

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 2360

By: Osborn (Leslie) and Wallace
of the House

and

David and Fields of the
Senate

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11 FLOOR SUBSTITUTE

12 An Act relating to general revenue; stating purpose;
13 levying increased tax on cigarettes; providing for
14 apportionment of net amount of increased tax levy;
15 apportioning increased tax levy to certain funds;
16 directing deposit of tax levy revenue; creating funds
17 for deposit; limiting sale of cigarette excise tax
18 stamps to certain amount during certain time period;
19 providing exception; levying increased tax on motor
20 fuel; directing deposit of tax levy revenue; limiting
21 time period for tax levy; amending 68 O.S. 2011,
22 Section 500.10, which relates to exemption from motor
23 fuels tax; extending exemptions to additional motor
24 fuel tax levy; amending 68 O.S. 2011, Sections 1001,
as last amended by Section 1, Chapter 346, O.S.L.
2014 (68 O.S. Supp. 2016, Sections 1001), which
relates to gross production tax; limiting period
where certain exemptions and rebates may be claimed;
clarifying references; limiting period where claims
may be submitted and accepted; providing delayed
payment schedule for certain refunds; requiring
provision of payment schedule to certain entities;
amending 68 O.S. 2011, Section 1001.3a, as last
amended by Section 1, Chapter 383, O.S.L. 2016 (68
O.S. Supp. 2016, Section 1001.3a), which relates to
economically at-risk oil and gas leases; limiting

1 period where exemption is applicable; modifying
2 periods whereby claims may be submitted; prohibiting
3 acceptance or payment of claims after certain dates;
4 providing delayed payment schedule for certain
5 refunds; requiring provision of payment schedule to
6 certain entities; amending 68 O.S. 2011, Section
7 1352, as amended by Section 2, Chapter 311, O.S.L
8 2016 and 1359, as amended by Section 2, Chapter 317,
9 O.S.L. 2016 (68 O.S. Supp. 2016, Sections 1352 and
10 1359), which relate to sales tax exemptions;
11 modifying definition; excluding specified entities
12 from eligibility for exemption on or after certain
13 date; amending 69 O.S. 2011, Section 1521, as last
14 amended by Section 93, Chapter 15, O.S.L. 2013 (69
15 O.S. Supp. 2016, Section 1521), which relates to
16 apportionment of revenue to and expenditures
17 authorized from Rebuilding Oklahoma Access and Driver
18 Safety Fund; deleting specified apportionment
19 schedule, limitations, and procedures from specified
20 revenue source; establishing certain apportionment
21 schedule and limitations from specified revenue
22 source for certain time periods, subject to certain
23 requirements; deleting certain reference; providing
24 for apportionment of certain motor fuel tax revenue
to specified fund for certain time periods;
conforming reference; providing for noncodification;
providing for codification; and providing an
effective date and emergency for certain sections.

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

1 the Oklahoma Statutes, there is hereby levied upon the sale, use,
2 gift, possession or consumption of cigarettes, as defined in
3 Sections 301 through 325 of Title 68 of the Oklahoma Statutes,
4 within this state, a tax at the rate of seventy-five (75) mills per
5 cigarette.

6 B. 1. Except as provided in paragraph 2 of this subsection,
7 the revenue resulting from the additional tax levied in subsection A
8 of this section shall be apportioned as provided in paragraphs 3 and
9 4 of this subsection.

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

16 3. For the period beginning September 1, 2017, and ending June
17 30, 2018, the resulting revenues as described by paragraphs 1 and 2
18 of this subsection shall be apportioned by the Oklahoma Tax
19 Commission and transmitted to the State Treasurer, who shall deposit
20 the same in the State Treasury to the credit of the following funds
21 in the following percentages:

22 a. the first One Hundred Sixty-two Million Five Hundred
23 Thousand Dollars (\$162,500,000.00):

24

- (1) forty-three and one-tenth percent (43.1%) to the credit of the Health Care Authority Enhancement Fund, created in Section 2 of this act,
 - (2) twenty-six and two-tenths percent (26.2%) to the credit of the Mental Health and Substance Abuse Services Enhancement Fund, created in Section 3 of this act,
 - (3) fifteen and four-tenths percent (15.4%) to the credit of the Human Services Enhancement Fund, created in Section 4 of this act,
 - (4) six and one-tenth percent (6.1%) to the credit of the University Hospitals Enhancement Fund, created in Section 5 of this act,
 - (5) six and one-tenth percent (6.1%) to the credit of the Oklahoma State University Medical Authority Enhancement Fund, created in Section 6 of this act, and
 - (6) three and one-tenth percent (3.1%) to the credit of the Health Department Enhancement Fund, created in Section 7 of this act, and
- b. one hundred percent (100%) resulting revenues in excess of One Hundred Sixty-two Million Five Hundred Thousand Dollars (\$162,500,000.00) to the credit of the General Revenue Fund of the state.

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

6 a. the first One Hundred Sixty-two Million Five Hundred
7 Thousand Dollars (\$162,500,000.00) each fiscal year to
8 the credit of the Health Care Enhancement Fund created
9 in Section 8 of this act, and

10 b. all resulting revenue in excess of One Hundred Sixty-
11 two Million Five Hundred Thousand Dollars
12 (\$162,500,000.00) each fiscal year to the credit of
13 the General Revenue Fund of the state.

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

17 1. The State of Oklahoma Building Bonds of 1961 Sinking Fund
18 pursuant to the provisions of Sections 57.31 through 57.43 of Title
19 62 of the Oklahoma Statutes;

20 2. The State of Oklahoma Institutional Building Bonds of 1965
21 Sinking Fund pursuant to the provisions of Sections 57.61 through
22 57.73 of Title 62 of the Oklahoma Statutes;

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

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

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

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

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

18 There is hereby created in the State Treasury a fund for the
19 Oklahoma Health Care Authority to be designated the "Health Care
20 Authority Enhancement Fund". The fund shall be a continuing fund,
21 not subject to fiscal year limitations, and shall consist of monies
22 received pursuant to Section 1 of this act. All monies accruing to
23 the credit of the fund are hereby appropriated and may be budgeted
24 and expended by the Oklahoma Health Care Authority as authorized by

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

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 302-7b 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 Department of Mental Health and Substance Abuse Services to be
10 designated the "Mental Health and Substance Abuse Services
11 Enhancement Fund". The fund shall be a continuing fund, not subject
12 to fiscal year limitations, and shall consist of monies received
13 pursuant to Section 1 of this act. All monies accruing to the
14 credit of the fund are hereby appropriated and may be budgeted and
15 expended by the Department of Mental Health and Substance Abuse
16 Services as authorized by the Oklahoma Legislature. Expenditures
17 from the fund shall be made upon warrants issued by the State
18 Treasurer against claims filed as prescribed by law with the
19 Director of the Office of Management and Enterprise Services for
20 approval and payment.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 302-7c 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 Human Services to be designated the "Human Services
3 Enhancement Fund". The fund shall be a continuing fund, not subject
4 to fiscal year limitations, and shall consist of monies received
5 pursuant to Section 1 of this act. All monies accruing to the
6 credit of the fund are hereby appropriated and may be budgeted and
7 expended by the Department of Human Services as authorized by the
8 Oklahoma Legislature. Expenditures from the fund shall be made upon
9 warrants issued by the State Treasurer against claims filed as
10 prescribed by law with the Director of the Office of Management and
11 Enterprise Services for approval and payment.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 302-7d 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 University Hospitals Authority to be designated the "University
17 Hospitals Enhancement Fund". The fund shall be a continuing fund,
18 not subject to fiscal year limitations, and shall consist of monies
19 received pursuant to Section 1 of this act. All monies accruing to
20 the credit of the fund are hereby appropriated and may be budgeted
21 and expended by the University Hospitals Authority as authorized by
22 the Oklahoma Legislature. Expenditures from the fund shall be made
23 upon warrants issued by the State Treasurer against claims filed as
24

1 prescribed by law with the Director of the Office of Management and
2 Enterprise Services for approval and payment.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 302-7e 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 for the
7 Oklahoma State University Medical Authority to be designated the
8 "Oklahoma State University Medical Authority Enhancement Fund". The
9 fund shall be a continuing fund, not subject to fiscal year
10 limitations, and shall consist of monies received pursuant to
11 Section 1 of this act. All monies accruing to the credit of the
12 fund are hereby appropriated and may be budgeted and expended by the
13 Oklahoma State University Medical Authority as authorized by the
14 Oklahoma Legislature. Expenditures from the fund shall be made upon
15 warrants issued by the State Treasurer against claims filed as
16 prescribed by law with the Director of the Office of Management and
17 Enterprise Services for approval and payment.

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

21 There is hereby created in the State Treasury a fund for the
22 State Department of Health to be designated the "Health Department
23 Enhancement Fund". The fund shall be a continuing fund, not subject
24 to fiscal year limitations, and shall consist of monies received

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

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

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

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

20 The Oklahoma Tax Commission shall not sell cigarette excise tax
21 stamps to any wholesaler in excess of the amount of the monthly
22 average amount of such excise tax stamps sold to such wholesaler
23 during the preceding calendar year prior to the effective date of of
24 this act.

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, 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 in the State
14 Treasury to the credit of the Rebuilding Oklahoma Access and Driver
15 Safety Fund created in Section 1521 of Title 69 of the Oklahoma
16 Statutes.

17 C. The tax imposed by this section shall end four (4) years
18 from the effective date of this act.

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

21 Section 500.10 Subject to the procedural requirements and
22 conditions set out in this section and Sections 500.11 through
23 500.17 of this title, the following are exempt from the ~~tax~~ taxes on
24

1 motor fuel imposed by Section 500.4 of this title and Section 10 of
2 the act ~~on motor fuel~~:

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

5 a. exported by a supplier who is licensed in the
6 destination state, or

7 b. sold by a supplier to a licensed exporter for
8 immediate export;

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

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

21 4. K-1 kerosene sold at retail through dispensers which have
22 been designed and constructed to prevent delivery directly from the
23 dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at
24 retail through nonbarricaded dispensers in quantities of not more

1 than twenty-one (21) gallons for use other than for highway
2 purposes, under such rules as the Tax Commission shall reasonably
3 require;

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

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

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

23 8. Motor fuel used as fuel for farm tractors or stationary
24 engines owned or leased and operated by any person and used

1 exclusively for agricultural purposes, except as to two and eight
2 one-hundredths cents (\$0.0208) per gallon of gasoline as provided in
3 subsection C of Section 500.4 of this title;

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

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

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

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

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 68 O.S. 2011, Section 1001, as
22 last amended by Section 1, Chapter 346, O.S.L. 2014 (68 O.S. Supp.
23 2016, Section 1001), is amended to read as follows:

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 (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, shall
7 be taxed at a rate of two percent (2%) commencing with
8 the month of first production for a period of thirty-
9 six (36) months. Thereafter, the production shall be
10 taxed as provided in subparagraphs a and b of this
11 paragraph.

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

15 D. 1. Except as otherwise provided in this section, for
16 secondary recovery projects approved or having an initial project
17 beginning date on or after July 1, 2000, and before July 1, ~~2020~~
18 2017, any incremental production attributable to the working
19 interest owners which results from such secondary recovery projects
20 shall be exempt from the gross production tax levied pursuant to
21 this section for a period not to exceed five (5) years from the
22 initial project beginning date or for a period ending upon the
23 termination of the secondary recovery process, whichever occurs
24 first; provided however, that the exemption provided by this

1 paragraph shall not apply to production occurring on or after July
2 1, 2017.

3 2. Except as otherwise provided in this section, for tertiary
4 recovery projects approved and having a project beginning date on or
5 after July 1, 1993, and before July 1, ~~2020~~ 2017, any incremental
6 production attributable to the working interest owners which results
7 from such tertiary recovery projects shall be exempt from the gross
8 production tax levied pursuant to this section from the project
9 beginning date until project payback is achieved, but not to exceed
10 a period of ten (10) years; provided however, that the exemption
11 provided by this paragraph shall not apply to production occurring
12 on or after July 1, 2017. Project payback pursuant to this
13 paragraph shall be determined by appropriate payback indicators
14 which will provide for the recovery of capital expenses and
15 operating expenses, excluding administrative expenses, in
16 determining project payback. The capital expenses of pipelines
17 constructed to transport carbon dioxide to a tertiary recovery
18 project shall not be included in determining project payback
19 pursuant to this paragraph.

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

23 4. For purposes of this subsection:
24

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

18 b. "project beginning date" means the date on which the
19 injection of liquids, gases, or other matter begins on
20 an enhanced recovery project.

21 5. The Corporation Commission shall promulgate rules for the
22 qualification for this exemption which shall include, but not be
23 limited to, procedures for determining incremental production as
24 defined in subparagraph a of paragraph 4 of this subsection, and the

1 establishment of appropriate payback indicators as approved by the
2 Tax Commission for the determination of project payback for each of
3 the exemptions authorized by this subsection.

4 6. For new secondary recovery projects and tertiary recovery
5 projects approved by the Corporation Commission on or after July 1,
6 1993, and before July 1, ~~2020~~ 2017, such approval shall constitute
7 qualification for an exemption.

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

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

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

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

1 initial production from the horizontally drilled well. For purposes
2 of subsection D of this section and this subsection, project payback
3 shall be determined as of the date of the completion of the well and
4 shall not include any expenses beyond the completion date of the
5 well, and subject to the approval of the Tax Commission.

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

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

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

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

7 F. 1. Except as otherwise provided by this section, the
8 severance or production of oil, gas or oil and gas from an inactive
9 well shall be exempt from the gross production tax levied pursuant
10 to subsection B of this section for a period of twenty-eight (28)
11 months from the date upon which production is reestablished;
12 provided however, that the exemption provided by this paragraph
13 shall not apply to production occurring on or after July 1, 2017.
14 This exemption shall take effect July 1, 1994, and shall apply to
15 wells for which work to reestablish or enhance production began on
16 or after July 1, 1994, and for which production is reestablished
17 prior to July 1, ~~2020~~ 2017. For all such production, a refund
18 against gross production taxes shall be issued as provided in
19 subsection L of this section.

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

1 As used in this subsection, for wells for which production is
2 reestablished on or after July 1, 1997, and prior to July 1, ~~2020~~
3 2017, "inactive well" means any well that has not produced oil, gas
4 or oil and gas for a period of not less than one (1) year as
5 evidenced by the appropriate forms on file with the Corporation
6 Commission reflecting the well's status. Wells which experience
7 mechanical failure or loss of mechanical integrity, as defined by
8 the Corporation Commission, including but not limited to, casing
9 leaks, collapse of casing or loss of equipment in a wellbore, or any
10 similar event which causes cessation of production, shall also be
11 considered inactive wells.

12 G. 1. Except as otherwise provided by this section, any
13 incremental production which results from a production enhancement
14 project shall be exempt from the gross production tax levied
15 pursuant to subsection B of this section for a period of twenty-
16 eight (28) months from the date of first sale after project
17 completion of the production enhancement project; provided however,
18 that the exemption provided by this paragraph shall not apply to
19 production occurring on or after July 1, 2017. This exemption shall
20 take effect July 1, 1994, and shall apply to production enhancement
21 projects having a project beginning date on or after July 1, 1994,
22 and prior to July 1, ~~2020~~ 2017. For all such production, a refund
23 against gross production taxes shall be issued as provided in
24 subsection L of this section.

1 2. As used in this subsection:

2 a. for production enhancement projects having a project
3 beginning date on or after July 1, 1997, and prior to
4 July 1, ~~2020~~ 2017, "production enhancement project"
5 means any workover as defined in this paragraph,
6 recompletion as defined in this paragraph, reentry of
7 plugged and abandoned wellbores, or addition of a well
8 or field compression,

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

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

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

8 d. for production enhancement projects having a project
9 beginning date on or after July 1, 1997, and prior to
10 July 1, ~~2020~~ 2017, "recompletion" means any downhole
11 operation in an existing oil or gas well that is
12 conducted to establish production of oil or gas from
13 any geologic interval not currently completed or
14 producing in such existing oil or gas well within the
15 same or a different geologic formation, and

16 e. "workover" means any downhole operation in an existing
17 oil or gas well that is designed to sustain, restore
18 or increase the production rate or ultimate recovery
19 in a geologic interval currently completed or
20 producing in the existing oil or gas well. For
21 production enhancement projects having a project
22 beginning date on or after July 1, 1997, and prior to
23 July 1, ~~2020~~ 2017, "workover" includes, but is not
24 limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 9 a. a refund shall not be claimed until after the end of
10 such fiscal year. As used in this subsection, a
11 fiscal year shall be deemed to begin on July 1 of one
12 calendar year and shall end on June 30 of the
13 subsequent calendar year,
- 14 b. unless otherwise specified, no claims for refunds
15 pursuant to the provisions of this subsection shall be
16 filed more than eighteen (18) months after the first
17 day of the fiscal year in which the refund is first
18 available, or September 30, 2017, whichever is sooner,
- 19 c. no claims for refunds pursuant to the provisions of
20 this subsection shall be filed by or on behalf of
21 persons other than the operator or a working interest
22 owner of record at the time of production,
- 23 d. no refunds shall be claimed or paid pursuant to the
24 provisions of this subsection for oil or gas

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

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

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

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

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

5 M. ~~Claims for refunds filed for the exemptions provided in~~
6 ~~paragraph 1 of subsection E, and subparagraphs b and c of paragraph~~
7 ~~2 of subsection H of this section for the production periods~~
8 ~~beginning on or after July 1, 2009, and ending on or before June 30,~~
9 ~~2011 pursuant to the provisions of subsections F, G, I and J and~~
10 ~~subparagraph a of paragraph 2 of subsection H of this section for~~
11 ~~production periods ending on or before June 30, 2017, shall be paid~~
12 ~~pursuant to the provisions of this subsection. The claims for~~
13 ~~refunds referenced herein shall be paid in equal payments of over a~~
14 ~~period of thirty-six (36) months. The first payment shall be made~~
15 ~~after July 1, 2012 2018, but prior to August 1, 2012 2018. The Tax~~
16 ~~Commission shall provide, not later than June 30, 2012 2018, to the~~
17 ~~operator or designated interest owner, a schedule of rebates to be~~
18 ~~paid out over the thirty-six-month period. The payments required to~~
19 ~~be made pursuant to the provisions of this subsection shall be~~
20 ~~subject to a penalty rate of interest equal to nine percent (9%) per~~
21 ~~annum. The penalty rate of interest shall accrue for each day that~~
22 ~~a required payment is not made by the end of the month for which the~~
23 ~~payment is required to be made by the Tax Commission. For purposes~~
24 ~~of computing the per diem rate of interest pursuant to this~~

1 ~~subsection, a calendar year shall be deemed to consist of three~~
2 ~~hundred sixty (360) days.~~

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.

24

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. AMENDATORY 68 O.S. 2011, Section 1001.3a, as
22 last amended by Section 1, Chapter 383, O.S.L. 2016 (68 O.S. Supp.
23 2016, Section 1001.3a), is amended to read as follows:

24 Section 1001.3a A. As used in this section:

1 1. Prior to January 1, 2015, "economically at-risk oil or gas
2 lease" means any oil or gas lease operated at a net loss or at a net
3 profit which is less than the total gross production tax remitted
4 for such lease during the previous calendar year;

5 2. On or after January 1, 2015, "economically at-risk oil or
6 gas lease" means any oil or gas lease with one or more producing
7 wells with an average production volume per well of ten (10) barrels
8 of oil or sixty (60) MCF of natural gas per day or less operated at
9 a net loss or at a net profit which is less than the total gross
10 production tax remitted for such lease during the previous calendar
11 year; and

12 3. "Lease" shall be defined as in Section 1001.2 of this title.

13 B. When certified as such pursuant to the provisions of this
14 section, production from an economically at-risk oil or gas lease
15 shall be eligible for an exemption from the gross production tax
16 levied pursuant to subsection B of Section 1001 of this title for
17 production on such lease during the previous calendar year in the
18 following amounts:

19 1. If the gross production tax rate levied pursuant to
20 subsection B of Section 1001 of this title was seven percent (7%),
21 then the exemption shall equal six-sevenths (6/7) of the gross
22 production tax levied;

23 2. If the gross production tax rate levied pursuant to
24 subsection B of Section 1001 of this title was four percent (4%),

1 then the exemption shall equal three-fourths (3/4) of the gross
2 production tax levied; and

3 3. If the gross production tax rate levied pursuant to
4 subsection B of Section 1001 of this title was one percent (1%) or
5 two percent (2%), no exemption shall apply.

6 C. For all production exempt from gross production taxes
7 pursuant to this section, a refund of gross production taxes paid
8 for production in the previous calendar year in the amounts
9 specified in subsection B of this section, subject to the
10 limitations and provisions specified in ~~subsection~~ subsections D and
11 J of this section, shall be issued to the well operator or a
12 designee. For production in calendar years ending on or before
13 December 31, 2015, the refund shall not be claimed until after July
14 1 of the year following the year of production. For production in
15 the calendar year ending December 31, 2016, ~~and each year~~
16 ~~thereafter,~~ the refund shall be claimed before July 1 ~~of the year~~
17 ~~following the year of production,~~ 2017. The Tax Commission shall
18 not accept or pay any claim for refund filed on or after July 1 ~~of~~
19 ~~each year following the year of production,~~ 2017.

20 D. For oil and natural gas produced from qualifying leases in
21 calendar years 2015 ~~through 2020~~ and 2016, the total amount of
22 refunds authorized in this section for each calendar year shall not
23 exceed Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00)
24 for all products combined. If the amount of claims exceeds Twelve

1 Million Five Hundred Thousand Dollars (\$12,500,000.00), the Tax
2 Commission shall determine the percentage of the refund which
3 establishes the proportionate share of the refund which may be
4 claimed by any taxpayer so that the maximum amount authorized by
5 this subsection is not exceeded.

6 E. Any operator making application for an economically at-risk
7 oil or gas lease status under the provisions of this section shall
8 submit documentation to the Tax Commission, as determined by the Tax
9 Commission to be appropriate and necessary.

10 F. For the purposes of this section, determination of the
11 economically at-risk oil or gas lease status shall be made by
12 subtracting from the gross revenue of that lease for the previous
13 calendar year severance taxes, if any, royalty, operating expenses
14 of the lease to include expendable workover and recompletion costs
15 for the previous calendar year, and including overhead costs up to
16 the maximum overhead percentage allowed by the Council of Petroleum
17 Accountants Societies (COPAS) guidelines. For the purposes of this
18 calculation, depreciation, depletion or intangible drilling costs
19 shall not be included as lease operating expenses.

20 G. The Tax Commission shall have sole authority to determine if
21 an oil or gas lease qualifies for certification as an economically
22 at-risk oil or gas lease. The Tax Commission shall promulgate rules
23 governing the certification process.

24

1 H. Except as provided in subsection I of this section, gross
2 production tax exemptions under the provisions of this section shall
3 be limited to production from calendar years 2005, 2006, 2007, 2008,
4 2009, 2010, 2011, 2012 and 2013; provided, no claims for refunds for
5 calendar years provided in this subsection shall be paid on or after
6 December 31, 2015.

7 I. Gross production tax exemptions claimed under the provisions
8 of this section shall be limited to production from calendar years
9 2014 ~~through 2020~~, 2015 and 2016; provided, no claims for refunds
10 for the calendar years 2014 and 2015 shall be claimed or paid more
11 than eighteen (18) months after the first day of the fiscal year
12 during which the refund is first available. For production in
13 calendar ~~years~~ year 2016 ~~through 2020~~, no claim for refund filed on
14 or after July 1 ~~following the calendar year~~, 2017, shall be claimed
15 or paid.

16 J. Claims for refunds pursuant to the provisions of this
17 section for production periods ending on or before December 31,
18 2016, shall be paid pursuant to the provisions of this subsection.
19 The claims for refunds referenced herein shall be paid in equal
20 payments over a period of thirty-six (36) months. The first payment
21 shall be made after July 1, 2018, but prior to August 1, 2018. The
22 Tax Commission shall provide, not later than June 30, 2018, to the
23 operator or designated interest owner, a schedule of rebates to be
24 paid out over the thirty-six-month period.

1 SECTION 14. AMENDATORY 68 O.S. 2011, Section 1352, as
2 amended by Section 2, Chapter 311, O.S.L. 2016 (68 O.S. Supp. 2016,
3 Section 1352), is amended to read as follows:

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

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

13 a. "distinct and identifiable products" does not include:

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

22 (2) a product provided free of charge with the
23 required purchase of another product. A product
24 is provided free of charge if the sales price of

1 the product purchased does not vary depending on
2 the inclusion of the product provided free of
3 charge, or

4 (3) items included in the definition of gross
5 receipts or sales price, pursuant to this
6 section,

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

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

17 (1) the retail sale of tangible personal property and
18 a service where the tangible personal property is
19 essential to the use of the service, and is
20 provided exclusively in connection with the
21 service, and the true object of the transaction
22 is the service,

23 (2) the retail sale of services where one service is
24 provided that is essential to the use or receipt

1 of a second service and the first service is
2 provided exclusively in connection with the
3 second service and the true object of the
4 transaction is the second service,

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

21 (4) the retail sale of exempt tangible personal
22 property and taxable tangible personal property
23 where:
24

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

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

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

18 3. "Commission" or "Tax Commission" means the Oklahoma Tax
19 Commission;

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

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

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

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

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

- 17 a. recognized in the official United States
18 Pharmacopoeia, official Homeopathic Pharmacopoeia of
19 the United States, or official National Formulary, and
20 supplement to any of them,
- 21 b. intended for use in the diagnosis, cure, mitigation,
22 treatment, or prevention of disease, or
- 23 c. intended to affect the structure or any function of
24 the body;

1 9. "Electronic" means relating to technology having electrical,
2 digital, magnetic, wireless, optical, electromagnetic, or similar
3 capabilities;

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

12 11. "Fair authority" means:

13 a. any county, municipality, school district, public
14 trust or any other political subdivision of this
15 state, or

16 b. any not-for-profit corporation acting pursuant to an
17 agency, operating or management agreement which has
18 been approved or authorized by the governing body of
19 any of the entities specified in subparagraph a of
20 this paragraph which conduct, operate or produce a
21 fair commonly understood to be a county, district or
22 state fair;

23 12. a. "Gross receipts", "gross proceeds" or "sales price"
24 means the total amount of consideration, including

1 cash, credit, property and services, for which
2 personal property or services are sold, leased or
3 rented, valued in money, whether received in money or
4 otherwise, without any deduction for the following:

- 5 (1) the seller's cost of the property sold,
- 6 (2) the cost of materials used, labor or service
7 cost,
- 8 (3) interest, losses, all costs of transportation to
9 the seller, all taxes imposed on the seller, and
10 any other expense of the seller,
- 11 (4) charges by the seller for any services necessary
12 to complete the sale, other than delivery and
13 installation charges,
- 14 (5) delivery charges and installation charges, unless
15 separately stated on the invoice, billing or
16 similar document given to the purchaser, and
- 17 (6) credit for any trade-in.

18 b. Such term shall not include:

- 19 (1) discounts, including cash, term, or coupons that
20 are not reimbursed by a third party that are
21 allowed by a seller and taken by a purchaser on a
22 sale,
- 23 (2) interest, financing, and carrying charges from
24 credit extended on the sale of personal property

1 or services, if the amount is separately stated
2 on the invoice, bill of sale or similar document
3 given to the purchaser, and

4 (3) any taxes legally imposed directly on the
5 consumer that are separately stated on the
6 invoice, bill of sale or similar document given
7 to the purchaser.

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

10 (1) the seller actually receives consideration from a
11 party other than the purchaser and the
12 consideration is directly related to a price
13 reduction or discount on the sale,

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

16 (3) the amount of the consideration attributable to
17 the sale is fixed and determinable by the seller
18 at the time of the sale of the item to the
19 purchaser, and

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

21 (a) the purchaser presents a coupon, certificate
22 or other documentation to the seller to
23 claim a price reduction or discount where
24 the coupon, certificate or documentation is

1 authorized, distributed or granted by a
2 third party with the understanding that the
3 third party will reimburse any seller to
4 whom the coupon, certificate or
5 documentation is presented,

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

13 (c) the price reduction or discount is
14 identified as a third-party price reduction
15 or discount on the invoice received by the
16 purchaser or on a coupon, certificate or
17 other documentation presented by the
18 purchaser;

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

21 (1) (a) utilizing or maintaining in this state,
22 directly or by subsidiary, an office,
23 distribution house, sales house, warehouse,
24 or other physical place of business, whether

1 owned or operated by the vendor or any other
2 person, other than a common carrier acting
3 in its capacity as such, or

4 (b) having agents operating in this state,
5 whether the place of business or agent
6 is within this state temporarily or
7 permanently or whether the person or
8 agent is authorized to do business
9 within this state, and

10 (2) the presence of any person, other than a common
11 carrier acting in its capacity as such, that has
12 substantial nexus in this state and that:

13 (a) sells a similar line of products as the
14 vendor and does so under the same or a
15 similar business name,

16 (b) uses trademarks, service marks or trade
17 names in this state that are the same
18 or substantially similar to those used
19 by the vendor,

20 (c) delivers, installs, assembles or
21 performs maintenance services for the
22 vendor,

23 (d) facilitates the vendor's delivery of
24 property to customers in the state by

1 allowing the vendor's customers to pick
2 up property sold by the vendor at an
3 office, distribution facility,
4 warehouse, storage place or similar
5 place of business maintained by the
6 person in this state, or

7 (e) conducts any other activities in this state
8 that are significantly associated with the
9 vendor's ability to establish and maintain a
10 market in this state for the vendor's sale.

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

17 c. Any ruling, agreement or contract, whether written or
18 oral, express or implied, between a person and
19 executive branch of this state, or any other state
20 agency or department, stating, agreeing or ruling that
21 the person is not "maintaining a place of business in
22 this state" or is not required to collect sales and
23 use tax in this state despite the presence of a
24 warehouse, distribution center or fulfillment center

1 in this state that is owned or operated by the vendor
2 or an affiliated person of the vendor shall be null
3 and void unless it is specifically approved by a
4 majority vote of each house of the Oklahoma
5 Legislature;

6 14. "Manufacturing" means and includes the activity of
7 converting or conditioning tangible personal property by changing
8 the form, composition, or quality of character of some existing
9 material or materials, including natural resources, by procedures
10 commonly regarded by the average person as manufacturing,
11 compounding, processing or assembling, into a material or materials
12 with a different form or use. "Manufacturing" does not include
13 extractive industrial activities such as mining, quarrying, logging,
14 and drilling for oil, gas and water, nor oil and gas field
15 processes, such as natural pressure reduction, mechanical
16 separation, heating, cooling, dehydration and compression and on or
17 after July 1, 2017, does not include electric power generation by
18 means of wind;

19 15. "Manufacturing operation" means the designing,
20 manufacturing, compounding, processing, assembling, warehousing, or
21 preparing of articles for sale as tangible personal property. A
22 manufacturing operation begins at the point where the materials
23 enter the manufacturing site and ends at the point where a finished
24 product leaves the manufacturing site. "Manufacturing operation"

1 does not include administration, sales, distribution,
2 transportation, site construction, or site maintenance and on or
3 after July 1, 2017, does not include electric power generation by
4 means of wind. Extractive activities and field processes shall not
5 be deemed to be a part of a manufacturing operation even when
6 performed by a person otherwise engaged in manufacturing;

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

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

- 14 a. a "Drug Facts" panel, or
15 b. a statement of the "active ingredient(s)" with a list
16 of those ingredients contained in the compound,
17 substance or preparation;

18 18. "Person" means any individual, company, partnership, joint
19 venture, joint agreement, association, mutual or otherwise, limited
20 liability company, corporation, estate, trust, business trust,
21 receiver or trustee appointed by any state or federal court or
22 otherwise, syndicate, this state, any county, city, municipality,
23 school district, any other political subdivision of the state, or
24

1 any group or combination acting as a unit, in the plural or singular
2 number;

3 19. "Prescription" means an order, formula or recipe issued in
4 any form of oral, written, electronic, or other means of
5 transmission by a duly licensed "practitioner" as defined in Section
6 1357.6 of this title;

7 20. "Prewritten computer software" means "computer software",
8 including prewritten upgrades, which is not designed and developed
9 by the author or other creator to the specifications of a specific
10 purchaser. The combining of two or more prewritten computer
11 software programs or prewritten portions thereof does not cause the
12 combination to be other than prewritten computer software.

13 Prewritten software includes software designed and developed by the
14 author or other creator to the specifications of a specific
15 purchaser when it is sold to a person other than the purchaser.

16 Where a person modifies or enhances computer software of which the
17 person is not the author or creator, the person shall be deemed to
18 be the author or creator only of such person's modifications or
19 enhancements. Prewritten software or a prewritten portion thereof
20 that is modified or enhanced to any degree, where such modification
21 or enhancement is designed and developed to the specifications of a
22 specific purchaser, remains prewritten software; provided, however,
23 that where there is a reasonable, separately stated charge or an
24 invoice or other statement of the price given to the purchaser for

1 such modification or enhancement, such modification or enhancement
2 shall not constitute prewritten computer software;

3 21. "Repairman" means any person who performs any repair
4 service upon tangible personal property of the consumer, whether or
5 not the repairman, as a necessary and incidental part of performing
6 the service, incorporates tangible personal property belonging to or
7 purchased by the repairman into the tangible personal property being
8 repaired;

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

14 a. the exchange, barter, lease, or rental of tangible
15 personal property resulting in the transfer of the
16 title to or possession of the property,

17 b. the disposition for consumption or use in any business
18 or by any person of all goods, wares, merchandise, or
19 property which has been purchased for resale,
20 manufacturing, or further processing,

21 c. the sale, gift, exchange, or other disposition of
22 admission, dues, or fees to clubs, places of
23 amusement, or recreational or athletic events or for
24 the privilege of having access to or the use of

1 amusement, recreational, athletic or entertainment
2 facilities,

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

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

14 23. "Sale for resale" means:

15 a. a sale of tangible personal property to any purchaser
16 who is purchasing tangible personal property for the
17 purpose of reselling it within the geographical limits
18 of the United States of America or its territories or
19 possessions, in the normal course of business either
20 in the form or condition in which it is purchased or
21 as an attachment to or integral part of other tangible
22 personal property,

23 b. a sale of tangible personal property to a purchaser
24 for the sole purpose of the renting or leasing, within

1 the geographical limits of the United States of
2 America or its territories or possessions, of the
3 tangible personal property to another person by the
4 purchaser, but not if incidental to the renting or
5 leasing of real estate,

- 6 c. a sale of tangible goods and products within this
7 state if, simultaneously with the sale, the vendor
8 issues an export bill of lading, or other
9 documentation that the point of delivery of such goods
10 for use and consumption is in a foreign country and
11 not within the territorial confines of the United
12 States. If the vendor is not in the business of
13 shipping the tangible goods and products that are
14 purchased from the vendor, the buyer or purchaser of
15 the tangible goods and products is responsible for
16 providing an export bill of lading or other
17 documentation to the vendor from whom the tangible
18 goods and products were purchased showing that the
19 point of delivery of such goods for use and
20 consumption is a foreign country and not within the
21 territorial confines of the United States, or
- 22 d. a sales of any carrier access services, right of
23 access services, telecommunications services to be
24 resold, or telecommunications used in the subsequent

1 provision of, use as a component part of, or
2 integrated into, end-to-end telecommunications
3 service;

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

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

12 26. "Tax period" or "taxable period" means the calendar period
13 or the taxpayer's fiscal period for which a taxpayer has obtained a
14 permit from the Tax Commission to use a fiscal period in lieu of a
15 calendar period;

16 27. "Tax remitter" means any person required to collect,
17 report, or remit the tax imposed by the Oklahoma Sales Tax Code. A
18 tax remitter who fails, for any reason, to collect, report, or remit
19 the tax shall be considered a taxpayer for purposes of assessment,
20 collection, and enforcement of the tax imposed by the Oklahoma Sales
21 Tax Code; and

22 28. "Vendor" means:

- 23 a. any person making sales of tangible personal property
24 or services in this state, the gross receipts or gross

1 proceeds from which are taxed by the Oklahoma Sales
2 Tax Code,

3 b. any person maintaining a place of business in this
4 state and making sales of tangible personal property
5 or services, whether at the place of business or
6 elsewhere, to persons within this state, the gross
7 receipts or gross proceeds from which are taxed by the
8 Oklahoma Sales Tax Code,

9 c. any person who solicits business by employees,
10 independent contractors, agents, or other
11 representatives in this state, and thereby makes sales
12 to persons within this state of tangible personal
13 property or services, the gross receipts or gross
14 proceeds from which are taxed by the Oklahoma Sales
15 Tax Code, or

16 d. any person, pursuant to an agreement with the person
17 with an ownership interest in or title to tangible
18 personal property, who has been entrusted with the
19 possession of any such property and has the power to
20 designate who is to obtain title, to physically
21 transfer possession of, or otherwise make sales of the
22 property.

1 SECTION 15. AMENDATORY 68 O.S. 2011, Section 1359, as
2 last amended by Section 2, Chapter 317, O.S.L. 2016 (68 O.S. Supp.
3 2016, Section 1359), is amended to read as follows:

4 Section 1359. Exemptions - Manufacturing.

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

7 1. Sales of goods, wares, merchandise, tangible personal
8 property, machinery and equipment to a manufacturer for use in a
9 manufacturing operation. Goods, wares, merchandise, property,
10 machinery and equipment used in a nonmanufacturing activity or
11 process as set forth in paragraph 14 of Section 1352 of this title
12 shall not be eligible for the exemption provided for in this
13 subsection by virtue of the activity or process being performed in
14 conjunction with or integrated into a manufacturing operation. On
15 or after July 1, 2017, sales for use in electric power generation by
16 means of wind shall not be eligible for the exemption provided for
17 in this section.

18 For the purposes of this paragraph, sales made to any person,
19 firm or entity that has entered into a contractual relationship for
20 the construction and improvement of manufacturing goods, wares,
21 merchandise, property, machinery and equipment for use in a
22 manufacturing operation shall be considered sales made to a
23 manufacturer which is defined or classified in the North American
24 Industry Classification System (NAICS) Manual under Industry Group

1 No. 324110. Such purchase shall be evidenced by a copy of the sales
2 ticket or invoice to be retained by the vendor indicating that the
3 purchases are made for and on behalf of such manufacturer and set
4 out the name of such manufacturer as well as include a copy of the
5 Manufacturing Exemption Permit of the manufacturer. Any person who
6 wrongfully or erroneously certifies that purchases are being made on
7 behalf of such manufacturer or who otherwise violates this paragraph
8 shall be guilty of a misdemeanor and upon conviction thereof shall
9 be fined an amount equal to double the amount of sales tax involved
10 or incarcerated for not more than sixty (60) days or both;

11 2. Ethyl alcohol when sold and used for the purpose of blending
12 same with motor fuel on which motor fuel tax is levied by Section
13 500.4 of this title;

14 3. Sales of containers when sold to a person regularly engaged
15 in the business of reselling empty or filled containers or when
16 purchased for the purpose of packaging raw products of farm, garden,
17 or orchard for resale to the consumer or processor. This exemption
18 shall not apply to the sale of any containers used more than once
19 and which are ordinarily known as returnable containers, except
20 returnable soft drink bottles and the cartons, crates, pallets, and
21 containers used to transport returnable soft drink bottles. Each
22 and every transfer of title or possession of such returnable
23 containers in this state to any person who is not regularly engaged
24 in the business of selling, reselling or otherwise transferring

1 empty or filled containers shall be taxable under this Code.
2 Additionally, this exemption shall not apply to the sale of labels
3 or other materials delivered along with items sold but which are not
4 necessary or absolutely essential to the sale of the sold
5 merchandise;

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

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

18 6. Machinery, equipment, fuels and chemicals or other materials
19 incorporated into and directly used or consumed in the process of
20 treatment to substantially reduce the volume or harmful properties
21 of hazardous waste at treatment facilities specifically permitted
22 pursuant to the Oklahoma Hazardous Waste Management Act and operated
23 at the place of waste generation, or facilities approved by the
24 Department of Environmental Quality for the cleanup of a site of

1 contamination. The term "hazardous" waste may include low-level
2 radioactive waste for the purpose of this paragraph;

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

16 a. any manufacturing enterprise whose total cost of
17 construction of a new or expanded facility exceeds the
18 sum of Five Million Dollars (\$5,000,000.00) and in
19 which at least one hundred (100) new full-time-
20 equivalent employees, as certified by the Oklahoma
21 Employment Security Commission, are added and
22 maintained for a period of at least thirty-six (36)
23 months as a direct result of the new or expanded
24 facility,

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

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

21 d. any enterprise primarily engaged in the general
22 wholesale distribution of groceries defined or
23 classified in the North American Industry
24 Classification System (NAICS) Manual under Industry

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

13 For purposes of this paragraph, the total cost of construction
14 shall include building and construction material and engineering and
15 architectural fees or charges directly associated with the
16 construction of a new or expanded facility. The total cost of
17 construction shall not include attorney fees. For purposes of
18 subparagraph c of this paragraph, the total cost of construction
19 shall also include the cost of qualified depreciable property as
20 defined in Section 2357.4 of this title and labor services performed
21 in the construction of an expanded facility. For the purpose of
22 subparagraph d of this paragraph, the total cost of construction
23 shall also include the cost of all parking, security and dock
24 structures or facilities necessary to manage, process or secure

1 vehicles used to receive and/or distribute groceries through such a
2 facility. The employment requirement of this paragraph can be
3 satisfied by the employment of a portion of the required number of
4 new full-time-equivalent employees at a manufacturing or
5 distribution facility that is related to or supported by the new or
6 expanded manufacturing or distribution facility as long as both
7 facilities are owned by one person or business entity. For purposes
8 of this section, "manufacturing facility" shall mean building and
9 land improvements used in manufacturing as defined in Section 1352
10 of this title and shall also mean building and land improvements
11 used for the purpose of packing, repackaging, labeling or assembling
12 for distribution to market, products at least seventy percent (70%)
13 of which are made in Oklahoma by the same company but at an off-
14 site, in-state manufacturing or distribution facility or facilities.
15 It shall not include a retail outlet unless the retail outlet is
16 operated in conjunction with and on the same site or premises as the
17 manufacturing facility. Up to ten percent (10%) of the square feet
18 of a manufacturing or distribution facility building may be devoted
19 to office space used to provide clerical support for the
20 manufacturing operation. Such ten percent (10%) may be in a
21 separate building as long as it is part of the same contiguous tract
22 of property on which the manufacturing or distribution facility is
23 located. Only sales of tangible personal property made after June
24 1, 1988, shall be eligible for the exemption provided by this

1 paragraph. The exemption authorized pursuant to subparagraph d of
2 this paragraph shall only become effective when the governing body
3 of the municipality in which the enterprise is located approves a
4 resolution expressing the municipality's support for the
5 construction for such new or expanded facility. Upon approval by
6 the municipality, the municipality shall forward a copy of such
7 resolution to the Oklahoma Tax Commission;

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

21 9. Sales of tangible personal property purchased or used by a
22 licensed cable television operator in cablecasting. This exemption
23 shall not apply unless such machinery and equipment is used directly
24 in the manufacturing process, is necessary for the proper production

1 of a cablecast signal or is such that the failure of the machinery
2 or equipment to operate would cause cablecasting to cease. This
3 exemption begins with the equipment used in producing local
4 programming or the electronic equipment behind the satellite
5 receiving dish, microwave tower or antenna, and ends with the
6 transmission of the signal from the cablecast head-end system. For
7 purposes of this paragraph, "proper production" shall include, but
8 not be limited to, machinery or equipment required by Federal
9 Communications Commission rules and regulations;

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

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

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

23

24

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

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

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

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

20 SECTION 16. AMENDATORY 69 O.S. 2011, Section 1521, as
21 last amended by Section 93, Chapter 15, O.S.L. 2013 (69 O.S. Supp.
22 2016, Section 1521), is amended to read as follows:

23 Section 1521. A. There is hereby created in the State Treasury
24 a fund to be known as the "Rebuilding Oklahoma Access and Driver

1 Safety Fund". The fund shall be a continuing fund, not subject to
2 fiscal year limitations, and shall consist of all appropriations and
3 transfers made by the Legislature. All monies accruing to the
4 credit of the fund are hereby appropriated and may be budgeted and
5 expended each fiscal year by the Department of Transportation for
6 the purposes authorized by subsection G of this section.
7 Expenditures from the fund shall be made upon warrants issued by the
8 State Treasurer against claims filed as prescribed by law with the
9 Director of the Office of Management and Enterprise Services for
10 approval and payment.

11 B. There shall be apportioned to the funds specified in this
12 subsection from the monies that would otherwise be apportioned to
13 the General Revenue Fund by Section 2352 of Title 68 of the Oklahoma
14 Statutes from the revenues derived pursuant to subsections A, B and
15 E of Section 2355 of Title 68 of the Oklahoma Statutes amounts as
16 follows:

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

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

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

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

20 ~~c. an additional incremental amount which shall not be in~~
21 ~~excess of the amount prescribed by subparagraph a of~~
22 ~~this paragraph and that is required in order for the~~
23 ~~total apportionment for such fiscal year to equal Five~~
24

1 ~~Hundred Seventy-five Million Dollars~~

2 ~~(\$575,000,000.00).~~

3 ~~All amounts apportioned pursuant to this paragraph shall be~~
4 ~~divided into twelve equal amounts to be apportioned each month~~
5 ~~during the fiscal year except the amount specified in subparagraph a~~
6 ~~of this paragraph which amount shall be allocated in its full amount~~
7 ~~in cash not later than July 30 each year or such later date as may~~
8 ~~be required in order for the amount to be allocated in cash; There~~
9 ~~shall be apportioned to the Rebuilding Oklahoma Access and Driver~~
10 ~~Safety Fund, from the monies that would otherwise be apportioned to~~
11 ~~the General Revenue Fund, before any other amount is apportioned~~
12 ~~pursuant to Section 2352 of Title 68 of the Oklahoma Statutes and~~
13 ~~subject to any reductions required by subsection F of this section,~~
14 ~~for the fiscal year beginning:~~

15 a. July 1, 2017, Three Hundred Twenty Million Dollars
16 (\$320,000,000.00),

17 b. July 1, 2018, Three Hundred Thirty-seven Million Seven
18 Hundred Thousand Dollars (\$337,700,000.00),

19 c. July 1, 2019, Three Hundred Ninety-seven Million Four
20 Hundred Thousand Dollars (\$397,400,000.00), and

21 d. July 1, 2020, and all subsequent years, Four Hundred
22 Eight Million Dollars (\$408,000,000.00); and

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

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

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

12 All amounts apportioned pursuant to this ~~paragraph~~ subsection
13 shall be divided into twelve equal amounts to be apportioned each
14 month during the fiscal year; ~~and~~

15 ~~3. For each fiscal year after the first fiscal year in which~~
16 ~~the total apportionment to the Rebuilding Oklahoma Access and Driver~~
17 ~~Safety Fund as provided by paragraph 1 of this subsection equals~~
18 ~~Five Hundred Seventy-five Million Dollars (\$575,000,000.00), the~~
19 ~~first Five Hundred Seventy-five Million Dollars (\$575,000,000.00)~~
20 ~~collected pursuant to subsections A, B and E of Section 2355 of~~
21 ~~Title 68 of the Oklahoma Statutes and apportioned pursuant to~~
22 ~~Section 2352 of Title 68 of the Oklahoma Statutes that would~~
23 ~~otherwise be apportioned to the General Revenue Fund shall be~~
24 ~~apportioned to the Rebuilding Oklahoma Access and Driver Safety~~

1 ~~Fund. With the exception of the amount prescribed by subparagraph a~~
2 ~~of paragraph 1 of this subsection, all amounts apportioned pursuant~~
3 ~~to this paragraph shall be divided into twelve equal amounts to be~~
4 ~~apportioned each month during the fiscal year.~~

5 C. ~~The apportionments of revenues required by subparagraphs a,~~
6 ~~b and c of paragraph 1 of subsection B of this section shall be made~~
7 ~~until the total annual apportionment to the Rebuilding Oklahoma~~
8 ~~Access and Driver Safety Fund equals Five Hundred Seventy-five~~
9 ~~Million Dollars (\$575,000,000.00). After such annual apportionment~~
10 ~~level is reached, the apportionment to the fund shall be governed by~~
11 ~~the provisions of paragraph 3 of subsection B of this section~~
12 Pursuant to the provisions of Section 10 of this act, for the
13 following fiscal years there shall be apportioned to the Rebuilding
14 Oklahoma Access and Driver Safety Fund motor fuel tax revenue in the
15 amount of:

16 1. One Hundred Twenty-five Million Dollars (\$125,000,000.00)
17 for the fiscal year beginning July 1, 2017; and

18 2. One Hundred Sixty-seven Million Dollars (\$167,000,000.00)
19 for the fiscal year beginning July 1, 2018, and all subsequent
20 fiscal years. All amounts apportioned pursuant to this subsection
21 shall be divided into twelve (12) equal amounts to be apportioned
22 each month during the fiscal year.

23
24

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

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

22 F. In the event that the Director of the Office of Management
23 and Enterprise Services declares a General Revenue Fund revenue
24 failure pursuant to Section 34.49 of Title 62 of the Oklahoma

1 Statutes, and agency allocations are reduced pursuant to the
2 provisions of Section 34.49 of Title 62 of the Oklahoma Statutes,
3 the amounts that would otherwise be apportioned ~~to the ROADS Fund~~
4 ~~by:~~

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

10 ~~2. Subparagraphs b and c of paragraph 1 of subsection B of this~~
11 ~~section; and~~

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

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

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

24

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

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

6 4. Matching federal funds;

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

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

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

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

1 SECTION 17. Sections 9 and 12 through 15 of this act shall
2 become effective July 1, 2017.

3 SECTION 18. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof Sections 9 and 12 through 15 of
6 this act shall take effect and be in full force from and after its
7 passage and approval.

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