B of this
21 section,
22 shall be reduced by a percentage equal to that required of the
23 General Revenue Fund appropriations to state agencies and such
24 reductions shall occur during the entire fiscal year and for any

1 month during which such reductions are required by the Office of
2 Management and Enterprise Services and by the same percentage as
3 that required of the agencies for such General Revenue Fund
4 appropriations.

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

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

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

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

14 4. Matching federal funds;

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

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

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

1 H. From the monies allocated pursuant to the provisions of
2 subparagraph a of paragraph 1 of subsection B of this section each
3 fiscal year, the Department of Transportation shall make payments
4 required for the payment of principal, interest and other costs
5 related to the obligations issued by the Oklahoma Capitol
6 Improvement Authority as authorized by Section 341 of Title 73 of
7 the Oklahoma Statutes and such payments shall be made by the
8 Department each fiscal year before such monies are used for any
9 other purpose.

10 SECTION 11. AMENDATORY 37 O.S. 2011, Section 576, as
11 last amended by Section 18, Chapter 298, O.S.L. 2014 (37 O.S. Supp.
12 2017, Section 576), is amended to read as follows:

13 Section 576. A. A tax at the rate of thirteen and one-half
14 percent (13.5%) is hereby levied and imposed on the total gross
15 receipts of a holder of a mixed beverage, caterer, public event or
16 special event license, issued by the ABLE Commission, and a retail
17 dealer licensed under Section 163.7 of this title to sell low-point
18 beer for consumption on premises, from:

19 1. The sale, preparation or service of mixed beverages and low-
20 point beer;

21 2. The total retail value of complimentary or discounted mixed
22 beverages and low-point beer;

23 3. Ice or nonalcoholic beverages that are sold, prepared or
24 served for the purpose of being mixed with alcoholic beverages and

1 low-point beer and consumed on the premises where the sale,
2 preparation or service occurs; and

3 4. Any charges for the privilege of admission to a mixed
4 beverage establishment or retail dealer establishment which entitle
5 a person to complimentary mixed beverages or discounted prices for
6 mixed beverages, or complimentary low-point beer or discounted
7 prices for low-point beer.

8 B. For purposes of this section:

9 1. "Mixed beverages" means mixed beverages as defined by
10 Section 506 of this title;

11 2. "Total gross receipts" means the total amount of
12 consideration received as charges for admission to a mixed beverage
13 establishment or retail dealer establishment as provided in
14 paragraph 4 of subsection A of this section and the total retail
15 sale price received for the sale, preparation or service of mixed
16 beverages, low-point beer, ice, and nonalcoholic beverages to be
17 mixed with alcoholic beverages and low-point beer. The advertised
18 price of a mixed beverage may be the sum of the total retail sale
19 price and the gross receipts tax levied thereon; ~~and~~

20 3. "Total retail value" means the total amount of consideration
21 that would be required for the sale, preparation or service of mixed
22 beverages; and

23 4. "Low-point beer" means low-point beer as defined by Section
24 163.2 of this title.

1 C. The gross receipts tax levied by this section shall be in
2 addition to the excise tax levied in Section 163.3 of this title,
3 the excise tax levied in Section 553 of this title, the sales tax
4 levied in the Oklahoma Sales Tax Code and to any municipal or county
5 sales taxes.

6 D. The gross receipts tax levied by this section is hereby
7 declared to be a direct tax upon the receipt of consideration for
8 any charges for admission to a mixed beverage establishment or
9 retail dealer establishment as provided in paragraph 4 of subsection
10 A of this section, for the sale, preparation or service of mixed
11 beverages, low-point beer, ice, and nonalcoholic beverages to be
12 mixed with alcoholic beverages and low-point beer, and the total
13 retail value of complimentary or discounted mixed beverages and low-
14 point beer.

15 E. The total of the retail sale price received for the sale,
16 preparation or service of mixed beverages, low-point beer, ice, and
17 nonalcoholic beverages to be mixed with alcoholic beverages and low-
18 point beer shall be the total gross receipts for purposes of
19 calculating the sales tax levied in the Oklahoma Sales Tax Code.

20 SECTION 12. AMENDATORY 68 O.S. 2011, Section 1001, as
21 last amended by Section 1, Chapter 355, O.S.L. 2017 (68 O.S. Supp.
22 2017, Section 1001), is amended to read as follows:
23
24

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

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

11 2. Effective July 1, 2013, through June 30, 2015, except as
12 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
13 this section, there shall be levied a tax equal to seven percent
14 (7%) of the gross value of the production of gas.

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

18 a. upon the production of oil a tax equal to seven
19 percent (7%) of the gross value of the production of
20 oil based on a per barrel measurement of forty-two
21 (42) U.S. gallons of two hundred thirty-one (231)
22 cubic inches per gallon, computed at a temperature of
23 sixty (60) degrees Fahrenheit,
24

- 1 b. upon the production of gas a tax equal to seven
2 percent (7%) of the gross value of the production of
3 gas, ~~and~~
- 4 c. notwithstanding the levies in subparagraphs a and b of
5 this paragraph, the production of oil, gas, or oil and
6 gas from wells spudded on or after July 1, 2015, and
7 prior to the effective date of this act, shall be
8 taxed at a rate of two percent (2%) commencing with
9 the month of first production for a period of thirty-
10 six (36) months. Thereafter, the production shall be
11 taxed as provided in subparagraphs a and b of this
12 paragraph, and
- 13 d. notwithstanding the levies in subparagraphs a and b of
14 this paragraph, the production of oil, gas, or oil and
15 gas from wells spudded on or after the effective date
16 of this act, shall be subject to a reduced rate of
17 four percent (4%) commencing with the month of first
18 production for a period of thirty-six (36) months.
19 Thereafter, the production shall be taxed as provided
20 in subparagraphs a and b of this paragraph.

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

1 D. 1. Except as otherwise provided in this section, for
2 secondary recovery projects approved or having an initial project
3 beginning date on or after July 1, 2000, and before July 1, 2017,
4 any incremental production attributable to the working interest
5 owners which results from such secondary recovery projects shall be
6 exempt from the gross production tax levied pursuant to this section
7 for a period not to exceed five (5) years from the initial project
8 beginning date or for a period ending upon the termination of the
9 secondary recovery process, whichever occurs first; provided
10 however, that the exemption provided by this paragraph shall not
11 apply to production occurring on or after July 1, 2017.

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

1 determining project payback. The capital expenses of pipelines
2 constructed to transport carbon dioxide to a tertiary recovery
3 project shall not be included in determining project payback
4 pursuant to this paragraph.

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

8 4. For purposes of this subsection:

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

1 production history of the field, its current status,
2 and sound reservoir engineering principles, and

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

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

13 6. For new secondary recovery projects and tertiary recovery
14 projects approved by the Corporation Commission on or after July 1,
15 1993, and before July 1, 2017, such approval shall constitute
16 qualification for an exemption.

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

21 8. The Tax Commission may require any person requesting such
22 exemption to furnish information or records concerning the exemption
23 as is deemed necessary by the Tax Commission.
24

1 9. Upon the expiration of the exemption granted pursuant to
2 this subsection, the Tax Commission shall collect the gross
3 production tax levied pursuant to this section.

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

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

19 3. For production commenced on or after July 1, 2011, and prior
20 to July 1, 2015, the tax levied pursuant to the provisions of this
21 section on the production of oil, gas or oil and gas from a
22 horizontally drilled well shall be reduced to a rate of one percent
23 (1%) for a period of forty-eight (48) months from the month of
24 initial production; provided however, such production occurring on

1 or after the effective date of this act for the remainder of such
2 forty-eight-month period shall be subject to a reduced rate of four
3 percent (4%). The taxes collected from the production of oil shall
4 be apportioned pursuant to the provisions of paragraph 7 of
5 subsection B of Section 1004 of this title. The taxes collected
6 from the production of gas shall be apportioned pursuant to the
7 provisions of paragraph 3 of subsection B of Section 1004 of this
8 title.

9 4. The production of oil, gas or oil and gas on or after July
10 1, 2011, and prior to July 1, 2015, from these qualifying wells
11 shall be taxed at a rate of one percent (1%) until the expiration of
12 forty-eight (48) months commencing with the month of initial
13 production.

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

20 F. 1. Except as otherwise provided by this section, the
21 severance or production of oil, gas or oil and gas from an inactive
22 well shall be exempt from the gross production tax levied pursuant
23 to subsection B of this section for a period of twenty-eight (28)
24 months from the date upon which production is reestablished;

1 provided however, that the exemption provided by this paragraph
2 shall not apply to production occurring on or after July 1, 2017.
3 This exemption shall take effect July 1, 1994, and shall apply to
4 wells for which work to reestablish or enhance production began on
5 or after July 1, 1994, and for which production is reestablished
6 prior to July 1, 2017. For all such production, a refund against
7 gross production taxes shall be issued as provided in subsection L
8 of this section.

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

1 G. 1. Except as otherwise provided by this section, any
2 incremental production which results from a production enhancement
3 project shall be exempt from the gross production tax levied
4 pursuant to subsection B of this section for a period of twenty-
5 eight (28) months from the date of first sale after project
6 completion of the production enhancement project; provided however,
7 that the exemption provided by this paragraph shall not apply to
8 production occurring on or after July 1, 2017. This exemption shall
9 take effect July 1, 1994, and shall apply to production enhancement
10 projects having a project beginning date on or after July 1, 1994,
11 and prior to July 1, 2017. For all such production, a refund
12 against gross production taxes shall be issued as provided in
13 subsection L of this section.

14 2. As used in this subsection:

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

1 produced as a result of the production enhancement
2 project in excess of the base production,

3 c. "base production" means the average monthly amount of
4 production for the twelve-month period immediately
5 prior to the commencement of the project or the
6 average monthly amount of production for the twelve-
7 month period immediately prior to the commencement of
8 the project less the monthly rate of production
9 decline for the project for each month beginning one
10 hundred eighty (180) days prior to the commencement of
11 the project. The monthly rate of production decline
12 shall be equal to the average extrapolated monthly
13 decline rate for the twelve-month period immediately
14 prior to the commencement of the project based on the
15 production history of the well. If the well or wells
16 covered in the application had production for less
17 than the full twelve-month period prior to the filing
18 of the application for the production enhancement
19 project, the base production shall be the average
20 monthly production for the months during that period
21 that the well or wells produced,

22 d. for production enhancement projects having a project
23 beginning date on or after July 1, 1997, and prior to
24 July 1, 2017, "recompletion" means any downhole

1 operation in an existing oil or gas well that is
2 conducted to establish production of oil or gas from
3 any geologic interval not currently completed or
4 producing in such existing oil or gas well within the
5 same or a different geologic formation, and

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

- 15 (1) acidizing,
- 16 (2) reperforating,
- 17 (3) fracture treating,
- 18 (4) sand/paraffin/scale removal or other wellbore
19 cleanouts,
- 20 (5) casing repair,
- 21 (6) squeeze cementing,
- 22 (7) installation of compression on a well or group of
23 wells or initial installation of artificial lifts
24 on gas wells, including plunger lifts, rod pumps,

1 submersible pumps and coiled tubing velocity
2 strings,
3 (8) downsizing existing tubing to reduce well
4 loading,
5 (9) downhole commingling,
6 (10) bacteria treatments,
7 (11) upgrading the size of pumping unit equipment,
8 (12) setting bridge plugs to isolate water production
9 zones, or
10 (13) any combination thereof.

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

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

18 2. Except as otherwise provided in subsection K of this
19 section:

20 a. the production of oil, gas or oil and gas from wells
21 spudded between July 1, 1997, and July 1, 2005, and
22 drilled to a depth of twelve thousand five hundred
23 (12,500) feet or greater and wells spudded between
24 July 1, 2005, and July 1, 2015, and drilled to a depth

1 between twelve thousand five hundred (12,500) feet and
2 fourteen thousand nine hundred ninety-nine (14,999)
3 feet shall be exempt from the gross production tax
4 levied pursuant to subsection B of this section from
5 the date of first sales for a period of twenty-eight
6 (28) months; provided however, that the exemption
7 provided by this subparagraph shall not apply to
8 production occurring on or after July 1, 2017,

9 b. the production of oil, gas or oil and gas from wells
10 spudded between July 1, 2002, and July 1, 2005, and
11 drilled to a depth of fifteen thousand (15,000) feet
12 or greater and wells spudded between July 1, 2005, and
13 July 1, 2011, and drilled to a depth between fifteen
14 thousand (15,000) feet and seventeen thousand four
15 hundred ninety-nine (17,499) feet shall be exempt from
16 the gross production tax levied pursuant to subsection
17 B of this section from the date of first sales for a
18 period of forty-eight (48) months,

19 c. the production of oil, gas or oil and gas from wells
20 spudded between July 1, 2002, and July 1, 2011, and
21 drilled to a depth of seventeen thousand five hundred
22 (17,500) feet or greater shall be exempt from the
23 gross production tax levied pursuant to subsection B
24

1 of this section from the date of first sales for a
2 period of sixty (60) months,

- 3 d. 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 between fifteen thousand
7 (15,000) feet and seventeen thousand four hundred
8 ninety-nine (17,499) feet shall be reduced to a rate
9 of four percent (4%) for a period of forty-eight (48)
10 months from the date of first sales. The taxes
11 collected from the production of oil shall be
12 apportioned pursuant to the provisions of paragraph 7
13 of subsection B of Section 1004 of this title. The
14 taxes collected from the production of gas shall be
15 apportioned pursuant to the provisions of paragraph 3
16 of subsection B of Section 1004 of this title,
- 17 e. the tax levied pursuant to the provisions of this
18 section on the production of oil, gas or oil and gas
19 from wells spudded between July 1, 2011, and July 1,
20 2015, and drilled to a depth of seventeen thousand
21 five hundred (17,500) feet or greater shall be reduced
22 to a rate of four percent (4%) for a period of sixty
23 (60) months from the date of first sales. The taxes
24 collected from the production of oil shall be

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

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

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

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

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

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

quantities that is more than two (2) miles from the nearest gas well producing from the same producing interval; or

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

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

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

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

K. 1. The exemptions provided for in subsections F, G, I and J of this section, the exemption provided for in subparagraph a of

1 paragraph 2 of subsection H of this section, and the exemptions
2 provided for in subparagraphs b and c of paragraph 2 of subsection H
3 of this section for production from wells spudded before July 1,
4 2005, shall not apply:

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

18 (1) The "average annual index price" will be
19 calculated by multiplying the West Texas
20 Intermediate closing price by the "index price
21 ratio". The index price ratio is defined as the
22 immediate preceding three-year historical average
23 ratio of the actual weighted average wellhead
24

price to the West Texas Intermediate close price published on the last business day of each month.

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

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

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

c. to the severance or production of gas, upon determination by the Tax Commission that the average annual index price of Oklahoma gas exceeds Five Dollars (\$5.00) per thousand cubic feet (mcf) calculated on an annual calendar year basis as adjusted for inflation using the Consumer Price Index-All Urban Consumers (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor or its successor agency. Such adjustment shall be based on the most current data available for the preceding

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

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

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

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

21 2. Notwithstanding the exemptions granted pursuant to
22 subsections F, G, I, J, paragraph 1 of subsection E, and
23 subparagraph a of paragraph 2 of subsection H of this section, there
24 shall continue to be levied upon the production of petroleum or

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

- 8 a. fifty percent (50%) of the sum collected shall be
9 apportioned to the County Highway Fund as provided in
10 subparagraph b of paragraph 1 of subsection B of
11 Section 1004 of this title, and
- 12 b. fifty percent (50%) of the sum collected shall be
13 apportioned to the appropriate school district as
14 provided in subparagraph c of paragraph 1 of
15 subsection B of Section 1004 of this title.

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

19 L. 1. Prior to July 1, 2015, and except as provided in
20 subsection M of this section, for all oil and gas production exempt
21 from gross production taxes pursuant to subsections E, F, G, H, I
22 and J of this section during a given fiscal year, a refund of gross
23 production taxes shall be issued to the well operator or a designee
24

1 in the amount of such gross production taxes paid during such
2 period, subject to the following provisions:

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

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

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

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

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

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

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

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

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

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

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

3 N. 1. The Corporation Commission and the Tax Commission shall
4 promulgate joint rules for the qualification for the exemptions
5 provided for in this section and the rules shall contain provisions
6 for verification of any wells from which production may be qualified
7 for the exemptions. The Tax Commission shall adopt rules and
8 regulations which establish guidelines for production of oil or gas
9 after July 1, 2011, which is exempt from tax pursuant to the
10 provisions of paragraph 1 of subsection E and subparagraphs b and c
11 of paragraph 2 of subsection H of this section to remit tax at the
12 reduced rate provided in paragraph 2 of subsection E and
13 subparagraphs d and e of paragraph 2 of subsection H of this section
14 until the end of the qualifying exemption period.

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

19 3. Any person seeking an exemption shall:

20 a. file an application for the exemption with the Tax
21 Commission which, upon determination of qualification
22 by the Corporation Commission, shall approve the
23 application for an exemption, and
24

1 b. provide a copy of the approved application to the
2 remitter of the gross production tax.

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

6 5. Upon the expiration of an exemption granted pursuant to this
7 section, the Tax Commission shall collect the gross production tax
8 levied pursuant to this section. If a person who qualifies for the
9 exemption elects to remit his or her own gross production tax during
10 the exemption period, the first purchaser shall not be liable to
11 withhold or remit the tax until the first day of the month following
12 the receipt of written notification from the person who is qualified
13 for such exemption stating that such exemption has expired and
14 directing the first purchaser to resume tax remittance on his or her
15 behalf.

16 O. 1. Prior to July 1, 2015, persons shall only be entitled to
17 either the exemption granted pursuant to subsection D of this
18 section or the exemption granted pursuant to subsection E, F, G, H,
19 I or J of this section for each oil, gas or oil and gas well drilled
20 or recompleted in this state. However, any person who qualifies for
21 the exemption granted pursuant to subsection E, F, G, H, I or J of
22 this section shall not be prohibited from qualification for the
23 exemption granted pursuant to subsection D of this section, if the
24

1 exemption granted pursuant to subsection E, F, G, H, I or J of this
2 section has expired.

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

15 P. The Tax Commission shall have the power to require any such
16 person engaged in mining or the production or the purchase of such
17 asphalt, mineral ores aforesaid, oil, or gas, or the owner of any
18 royalty interest therein to furnish any additional information by it
19 deemed to be necessary for the purpose of correctly computing the
20 amount of the tax; and to examine the books, records and files of
21 such person; and shall have power to conduct hearings and compel the
22 attendance of witnesses, and the production of books, records and
23 papers of any person.

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

18 R. The Tax Commission shall have the power and authority to
19 ascertain and determine whether or not any report herein required to
20 be filed with it is a true and correct report of the gross products,
21 and of the value thereof, of such person engaged in the mining or
22 production or purchase of asphalt and ores bearing minerals
23 aforesaid and of oil and gas. If any person has made an untrue or
24 incorrect report of the gross production or value or volume thereof,

1 or shall have failed or refused to make such report, the Tax
2 Commission shall, under the rules prescribed by it, ascertain the
3 correct amount of either, and compute the tax.

4 S. The payment of the taxes herein levied shall be in full, and
5 in lieu of all taxes by the state, counties, cities, towns, school
6 districts and other municipalities upon any property rights attached
7 to or inherent in the right to the minerals, upon producing leases
8 for the mining of asphalt and ores bearing lead, zinc, jack or
9 copper, or for oil, or for gas, upon the mineral rights and
10 privileges for the minerals aforesaid belonging or appertaining to
11 land, upon the machinery, appliances and equipment used in and
12 around any well producing oil, or gas, or any mine producing asphalt
13 or any of the mineral ores aforesaid and actually used in the
14 operation of such well or mine. The payment of gross production tax
15 shall also be in lieu of all taxes upon the oil, gas, asphalt or
16 ores bearing minerals hereinbefore mentioned during the tax year in
17 which the same is produced, and upon any investment in any of the
18 leases, rights, privileges, minerals or other property described
19 herein. Any interest in the land, other than that herein
20 enumerated, and oil in storage, asphalt and ores bearing minerals
21 hereinbefore named, mined, produced and on hand at the date as of
22 which property is assessed for general and ad valorem taxation for
23 any subsequent tax year, shall be assessed and taxed as other
24

1 property within the taxing district in which such property is
2 situated at the time.

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

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

21 SECTION 13. REPEALER 37 O.S. 2011, Section 576, as last
22 amended by Section 11 of this act, is hereby repealed.

23 SECTION 14. REPEALER 68 O.S. 2011, Section 402-2, is
24 hereby repealed.

1 SECTION 15. Section 10 of this act shall become effective July
2 1, 2018.

3 SECTION 16. Section 13 of this act shall become effective
4 October 1, 2018.

5
6 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS
7 AND BUDGET, dated 11/07/2017 - DO PASS, As Amended.

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OKLAHOMA HOUSE OF REPRESENTATIVES
COMMITTEE REPORT

11/7/2017 4:17:51 PM

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET COMMITTEE

HB1054

By: Wallace et al of the House

David et al of the Senate

Title: Public finance; FY 18 Budget Adjustment Act; emergency.

Coauthored By:

Recommendation: **DO PASS AS AMENDED BY CS**

Amendments:

1. Committee Substitute Attached



Chr.

Representative Kevin Wallace

YEAS: 19

Caldwell, Casey, Cockroft, Dunnington, Echols, Jordan, Kannady, Loring, Ortega, Osborn (L), Ownbey, Pfeiffer, Roberts (D), Russ, Sanders, Sears, Virgin, Wallace, Watson

NAYS: 6

Calvey, Kouplen, Lepak, Murphey, Proctor, Stone

CONSTITUTIONAL PRIVILEGE: 0

OKLAHOMA STATE SENATE
JOINT

COMMITTEE REPORT

November 7, 2017

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

HB 1054

By: Wallace of the House and David and Fields of the Senate

Title: Public finance; FY 18 Budget Adjustment Act; emergency.

Recommendation: **DO PASS AS AMENDED**

Aye: Boggs, Holt, McCortney, Pittman, Simpson, Sparks, Stanislawski, Thompson, Fields, David, Schulz, Treat

Nay: Newberry

Pass:

Senator Kim David, Chair

Committee Substitute, motion by Senator DAVID - Adopted (Request No: 50214)

STATE OF OKLAHOMA

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

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1054

By: Wallace and Casey of the
House

and

David and Fields of the
Senate

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; stating purpose; imposing additional tax levy upon cigarettes; specifying amount of additional levy; providing for apportionment of revenues; exempting levy from inclusion in determination of certain amounts; requiring certain collections and administration of levy; prohibiting sale of cigarette excise tax stamps to wholesalers in excess of certain amount; providing exception; creating the State Health Care Enhancement Fund; exempting fund from fiscal year limitations; identifying funding source; authorizing appropriations from fund for certain purpose; amending 68 O.S. 2011, Sections 402, 402-1 and 402-3, which relate to tax levies on tobacco products; providing that little cigars be taxed in the same rate and manner as cigarettes; clarifying language; imposing additional tax levy upon chewing tobacco; specifying amount of additional levy; providing for apportionment of revenues; prohibiting certain acts; declaring levy as a tax on the consumer; stating purpose; imposing tax on gasoline and diesel fuel; establishing amount of tax per gallon; requiring deposit of certain revenue, penalties and interest in certain fund; amending 68 O.S. 2011, Section 500.10, which relates to exemption from motor fuels tax; extending exemptions to additional tax levy; amending 69 O.S. 2011, Section

1 1521, as last amended by Section 93, Chapter 15,
2 O.S.L. 2013 (69 O.S. Supp. 2017, Section 1521), which
3 relates to the Rebuilding Oklahoma Access and Driver
4 Safety Fund; modifying calculation of certain annual
5 apportionments; amending 37 O.S. 2011, Section 576,
6 as last amended by Section 18, Chapter 298, O.S.L.
7 2014 (37 O.S. Supp. 2017, Section 576), which relates
8 to gross receipts taxes on products sold by certain
9 licensees; making applicable to low-point beer;
10 defining term; providing that tax be in addition to
11 other taxes; amending 68 O.S. 2011, Section 1001, as
12 last amended by 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;
repealing 37 O.S. 2011, Section 576, as last amended
by Section 11 of this act, which relates to gross
receipts taxes on products sold by certain licensees;
repealing 68 O.S. 2011, Section 402-2, which relates
to additional tax on tobacco products; providing for
codification; providing for noncodification; and
providing effective dates.

13
14
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

19 A. For the purpose of providing revenue for the support of the
20 functions of state government, in addition to the tax levied in
21 Sections 302, 302-1, 302-2, 302-3, 302-4 and 302-5 of Title 68 of
22 the Oklahoma Statutes, there is hereby levied upon the sale, use,
23 gift, possession or consumption of cigarettes, as defined in
24 Sections 301 through 325 of Title 68 of the Oklahoma Statutes,

1 within this state, a tax at the rate of seventy-five (75) mills per
2 cigarette.

3 B. 1. Except as provided in paragraph 2 of this subsection,
4 the revenue resulting from the additional tax levied in subsection A
5 of this section shall be apportioned as provided in paragraph 3 of
6 this subsection.

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

13 3. a. Prior to July 1, 2018, the resulting revenues as
14 described by paragraphs 1 and 2 of this subsection
15 shall be apportioned by the Oklahoma Tax Commission
16 and transmitted to the State Treasurer who shall
17 deposit such revenue in the General Revenue Fund.

18 b. Beginning July 1, 2018, the resulting revenues as
19 described by paragraphs 1 and 2 of this subsection
20 shall be apportioned by the Oklahoma Tax Commission
21 and transmitted to the State Treasurer, who shall
22 deposit such revenue to the credit of the State Health
23 Care Enhancement Fund, created in Section 3 of this
24 act.

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

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

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

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

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

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

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

1 SECTION 18. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

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

12 SECTION 19. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 302-7a of Title 68, unless there
14 is created a duplication in numbering, reads as follows:

15 There is hereby created in the State Treasury a fund to be
16 designated the "State Health Care Enhancement Fund". The fund shall
17 be a continuing fund, not subject to fiscal year limitations, and
18 shall consist of monies received pursuant to Sections 1 and 7 of
19 this act and any monies designated to the fund by law. All monies
20 accruing to the credit of the fund shall be appropriated at the
21 discretion of the Legislature for the purpose of enhancing the
22 health of Oklahomans.

23 SECTION 20. AMENDATORY 68 O.S. 2011, Section 402, is
24 amended to read as follows:

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

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

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

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

23 4. Smoking Tobacco. Upon all smoking tobacco including
24 granulated, plug cut, crimp cut, ready rubbed and other kinds and

1 forms of tobacco prepared in such manner as to be suitable for
2 smoking in a pipe or cigarette, the tax shall be twenty-five percent
3 (25%) of the factory list price exclusive of any trade discount,
4 special discount or deals; and

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

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

11 Notwithstanding any other provision of law, the tax levied pursuant
12 to the provisions of Section 401 et seq. of this title shall be part
13 of the gross proceeds or gross receipts from the sale of cigars or
14 tobacco products, or both, as those terms are defined in paragraph 7
15 12 of Section 1352 of this title.

16 SECTION 21. AMENDATORY 68 O.S. 2011, Section 402-1, is
17 amended to read as follows:

18 Section 402-1. In addition to the tax levied by Section 402 of
19 this title, there is hereby levied upon the sale, use, exchange or
20 possession of articles containing tobacco as defined in said Section
21 402, a tax in the following amounts:

22 (a) ~~Upon little cigars of all descriptions made of tobacco, or~~
23 ~~any substitute therefor, and weighing not more than three (3) pounds~~
24 ~~per thousand, two and one-half (2 1/2) mills for each cigar.~~

1 ~~Provided, that the tax levied on the products coming under this~~
2 ~~paragraph shall not apply if the tax on such products is reported~~
3 ~~and paid as cigarette tax under Sections 301 through 325 of this~~
4 ~~title.~~

5 ~~(b)~~ Upon cigars of all descriptions made of tobacco, or any
6 substitute therefor, and weighing more than three (3) pounds per
7 thousand, and having a manufacturer's recommended retail selling
8 price, under the Federal Code, of more than four cents (\$0.04) for
9 each cigar, Ten Dollars (\$10.00) per thousand. For the purpose of
10 computing the tax, cheroots, stogies, etc., are hereby classed as
11 cigars;

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

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

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

23 ~~(e)~~ The tax herein levied on tobacco products shall be evidenced
24 by stamps and collected on the same basis and in the same manner and

1 in all respects as the tax levied by the Tobacco Products Tax Law.
2 The revenue from this additional tax shall be apportioned by the
3 Oklahoma Tax Commission in the same manner as provided in Section
4 404 of this title, for the apportionment of other tobacco products
5 tax revenue.

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

8 Section 402-3. A. In addition to the tax levied in Sections
9 402, and 402-1 ~~and 402-2~~ of this title, effective January 1, 2005,
10 there shall be levied, assessed, collected, and paid in respect to
11 the articles containing tobacco enumerated in Section 401 et seq. of
12 this title, a tax in the following amounts:

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

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

1 ~~3.~~ 2. Smoking Tobacco. Upon all smoking tobacco including
2 granulated, plug cut, crimp cut, ready rubbed and other kinds and
3 forms of tobacco prepared in such manner as to be suitable for
4 smoking in a pipe or cigarette, the tax shall be forty percent (40%)
5 of the factory list price exclusive of any trade discount, special
6 discount or deals; and

7 ~~4.~~ 3. Chewing Tobacco. Upon chewing tobacco, smokeless
8 tobacco, and snuff, the tax shall be thirty percent (30%) of the
9 factory list price exclusive of any trade discount, special discount
10 or deals.

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

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

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

22 3. Before July 1, 2008, seven and fifty-hundredths percent
23 (7.50%) shall be placed to the credit of the Trauma Care Assistance
24 Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of Title 63 of the

Oklahoma Statutes. On and after July 1, 2008, seven and fifty-hundredths percent (7.50%) shall be allocated as follows:

- a. every month, an amount equal to the actual amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to this paragraph for the same month of the 2008 fiscal year shall be credited to the Trauma Care Assistance Revolving Fund,
- b. every month, any amount over and above the amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to subparagraph a of this paragraph shall be credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund as created in Section ~~8~~ 1-2512.1 of ~~this act~~ Title 63 of the Oklahoma Statutes until the combined amount credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund pursuant to this section and Section 302-5 of this title is equal to Two Million Five Hundred Thousand Dollars (\$2,500,000.00) each year, and
- c. any additional revenue allocated pursuant to this paragraph shall be placed to the credit of the Trauma Care Assistance Revolving Fund;

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

5 5. Twenty-six and thirty-eight-hundredths percent (26.38%)
6 shall be placed to the credit of the Oklahoma Health Care Authority
7 Medicaid Program Fund created in Section 5020 of Title 63 of the
8 Oklahoma Statutes for the purposes of maintaining programs and
9 services funded under the federal "Jobs and Growth Tax Relief
10 Reconciliation Act of 2003", reimbursing city/county-owned
11 hospitals, increasing emergency room physician rates, and providing
12 TEFRA 134, also known as "Katie Beckett" services;

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

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

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

1 9. Two and seven-hundredths percent (2.07%) shall be placed to
2 the credit of the Education Reform Revolving Fund created in Section
3 ~~41.29b~~ 34.89 of Title 62 of the Oklahoma Statutes;

4 10. Sixty-six-hundredths percent (.66%) shall be placed to the
5 credit of the Tobacco Prevention and Cessation Revolving Fund
6 created in Section 1-105d of Title 63 of the Oklahoma Statutes;

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

9 12. For fiscal years beginning July 1, 2004, and ending June
10 30, 2006, fourteen and twenty-three-hundredths percent (14.23%)
11 shall be apportioned to municipalities and counties that levy a
12 sales tax, in the proportions which total municipal and county sales
13 tax revenue was apportioned by the Tax Commission in the preceding
14 month.

15 For fiscal years beginning July 1, 2006, and thereafter, the
16 apportionment percentage specified in paragraph 12 of this
17 subsection will be adjusted by dividing the total municipal and
18 county sales tax revenue collected in the calendar year immediately
19 preceding the commencement of the fiscal year by the sum of the
20 state sales tax revenue and total municipal and county sales tax
21 revenue collected in the same year. This ratio shall be divided by
22 the ratio of the total municipal and county sales tax revenue
23 collected in the calendar year beginning January 1, 2004, and ending
24 December 31, 2004, divided by the sum of the state sales tax revenue

1 and total municipal and county sales tax revenue collected in the
2 same year. The resulting quotient shall be multiplied by fourteen
3 and twenty-three-hundredths percent (14.23%) to determine the
4 apportionment percentage for the fiscal year.

5 For fiscal years beginning July 1, 2006, and thereafter, any
6 adjustment to the percentage of revenues apportioned to
7 municipalities and counties shall be reflected in the percent of
8 revenues apportioned to the General Revenue Fund.

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

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

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

24

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

7 a. every month, an amount equal to the actual amount
8 placed to the credit of the Trauma Care Assistance
9 Revolving Fund pursuant to this paragraph for the same
10 month of the 2008 fiscal year shall be credited to the
11 Trauma Care Assistance Revolving Fund,

12 b. every month, any amount over and above the amount
13 placed to the credit of the Trauma Care Assistance
14 Revolving Fund pursuant to subparagraph a of this
15 paragraph shall be credited to the Oklahoma Emergency
16 Response Systems Stabilization and Improvement
17 Revolving Fund as created in Section ~~§~~ 1-2512.1 of
18 ~~this act~~ Title 63 of the Oklahoma Statutes until the
19 combined amount credited to the Oklahoma Emergency
20 Response Systems Stabilization and Improvement
21 Revolving Fund pursuant to this section and Section
22 302-5 of this title is equal to Two Million Five
23 Hundred Thousand Dollars (\$2,500,000.00) each year,
24 and

1 c. any additional revenue allocated pursuant to this
2 paragraph shall be placed to the credit of the Trauma
3 Care Assistance Revolving Fund;

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

8 5. Forty and six-hundredths percent (40.06%) shall be placed to
9 the credit of the Oklahoma Health Care Authority Medicaid Program
10 Fund created in Section 5020 of Title 63 of the Oklahoma Statutes
11 for the purposes of maintaining programs and services funded under
12 the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003",
13 reimbursing city/county-owned hospitals, increasing emergency room
14 physician rates, and providing TEFRA 134, also known as "Katie
15 Beckett" services;

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

20 7. Sixty-seven-hundredths percent (0.67%) shall be placed to
21 the credit of the Belle Maxine Hilliard Breast and Cervical Cancer
22 Treatment Revolving Fund created in Section 1-559 of Title 63 of the
23 Oklahoma Statutes; and
24

1 8. One percent (1%) shall be placed to the credit of the
2 Tobacco Prevention and Cessation Revolving Fund created in Section
3 1-105d of Title 63 of the Oklahoma Statutes.

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

7 SECTION 23. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 402-4 of Title 68, unless there
9 is created a duplication in numbering, reads as follows:

10 A. For the purpose of providing revenue for the support of the
11 functions of state government, in addition to the tax levied in
12 Sections 402, 402-1 and 402-3 of Title 68 of the Oklahoma Statutes,
13 there shall be levied, assessed, collected and paid in respect to
14 the articles containing tobacco enumerated in Section 401 et seq. of
15 Title 68 of the Oklahoma Statutes, a tax in the following amounts:

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

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

23 2. The net amount of any revenue resulting from a payment in
24 lieu of excise taxes on chewing tobacco levied by this section,

1 which net amount shall be calculated after deductions for rebates
2 owed pursuant to a compact with a federally recognized Indian tribe
3 or nation, shall be apportioned as provided in paragraph 3 of this
4 subsection.

5 3. a. Prior to July 1, 2018, the resulting revenues as
6 described by paragraphs 1 and 2 of this subsection
7 shall be apportioned by the Oklahoma Tax Commission
8 and transmitted to the State Treasurer who shall
9 deposit such revenue in the General Revenue Fund.

10 b. Beginning July 1, 2018, the resulting revenues as
11 described by paragraphs 1 and 2 of this subsection
12 shall be apportioned by the Oklahoma Tax Commission
13 and transmitted to the State Treasurer, who shall
14 deposit such revenue to the credit of the State Health
15 Care Enhancement Fund created in Section 3 of this
16 act.

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

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

23 A. For the purpose of providing revenue for the support of the
24 functions of state government, in addition to the tax imposed by

1 Section 500.4 of Title 68 of the Oklahoma Statutes, there is hereby
2 imposed a tax of six cents (\$0.06) per gallon on all:

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

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

5 B. All remaining revenue from the tax imposed by subsection A
6 of this section and penalties and interest thereon collected by the
7 Oklahoma Tax Commission, after the requirements of Section 500.63 of
8 this title have been fulfilled, shall be deposited as follows:

9 1. Prior to July 1, 2018, the remaining revenue shall be
10 apportioned by the Oklahoma Tax Commission and transmitted to the
11 State Treasurer who shall deposit such revenue in the General
12 Revenue Fund; and

13 2. Beginning July 1, 2018, the remaining revenue shall be
14 apportioned by the Oklahoma Tax Commission and transmitted to the
15 State Treasurer who shall deposit such revenue in the Rebuilding
16 Oklahoma Access and Driver Safety Fund created in Section 1521 of
17 Title 69 of the Oklahoma Statutes.

18 SECTION 25. AMENDATORY 68 O.S. 2011, Section 500.10, is
19 amended to read as follows:

20 Section 500.10 Subject to the procedural requirements and
21 conditions set out in this section and Sections 500.11 through
22 500.17 of this title, the following are exempt from the ~~tax~~ taxes on
23 motor fuel imposed by Section 500.4 of this title ~~on motor fuel and~~
24 Section 8 of this act:

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

3 a. exported by a supplier who is licensed in the
4 destination state, or

5 b. sold by a supplier to a licensed exporter for
6 immediate export;

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

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

19 4. K-1 kerosene sold at retail through dispensers which have
20 been designed and constructed to prevent delivery directly from the
21 dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at
22 retail through nonbarricaded dispensers in quantities of not more
23 than twenty-one (21) gallons for use other than for highway
24

1 purposes, under such rules as the Tax Commission shall reasonably
2 require;

3 5. Motor fuel sold to the United States or any agency or
4 instrumentality thereof;

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

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

22 8. Motor fuel used as fuel for farm tractors or stationary
23 engines owned or leased and operated by any person and used
24 exclusively for agricultural purposes, except as to two and eight

1 one-hundredths cents (\$0.0208) per gallon of gasoline as provided in
2 subsection C of Section 500.4 of this title;

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

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

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

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

24

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

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

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

10 15. Taxable diesel which had been accidentally contaminated by
11 dye so as to be unsaleable as highway fuel as proved by proper
12 documentation;

13 16. Dyed diesel fuel;

14 17. Motor fuel sold to the Oklahoma Space Industry Development
15 Authority or any spaceport user as defined in the Oklahoma Space
16 Industry Development Act; and

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

21 SECTION 26. AMENDATORY 69 O.S. 2011, Section 1521, as
22 last amended by Section 93, Chapter 15, O.S.L. 2013 (69 O.S. Supp.
23 2017, Section 1521), is amended to read as follows:
24

1 Section 1521. A. There is hereby created in the State Treasury
2 a fund to be known as the "Rebuilding Oklahoma Access and Driver
3 Safety Fund". The fund shall be a continuing fund, not subject to
4 fiscal year limitations, and shall consist of all appropriations and
5 transfers made by the Legislature. All monies accruing to the
6 credit of the fund are hereby appropriated and may be budgeted and
7 expended each fiscal year by the Department of Transportation for
8 the purposes authorized by subsection G of this section.

9 Expenditures from the fund shall be made upon warrants issued by the
10 State Treasurer against claims filed as prescribed by law with the
11 Director of the Office of Management and Enterprise Services for
12 approval and payment.

13 B. ~~There~~ Beginning July 1, 2018, except for an amount
14 equivalent to the amount of revenue apportioned pursuant to Section
15 8 of this act, there shall be apportioned to the funds specified in
16 this subsection from the monies that would otherwise be apportioned
17 to the General Revenue Fund by Section 2352 of Title 68 of the
18 Oklahoma Statutes from the revenues derived pursuant to subsections
19 A, B and E of Section 2355 of Title 68 of the Oklahoma Statutes
20 amounts as follows:

21 1. For each fiscal year, subject to the provisions of paragraph
22 3 of this subsection, and, except for the amount prescribed by
23 subparagraph a of this paragraph, subject to any reductions required
24

1 by subsection F of this section, there shall be apportioned to the
2 Rebuilding Oklahoma Access and Driver Safety Fund:

3 a. for the fiscal year beginning July 1, 2011, the first
4 Thirty-five Million Seven Hundred Thousand Dollars
5 (\$35,700,000.00), for the fiscal year beginning July
6 1, 2012, the first Forty-one Million Seven Hundred
7 Thousand Dollars (\$41,700,000.00) and for the fiscal
8 year beginning July 1, 2013, and for each fiscal year
9 thereafter, Fifty-nine Million Seven Hundred Thousand
10 Dollars (\$59,700,000.00), which shall be allocated and
11 used by the Department of Transportation first for the
12 purpose of making any required payments for principal,
13 interest or other costs of borrowing with respect to
14 the obligations issued pursuant to Section 341 of
15 Title 73 of the Oklahoma Statutes and after any such
16 required payment has been made then for the purposes
17 otherwise authorized by this section, plus

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

1 c. an additional incremental amount which shall not be in
2 excess of the amount prescribed by subparagraph a of
3 this paragraph and that is required in order for the
4 total apportionment to the Rebuilding Oklahoma Access
5 and Driver Safety Fund from all sources for such
6 fiscal year to equal Five Hundred Seventy-five Million
7 Dollars (\$575,000,000.00).

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

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

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

22 b. the next Three Million Dollars (\$3,000,000.00) shall
23 be apportioned to the Public Transit Revolving Fund
24 created pursuant to Section 4031 of this title to be

1 used for purposes authorized by law other than the
2 purpose described by subparagraph a of this paragraph.

3 All amounts apportioned pursuant to this paragraph shall be
4 divided into twelve equal amounts to be apportioned each month
5 during the fiscal year; and

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

22 C. The apportionments of revenues required by subparagraphs a,
23 b and c of paragraph 1 of subsection B of this section shall be made
24 until the total annual apportionment from such sources in addition

1 to the apportionment made pursuant to Section 8 of this act to the
2 Rebuilding Oklahoma Access and Driver Safety Fund equals Five
3 Hundred Seventy-five Million Dollars (\$575,000,000.00). After such
4 annual apportionment level is reached, the apportionment to the fund
5 shall be governed by the provisions of paragraph 3 of subsection B
6 of this section.

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

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

1 not make any appropriations for the ensuing fiscal year until an
2 appropriation in that amount is made to replenish state funding for
3 the Department of Transportation.

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

11 1. Subparagraph a of paragraph 1 of subsection B of this
12 section, only to the extent that the amount is not required for debt
13 service related to the obligations authorized pursuant to Section
14 341 of Title 73 of the Oklahoma Statutes;

15 2. Subparagraphs b and c of paragraph 1 of subsection B of this
16 section; and

17 3. Subparagraphs a and b of paragraph 2 of subsection B of this
18 section,
19 shall be reduced by a percentage equal to that required of the
20 General Revenue Fund appropriations to state agencies and such
21 reductions shall occur during the entire fiscal year and for any
22 month during which such reductions are required by the Office of
23 Management and Enterprise Services and by the same percentage as
24

1 that required of the agencies for such General Revenue Fund
2 appropriations.

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

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

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

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

12 4. Matching federal funds;

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

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

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

22 H. From the monies allocated pursuant to the provisions of
23 subparagraph a of paragraph 1 of subsection B of this section each
24 fiscal year, the Department of Transportation shall make payments

1 required for the payment of principal, interest and other costs
2 related to the obligations issued by the Oklahoma Capitol
3 Improvement Authority as authorized by Section 341 of Title 73 of
4 the Oklahoma Statutes and such payments shall be made by the
5 Department each fiscal year before such monies are used for any
6 other purpose.

7 SECTION 27. AMENDATORY 37 O.S. 2011, Section 576, as
8 last amended by Section 18, Chapter 298, O.S.L. 2014 (37 O.S. Supp.
9 2017, Section 576), is amended to read as follows:

10 Section 576. A. A tax at the rate of thirteen and one-half
11 percent (13.5%) is hereby levied and imposed on the total gross
12 receipts of a holder of a mixed beverage, caterer, public event or
13 special event license, issued by the ABLE Commission, and a retail
14 dealer licensed under Section 163.7 of this title to sell low-point
15 beer for consumption on premises, from:

16 1. The sale, preparation or service of mixed beverages and low-
17 point beer;

18 2. The total retail value of complimentary or discounted mixed
19 beverages and low-point beer;

20 3. Ice or nonalcoholic beverages that are sold, prepared or
21 served for the purpose of being mixed with alcoholic beverages and
22 low-point beer and consumed on the premises where the sale,
23 preparation or service occurs; and
24

1 4. Any charges for the privilege of admission to a mixed
2 beverage establishment or retail dealer establishment which entitle
3 a person to complimentary mixed beverages or discounted prices for
4 mixed beverages, or complimentary low-point beer or discounted
5 prices for low-point beer.

6 B. For purposes of this section:

7 1. "Mixed beverages" means mixed beverages as defined by
8 Section 506 of this title;

9 2. "Total gross receipts" means the total amount of
10 consideration received as charges for admission to a mixed beverage
11 establishment or retail dealer establishment as provided in
12 paragraph 4 of subsection A of this section and the total retail
13 sale price received for the sale, preparation or service of mixed
14 beverages, low-point beer, ice, and nonalcoholic beverages to be
15 mixed with alcoholic beverages and low-point beer. The advertised
16 price of a mixed beverage may be the sum of the total retail sale
17 price and the gross receipts tax levied thereon; ~~and~~

18 3. "Total retail value" means the total amount of consideration
19 that would be required for the sale, preparation or service of mixed
20 beverages; and

21 4. "Low-point beer" means low-point beer as defined by Section
22 163.2 of this title.

23 C. The gross receipts tax levied by this section shall be in
24 addition to the excise tax levied in Section 163.3 of this title,

1 the excise tax levied in Section 553 of this title, the sales tax
2 levied in the Oklahoma Sales Tax Code and to any municipal or county
3 sales taxes.

4 D. The gross receipts tax levied by this section is hereby
5 declared to be a direct tax upon the receipt of consideration for
6 any charges for admission to a mixed beverage establishment or
7 retail dealer establishment as provided in paragraph 4 of subsection
8 A of this section, for the sale, preparation or service of mixed
9 beverages, low-point beer, ice, and nonalcoholic beverages to be
10 mixed with alcoholic beverages and low-point beer, and the total
11 retail value of complimentary or discounted mixed beverages and low-
12 point beer.

13 E. The total of the retail sale price received for the sale,
14 preparation or service of mixed beverages, low-point beer, ice, and
15 nonalcoholic beverages to be mixed with alcoholic beverages and low-
16 point beer shall be the total gross receipts for purposes of
17 calculating the sales tax levied in the Oklahoma Sales Tax Code.

18 SECTION 28. AMENDATORY 68 O.S. 2011, Section 1001, as
19 last amended by Section 1, Chapter 355, O.S.L. 2017 (68 O.S. Supp.
20 2017, Section 1001), is amended to read as follows:

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

1 B. 1. 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 upon the production of oil a tax
4 equal to seven percent (7%) of the gross value of the production of
5 oil based on a per barrel measurement of forty-two (42) U.S. gallons
6 of two hundred thirty-one (231) cubic inches per gallon, computed at
7 a temperature of sixty (60) degrees Fahrenheit.

8 2. Effective July 1, 2013, through June 30, 2015, except as
9 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
10 this section, there shall be levied a tax equal to seven percent
11 (7%) of the gross value of the production of gas.

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

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

21 b. upon the production of gas a tax equal to seven
22 percent (7%) of the gross value of the production of
23 gas, and
24

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

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

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

21 D. 1. Except as otherwise provided in this section, for
22 secondary recovery projects approved or having an initial project
23 beginning date on or after July 1, 2000, and before July 1, 2017,
24 any incremental production attributable to the working interest

1 owners which results from such secondary recovery projects shall be
2 exempt from the gross production tax levied pursuant to this section
3 for a period not to exceed five (5) years from the initial project
4 beginning date or for a period ending upon the termination of the
5 secondary recovery process, whichever occurs first; provided
6 however, that the exemption provided by this paragraph shall not
7 apply to production occurring on or after July 1, 2017.

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

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

4 4. For purposes of this subsection:

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

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

8 6. For new secondary recovery projects and tertiary recovery
9 projects approved by the Corporation Commission on or after July 1,
10 1993, and before July 1, 2017, such approval shall constitute
11 qualification for an exemption.

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

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

19 9. Upon the expiration of the exemption granted pursuant to
20 this subsection, the Tax Commission shall collect the gross
21 production tax levied pursuant to this section.

22 E. 1. Except as otherwise provided in this section, the
23 production of oil, gas or oil and gas from a horizontally drilled
24 well producing prior to July 1, 2011, which production commenced

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

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

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

1 provisions of paragraph 3 of subsection B of Section 1004 of this
2 title.

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

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

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

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

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

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

1 that the exemption provided by this paragraph shall not apply to
2 production occurring on or after July 1, 2017. This exemption shall
3 take effect July 1, 1994, and shall apply to production enhancement
4 projects having a project beginning date on or after July 1, 1994,
5 and prior to July 1, 2017. For all such production, a refund
6 against gross production taxes shall be issued as provided in
7 subsection L of this section.

8 2. As used in this subsection:

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

1 the project less the monthly rate of production
2 decline for the project for each month beginning one
3 hundred eighty (180) days prior to the commencement of
4 the project. The monthly rate of production decline
5 shall be equal to the average extrapolated monthly
6 decline rate for the twelve-month period immediately
7 prior to the commencement of the project based on the
8 production history of the well. If the well or wells
9 covered in the application had production for less
10 than the full twelve-month period prior to the filing
11 of the application for the production enhancement
12 project, the base production shall be the average
13 monthly production for the months during that period
14 that the well or wells produced,

15 d. for production enhancement projects having a project
16 beginning date on or after July 1, 1997, and prior to
17 July 1, 2017, "recompletion" means any downhole
18 operation in an existing oil or gas well that is
19 conducted to establish production of oil or gas from
20 any geologic interval not currently completed or
21 producing in such existing oil or gas well within the
22 same or a different geologic formation, and

23 e. "workover" means any downhole operation in an existing
24 oil or gas well that is designed to sustain, restore

1 or increase the production rate or ultimate recovery
2 in a geologic interval currently completed or
3 producing in the existing oil or gas well. For
4 production enhancement projects having a project
5 beginning date on or after July 1, 1997, and prior to
6 July 1, 2017, "workover" includes, but is not limited
7 to:

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

1 (12) setting bridge plugs to isolate water production
2 zones, or

3 (13) any combination thereof.

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

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

11 2. Except as otherwise provided in subsection K of this
12 section:

13 a. the production of oil, gas or oil and gas from wells
14 spudded between July 1, 1997, and July 1, 2005, and
15 drilled to a depth of twelve thousand five hundred
16 (12,500) feet or greater and wells spudded between
17 July 1, 2005, and July 1, 2015, and drilled to a depth
18 between twelve thousand five hundred (12,500) feet and
19 fourteen thousand nine hundred ninety-nine (14,999)
20 feet shall be exempt from the gross production tax
21 levied pursuant to subsection B of this section from
22 the date of first sales for a period of twenty-eight
23 (28) months; provided however, that the exemption
24

provided by this subparagraph shall not apply to
production occurring on or after July 1, 2017,

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

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

d. the tax levied pursuant to the provisions of this
section on the production of oil, gas or oil and gas
from wells spudded between July 1, 2011, and July 1,
2015, and drilled to a depth between fifteen thousand
(15,000) feet and seventeen thousand four hundred

1 ninety-nine (17,499) feet shall be reduced to a rate
2 of four percent (4%) for a period of forty-eight (48)
3 months from the date of first sales. The taxes
4 collected from the production of oil shall be
5 apportioned pursuant to the provisions of paragraph 7
6 of subsection B of Section 1004 of this title. The
7 taxes collected from the production of gas shall be
8 apportioned pursuant to the provisions of paragraph 3
9 of subsection B of Section 1004 of this title,

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

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

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

17 I. Except as otherwise provided by this section, the production
18 of oil, gas or oil and gas from wells spudded or reentered between
19 July 1, 1995, and July 1, 2015, which qualify as a new discovery
20 pursuant to this subsection shall be exempt from the gross
21 production tax levied pursuant to subsection B of this section from
22 the date of first sales for a period of twenty-eight (28) months;
23 provided however, that the exemption provided by this subsection
24 shall not apply to production occurring on or after July 1, 2017.

1 For all such wells spudded or reentered, a refund against gross
2 production taxes shall be issued as provided in subsection L of this
3 section. As used in this subsection, "new discovery" means
4 production of oil, gas or oil and gas from:

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

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

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

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

23 J. Except as otherwise provided by this section, the production
24 of oil, gas or oil and gas from any well, drilling of which is

1 commenced after July 1, 2000, and prior to July 1, 2015, located
2 within the boundaries of a three-dimensional seismic shoot and
3 drilled based on three-dimensional seismic technology, shall be
4 exempt from the gross production tax levied pursuant to subsection B
5 of this section from the date of first sales as follows:

6 1. If the three-dimensional seismic shoot is shot prior to July
7 1, 2000, for a period of eighteen (18) months; and

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

14 K. 1. The exemptions provided for in subsections F, G, I and J
15 of this section, the exemption provided for in subparagraph a of
16 paragraph 2 of subsection H of this section, and the exemptions
17 provided for in subparagraphs b and c of paragraph 2 of subsection H
18 of this section for production from wells spudded before July 1,
19 2005, shall not apply:

20 a. to the severance or production of oil, upon
21 determination by the Tax Commission that the average
22 annual index price of Oklahoma oil exceeds Thirty
23 Dollars (\$30.00) per barrel calculated on an annual
24 calendar year basis, as adjusted for inflation using

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

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

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

20 (3) If the West Texas Intermediate Crude price is
21 unavailable for any reason, an industry benchmark
22 price may be substituted and used for the
23 calculation of the index price as determined by
24 the Tax Commission,

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

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

19 (1) The "average annual index price" will be
20 calculated by multiplying the Henry Hub 3-Day
21 Average Close price by the "index price ratio".
22 The index price ratio is defined as the immediate
23 preceding three-year historical average ratio of
24 the actual weighted average wellhead price to the

Henry Hub 3-Day Average Close price published on the last business day of each month.

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

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

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

a. fifty percent (50%) of the sum collected shall be apportioned to the County Highway Fund as provided in

1 subparagraph b of paragraph 1 of subsection B of
2 Section 1004 of this title, and

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

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

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

- 17 a. a refund shall not be claimed until after the end of
18 such fiscal year. As used in this subsection, a
19 fiscal year shall be deemed to begin on July 1 of one
20 calendar year and shall end on June 30 of the
21 subsequent calendar year,
22 b. unless otherwise specified, no claims for refunds
23 pursuant to the provisions of this subsection shall be
24 filed more than eighteen (18) months after the first

1 day of the fiscal year in which the refund is first
2 available,

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

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

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

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

1 subsection E, F, G, H, I or J of this section, the Tax Commission
2 shall pay the balance of the refund claims out of the gross
3 production taxes collected from the production of gas.

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

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

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

20 c. no claims for refunds pursuant to the provisions of
21 this subsection shall be filed by or on behalf of
22 persons other than the operator or a working interest
23 owner of record at the time of production,
24

1 d. no refunds shall be claimed or paid pursuant to the
2 provisions of this subsection for oil or gas
3 production upon which a tax is paid at a rate of two
4 percent (2%), and

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

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

22 3. Notwithstanding any other provisions of law, after the
23 effective date of this act, no refund of gross production taxes
24 shall be claimed for oil and gas production exempt from gross

1 production taxes pursuant to subsections E, F, G, H, I and J of this
2 section for production occurring prior to July 1, 2003.

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

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

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

1 of paragraph 2 of subsection H of this section to remit tax at the
2 reduced rate provided in paragraph 2 of subsection E and
3 subparagraphs d and e of paragraph 2 of subsection H of this section
4 until the end of the qualifying exemption period.

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

9 3. Any person seeking an exemption shall:

- 10 a. file an application for the exemption with the Tax
11 Commission which, upon determination of qualification
12 by the Corporation Commission, shall approve the
13 application for an exemption, and
14 b. provide a copy of the approved application to the
15 remitter of the gross production tax.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 SECTION 29. REPEALER 37 O.S. 2011, Section 576, as last
9 amended by Section 11 of this act, is hereby repealed.

10 SECTION 30. REPEALER 68 O.S. 2011, Section 402-2, is
11 hereby repealed.

12 SECTION 31. Section 10 of this act shall become effective July
13 1, 2018.

14 SECTION 32. Section 13 of this act shall become effective
15 October 1, 2018.

16
17 56-1EX-50253 JM 11/07/17
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