

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2414

By: Osborn (Leslie) and Wallace
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 to certain
16 funds; exempting levy from inclusion in determination
17 of certain amounts; requiring certain collections and
18 administration of levy; creating the Health Care
19 Authority Enhancement Fund, the Mental Health and
20 Substance Abuse Services Enhancement Fund, the Human
21 Services Enhancement Fund, the University Hospitals
22 Enhancement Fund, the Oklahoma State University
23 Medical Authority Enhancement Fund, the Health
24 Department Enhancement Fund, and the Health Care
 Enhancement Fund; exempting funds from fiscal year
 limitations; identifying funding source; declaring
 funds appropriated; authorizing appropriation from
 certain fund; requiring legislative authorization for
 budgeting and expenditure; requiring certain
 budgeting procedures; prohibiting sale of cigarette
 excise tax stamps to wholesalers in excess of certain
 amount; providing exception; stating purpose;
 imposing tax on gasoline and diesel fuel for certain
 period; establishing amount of tax per gallon;
 requiring deposit of certain revenue, penalties and
 interest in certain fund; amending 68 O.S. 2011,

1 Section 500.10, which relates to exemption from motor
2 fuels tax; extending exemptions to additional tax
3 levy; amending 69 O.S. 2011, Section 1521, as last
4 amended by Section 93, Chapter 15, O.S.L. 2013 (69
5 O.S. Supp. 2016, Section 1521), which relates to the
6 Rebuilding Oklahoma Access and Driver Safety Fund;
7 modifying calculation of certain annual
8 apportionments; amending 68 O.S. 2011, Section 1001,
9 as last amended by Section 1, Chapter 346, O.S.L.
10 2014 (68 O.S. Supp. 2016, Section 1001), which
11 relates to gross production tax; modifying rate for
12 well spudded after a certain date; providing for
13 codification; and providing for noncodification.

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

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 302-7 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 302, 302-1, 302-2, 302-3, 302-4 and 302-5 of Title 68 of
17 the Oklahoma Statutes, there is hereby levied upon the sale, use,
18 gift, possession or consumption of cigarettes, as defined in
19 Sections 301 through 325 of Title 68 of the Oklahoma Statutes,
20 within this state, a tax at the rate of seventy-five (75) mills per
21 cigarette.

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

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

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

9 3. For the period beginning September 1, 2017, and ending June
10 30, 2018, the resulting revenues as described by paragraphs 1 and 2
11 of this subsection shall be apportioned by the Oklahoma Tax
12 Commission and transmitted to the State Treasurer, who shall deposit
13 the same in the State Treasury to the credit of the following funds
14 in the following percentages:

15 a. the first One Hundred Eighty-five Million Dollars
16 (\$185,000,000.00):

17 (1) fifty percent (50%) to the credit of the Health
18 Care Authority Enhancement Fund, created in
19 Section 2 of this act,

20 (2) twenty-three percent (23%) to the credit of the
21 Mental Health and Substance Abuse Services
22 Enhancement Fund, created in Section 3 of this
23 act,
24

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

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

7 (5) five and four-tenths percent (5.4%) to the credit
8 of the Oklahoma State University Medical
9 Authority Enhancement Fund, created in Section 6
10 of this act, and

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

14 b. one hundred percent (100%) resulting revenues in
15 excess of One Hundred Eighty-five Million Dollars
16 (\$185,000,000.00) to the credit of the General Revenue
17 Fund of the state.

18 4. Beginning July 1, 2018, the resulting revenues as described
19 by paragraphs 1 and 2 of this subsection shall be apportioned by the
20 Oklahoma Tax Commission and transmitted to the State Treasurer, who
21 shall deposit the same in the State Treasury to the credit of the
22 following funds in the following amounts:

23 a. the first One Hundred Eighty-five Million Dollars
24 (\$185,000,000.00) each fiscal year to the credit of

1 the Health Care Enhancement Fund created in Section 8
2 of this act, and

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

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

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

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

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

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

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

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

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

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

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

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

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 302-7c 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 for the
18 Department of Human Services to be designated the "Human Services
19 Enhancement Fund". The fund shall be a continuing fund, not subject
20 to fiscal year limitations, and shall consist of monies received
21 pursuant to Section 1 of this act and any monies designated to the
22 fund by law. All monies accruing to the credit of the fund are
23 hereby appropriated and may be budgeted and expended by the
24 Department of Human Services as authorized by the Oklahoma

1 Legislature. Expenditures from the fund shall be made upon warrants
2 issued by the State Treasurer against claims filed as prescribed by
3 law with the Director of the Office of Management and Enterprise
4 Services for approval and payment.

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

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

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

23 There is hereby created in the State Treasury a fund for the
24 Oklahoma State University Medical Authority to be designated the

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

12 SECTION 7. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 302-7f 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 for the
16 State Department of Health to be designated the "Health Department
17 Enhancement Fund". The fund shall be a continuing fund, not subject
18 to fiscal year limitations, and shall consist of monies received
19 pursuant to Section 1 of this act and any monies designated to the
20 fund by law. All monies accruing to the credit of the fund are
21 hereby appropriated and may be budgeted and expended by the State
22 Department of Health as authorized by the Oklahoma Legislature.
23 Expenditures from the fund shall be made upon warrants issued by the
24 State Treasurer against claims filed as prescribed by law with the

1 Director of the Office of Management and Enterprise Services for
2 approval and payment.

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

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

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

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

24

1 SECTION 10. 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, for a forty-eight-month period
6 following the effective date of this act in addition to the tax
7 imposed by Section 500.4 of Title 68 of the Oklahoma Statutes there
8 is hereby imposed a tax of six cents (\$0.06) per gallon on all:

- 9 1. Gasoline used or consumed in this state; and
- 10 2. Diesel fuel used or consumed in this state.

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

18 SECTION 11. 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 10 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 12. 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 2016, Section 1521), is amended to read as follows:

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, 2017, except for an amount
14 equivalent to the amount of revenue apportioned pursuant to Section
15 10 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 10 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 10 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 13. AMENDATORY 68 O.S. 2011, Section 1001, as
8 last amended by Section 1, Chapter 346, O.S.L. 2014 (68 O.S. Supp.
9 2016, Section 1001), is amended to read as follows:

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

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

20 2. Effective July 1, 2013, through June 30, 2015, except as
21 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
22 this section, there shall be levied a tax equal to seven percent
23 (7%) of the gross value of the production of gas.

24

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

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

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

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

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

1 percent (2%) commencing with the month of first
2 production for a period of eighteen (18) months.
3 Thereafter, the production shall be taxed as
4 provided in subparagraphs a and b of this
5 paragraph.

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

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

18 2. Except as otherwise provided in this section, for tertiary
19 recovery projects approved and having a project beginning date on or
20 after July 1, 1993, and before July 1, 2020, any incremental
21 production attributable to the working interest owners which results
22 from such tertiary recovery projects shall be exempt from the gross
23 production tax levied pursuant to this section from the project
24 beginning date until project payback is achieved, but not to exceed

1 a period of ten (10) years. Project payback pursuant to this
2 paragraph shall be determined by appropriate payback indicators
3 which will provide for the recovery of capital expenses and
4 operating expenses, excluding administrative expenses, in
5 determining project payback. The capital expenses of pipelines
6 constructed to transport carbon dioxide to a tertiary recovery
7 project shall not be included in determining project payback
8 pursuant to this paragraph.

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

12 4. For purposes of this subsection:

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

1 monthly decline rate for the twelve-month period
2 immediately prior to the project beginning date as
3 determined by the Corporation Commission based on the
4 production history of the field, its current status,
5 and sound reservoir engineering principles, and

6 b. "project beginning date" means the date on which the
7 injection of liquids, gases, or other matter begins on
8 an enhanced recovery project.

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

16 6. For new secondary recovery projects and tertiary recovery
17 projects approved by the Corporation Commission on or after July 1,
18 1993, and before July 1, 2020, such approval shall constitute
19 qualification for an exemption.

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

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

4 9. Upon the expiration of the exemption granted pursuant to
5 this subsection, the Tax Commission shall collect the gross
6 production tax levied pursuant to this section.

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

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

22 3. For production commenced on or after July 1, 2011, and prior
23 to July 1, 2015, the tax levied pursuant to the provisions of this
24 section on the production of oil, gas or oil and gas from a

1 horizontally drilled well shall be reduced to a rate of one percent
2 (1%) for a period of forty-eight (48) months from the month of
3 initial production. The taxes collected from the production of oil
4 shall be apportioned pursuant to the provisions of paragraph 8 of
5 subsection A 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 4 of subsection A 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. This

1 exemption shall take effect July 1, 1994, and shall apply to wells
2 for which work to reestablish or enhance production began on or
3 after July 1, 1994, and for which production is reestablished prior
4 to July 1, 2020. For all such production, a refund against gross
5 production taxes shall be issued as provided in subsection L of this
6 section.

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

23 G. 1. Except as otherwise provided by this section, any
24 incremental production which results from a production enhancement

1 project shall be exempt from the gross production tax levied
2 pursuant to subsection B of this section for a period of twenty-
3 eight (28) months from the date of first sale after project
4 completion of the production enhancement project. This exemption
5 shall take effect July 1, 1994, and shall apply to production
6 enhancement projects having a project beginning date on or after
7 July 1, 1994, and prior to July 1, 2020. For all such production, a
8 refund against gross production taxes shall be issued as provided in
9 subsection L of this section.

10 2. As used in this subsection:

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

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

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

1 e. "workover" means any downhole operation in an existing
2 oil or gas well that is designed to sustain, restore
3 or increase the production rate or ultimate recovery
4 in a geologic interval currently completed or
5 producing in the existing oil or gas well. For
6 production enhancement projects having a project
7 beginning date on or after July 1, 1997, and prior to
8 July 1, 2020, "workover" includes, but is not limited
9 to:

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

- 1 (10) bacteria treatments,
2 (11) upgrading the size of pumping unit equipment,
3 (12) setting bridge plugs to isolate water production
4 zones, or
5 (13) any combination thereof.

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

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

13 2. Except as otherwise provided in subsection K of this
14 section:

- 15 a. the production of oil, gas or oil and gas from wells
16 spudded between July 1, 1997, and July 1, 2005, and
17 drilled to a depth of twelve thousand five hundred
18 (12,500) feet or greater and wells spudded between
19 July 1, 2005, and July 1, 2015, and drilled to a depth
20 between twelve thousand five hundred (12,500) feet and
21 fourteen thousand nine hundred ninety-nine (14,999)
22 feet shall be exempt from the gross production tax
23 levied pursuant to subsection B of this section from
24

1 the date of first sales for a period of twenty-eight
2 (28) months,

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

13 c. the production of oil, gas or oil and gas from wells
14 spudded between July 1, 2002, and July 1, 2011, and
15 drilled to a depth of seventeen thousand five hundred
16 (17,500) feet or greater shall be exempt from the
17 gross production tax levied pursuant to subsection B
18 of this section from the date of first sales for a
19 period of sixty (60) months,

20 d. the tax levied pursuant to the provisions of this
21 section on the production of oil, gas or oil and gas
22 from wells spudded between July 1, 2011, and July 1,
23 2015, and drilled to a depth between fifteen thousand
24 (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 A 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 A 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 A 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 A 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 For all such wells spudded or reentered, a refund against gross
24 production taxes shall be issued as provided in subsection L of this

1 section. As used in this subsection, "new discovery" means
2 production of oil, gas or oil and gas from:

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

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

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

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

21 J. Except as otherwise provided by this section, the production
22 of oil, gas or oil and gas from any well, drilling of which is
23 commenced after July 1, 2000, and prior to July 1, 2015, located
24 within the boundaries of a three-dimensional seismic shoot and

1 drilled based on three-dimensional seismic technology, shall be
2 exempt from the gross production tax levied pursuant to subsection B
3 of this section from the date of first sales as follows:

4 1. If the three-dimensional seismic shoot is shot prior to July
5 1, 2000, for a period of eighteen (18) months; and

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

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

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

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

5 (1) The "average annual index price" will be
6 calculated by multiplying the West Texas
7 Intermediate closing price by the "index price
8 ratio". The index price ratio is defined as the
9 immediate preceding three-year historical average
10 ratio of the actual weighted average wellhead
11 price to the West Texas Intermediate close price
12 published on 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 West Texas Intermediate Crude 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 b. to the severance or production of oil or gas upon
22 which gross production taxes are paid at a rate of one
23 percent (1%) pursuant to the provisions of subsection
24 B of this section, and

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

15 (1) The "average annual index price" will be
16 calculated by multiplying the Henry Hub 3-Day
17 Average Close price by the "index price ratio".
18 The index price ratio is defined as the immediate
19 preceding three-year historical average ratio of
20 the actual weighted average wellhead price to the
21 Henry Hub 3-Day Average Close price published on
22 the last business day of each month.
23
24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 M. Claims for refunds filed for the exemptions provided in
2 paragraph 1 of subsection E, and subparagraphs b and c of paragraph
3 2 of subsection H of this section for the production periods
4 beginning on or after July 1, 2009, and ending on or before June 30,
5 2011, shall be paid pursuant to the provisions of this subsection.
6 The claims for refunds referenced herein shall be paid in equal
7 payments of a period of thirty-six (36) months. The first payment
8 shall be made after July 1, 2012, but prior to August 1, 2012. The
9 Tax Commission shall provide, not later than June 30, 2012, to the
10 operator or designated interest owner, a schedule of rebates to be
11 paid out over the thirty-six-month period. The payments required to
12 be made pursuant to the provisions of this subsection shall be
13 subject to a penalty rate of interest equal to nine percent (9%) per
14 annum. The penalty rate of interest shall accrue for each day that
15 a required payment is not made by the end of the month for which the
16 payment is required to be made by the Tax Commission. For purposes
17 of computing the per diem rate of interest pursuant to this
18 subsection, a calendar year shall be deemed to consist of three
19 hundred sixty (360) days.

20 N. 1. The Corporation Commission and the Tax Commission shall
21 promulgate joint rules for the qualification for the exemptions
22 provided for in this section and the rules shall contain provisions
23 for verification of any wells from which production may be qualified
24 for the exemptions. The Tax Commission shall adopt rules and

1 regulations which establish guidelines for production of oil or gas
2 after July 1, 2011, which is exempt from tax pursuant to the
3 provisions of paragraph 1 of subsection E and subparagraphs b and c
4 of paragraph 2 of subsection H of this section to remit tax at the
5 reduced rate provided in paragraph 2 of subsection E and
6 subparagraphs d and e of paragraph 2 of subsection H of this section
7 until the end of the qualifying exemption period.

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

12 3. Any person seeking an exemption shall:

13 a. file an application for the exemption with the Tax
14 Commission which, upon determination of qualification
15 by the Corporation Commission, shall approve the
16 application for an exemption, and

17 b. provide a copy of the approved application to the
18 remitter of the gross production tax.

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

22 5. Upon the expiration of an exemption granted pursuant to this
23 section, the Tax Commission shall collect the gross production tax
24 levied pursuant to this section. If a person who qualifies for the

1 exemption elects to remit his or her own gross production tax during
2 the exemption period, the first purchaser shall not be liable to
3 withhold or remit the tax until the first day of the month following
4 the receipt of written notification from the person who is qualified
5 for such exemption stating that such exemption has expired and
6 directing the first purchaser to resume tax remittance on his or her
7 behalf.

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

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

1 granted pursuant to subsection D of this section if the exemption
2 granted pursuant to subsection F or G of this section has expired.
3 Further, the exemption granted pursuant to subsection D of this
4 section shall not apply to any production upon which a tax is paid
5 at a rate of two percent (2%).

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

15 Q. Any person or any member of any firm or association, or any
16 officer, official, agent or employee of any corporation who shall
17 fail or refuse to testify; or who shall fail or refuse to produce
18 any books, records or papers which the Tax Commission shall require;
19 or who shall fail or refuse to furnish any other evidence or
20 information which the Tax Commission may require; or who shall fail
21 or refuse to answer any competent questions which may be put to him
22 or her by the Tax Commission, touching the business, property,
23 assets or effects of any such person relating to the gross
24 production tax imposed by this article or exemption authorized

1 pursuant to this section or other laws, shall be guilty of a
2 misdemeanor, and, upon conviction thereof, shall be punished by a
3 fine of not more than Five Hundred Dollars (\$500.00), or
4 imprisonment in the jail of the county where such offense shall have
5 been committed, for not more than one (1) year, or by both such fine
6 and imprisonment; and each day of such refusal on the part of such
7 person shall constitute a separate and distinct offense.

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

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

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

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

1 office buildings, garages, residences, gasoline extraction or
2 absorption plants, water systems, fuel systems, rooming houses and
3 other buildings, nor any equipment or material used in connection
4 therewith, shall be exempt from ad valorem tax.

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

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11 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS
12 AND BUDGET, dated 05/16/2017 - DO PASS, As Amended.

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