

1 ENGROSSED SENATE AMENDMENT  
TO

2 ENGROSSED HOUSE  
BILL NO. 2763

By: Montgomery and Sherrer of  
the House

and

Holt of the Senate

[ public finance - Oklahoma Energy Revenues  
Stabilization Act - creation of Revenue Protection  
Strategy - creating the Board on Revenue  
Stabilization - ~~effective date~~ -  
emergency ]

13 AUTHOR: Add the following House Coauthors: Vaughan, Leewright,  
Murdock and Wood

15 AUTHOR: Add the following Senate Coauthors: Standridge, Shortey  
and Brecheen

17 AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause  
and entire bill and insert

"[ Oklahoma Legacy Fund - deposit - earnings -  
Revenue Stabilization Fund - State Board of  
Equalization - codification ]

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

1           SECTION 1.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 34.102 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. There is hereby created in the State Treasury a revolving  
5 fund to be known and designated as the "Revenue Stabilization Fund."  
6 The fund shall be a continuing fund, not subject to fiscal year  
7 limitations. Beginning for the first fiscal year when the amount of  
8 certified revenues exceeds the amount of such revenues certified by  
9 the State Board of Equalization in February of 2014, and subject to  
10 the conditions and findings of the State Board of Equalization as  
11 prescribed by Section 2 of this act, the Revenue Stabilization Fund  
12 shall consist of:

13           1. Seventy-five percent (75%) of the revenue derived from the  
14 gross production tax on oil levied pursuant to Section 1001 of Title  
15 68 of the Oklahoma Statutes which is in excess of the five-year  
16 average computed as prescribed by Section 2 of this act;

17           2. Seventy-five percent (75%) of the revenue derived from the  
18 gross production tax on natural gas levied pursuant to Section 1001  
19 of Title 68 of the Oklahoma Statutes which is in excess of the five-  
20 year average computed as prescribed by Section 2 of this act;

21           3. Seventy-five percent (75%) of the revenue derived from  
22 corporate income tax levied pursuant to Section 2355 of Title 68 of  
23 the Oklahoma Statutes which is in excess of the five-year average  
24 computed as prescribed by Section 2 of this act; and

1 4. Any amounts appropriated by the Legislature.

2 B. In the event that a revenue failure is declared with respect  
3 to the General Revenue Fund pursuant to Section 34.49 of Title 62 of  
4 the Oklahoma Statutes, the Director of the Office of Management and  
5 Enterprise Services may withdraw up to one-quarter (1/4) of the  
6 balance of the Revenue Stabilization Fund, to reduce or avoid  
7 reductions to agencies for the current fiscal year not to exceed the  
8 amount of the declared revenue failure.

9 C. In the event that a revenue failure is declared with respect  
10 to the General Revenue Fund pursuant to Section 34.49 of Title 62 of  
11 the Oklahoma Statutes, the Legislature may appropriate up to one-  
12 quarter (1/4) of the balance of the Revenue Stabilization Fund, not  
13 to exceed the amount of the declared revenue failure as declared  
14 with respect to the General Revenue Fund pursuant to Section 34.49  
15 of Title 62 of the Oklahoma Statutes.

16 D. In the event that the amount of revenue certified to be  
17 collected in the General Revenue Fund for the upcoming fiscal year  
18 is less than the amount of revenue certified to the General Revenue  
19 Fund for the current fiscal year, the Legislature may appropriate up  
20 to one-quarter (1/4) of the balance of the Revenue Stabilization  
21 Fund; provided, that the amount withdrawn shall not exceed the  
22 amount of the decline in revenue certified.

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 34.105 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. In addition to any other duties prescribed by law, at the  
5 meeting required by paragraph 1 of Section 23 of Article X of the  
6 Oklahoma Constitution to be held in February of 2017, and each year  
7 thereafter, the State Board of Equalization shall certify:

8 1. For the revenue derived from the tax levied on oil pursuant  
9 to Section 1001 of Title 68 of the Oklahoma Statutes, which would  
10 otherwise be apportioned to the General Revenue Fund, the average  
11 annual amount of actual revenue apportioned to the General Revenue  
12 Fund for the previous five (5) fiscal years;

13 2. For the revenue derived from the tax levied on natural gas  
14 pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, which  
15 would otherwise be apportioned to the General Revenue Fund, the  
16 average annual amount of actual revenue apportioned to the General  
17 Revenue Fund for the previous five (5) fiscal years; and

18 3. For the revenue derived from the corporate income tax levied  
19 pursuant to Section 2355 of Title 68 the Oklahoma Statutes, which  
20 would otherwise be apportioned to the General Revenue Fund, the  
21 average annual amount of actual revenue apportioned to the General  
22 Revenue Fund for the previous five (5) fiscal years.

23 B. If the amount of revenue available for apportionment to the  
24 General Revenue Fund for the next ensuing fiscal year as estimated

1 by the State Board of Equalization exceeds the amounts certified  
2 pursuant to paragraph 1 or 2 of subsection A of this section, with  
3 respect to each such revenue source, seventy-five percent (75%) of  
4 such amount in excess of the separately computed five-year average,  
5 which would otherwise be apportioned to the General Revenue Fund,  
6 shall be deposited to the credit of the Revenue Stabilization Fund.

7 C. If the amount of revenue available for apportionment to the  
8 General Revenue Fund for the next ensuing fiscal year exceeds the  
9 amount certified, as estimated by the State Board of Equalization  
10 pursuant to paragraph 3 of subsection A of this section, twenty-five  
11 percent (25%) of such amount in excess shall be deposited to the  
12 credit of the Maintenance of State Buildings Revolving Fund created  
13 in Section 908 of Title 62 of the Oklahoma Statutes. The remaining  
14 seventy-five percent (75%) shall be deposited to the credit of the  
15 Revenue Stabilization Fund.

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 34.106 of Title 62, unless there  
18 is created a duplication in numbering, reads as follows:

19 Not later than December 15, 2021, and every five (5) years  
20 thereafter, the Office of Management and Enterprise Services shall  
21 submit a report to the Joint Committee on Appropriations and Budget,  
22 and the Governor on the performance of the Revenue Stabilization  
23 Fund and Maintenance of State Buildings Revolving Fund set forth in  
24 this section. The reports shall include an analysis of the deposit

1 formulae impact on General Revenue Fund tax revenue volatility, the  
2 adequacy of deposits required by the formula to the Revenue  
3 Stabilization Fund to replace potential future revenue declines, the  
4 adequacy of the deposits to the Maintenance of State Buildings  
5 Revolving Fund to ensure the proper maintenance of state buildings,  
6 the withdrawal provisions of the Revenue Stabilization Fund and an  
7 analysis of the adequacy of the maximum cap on the Revenue  
8 Stabilization Fund balances. The reports shall include recommended  
9 changes, if any, to the deposit formulae, withdrawal rules or  
10 maximum balance cap that are consistent with the purposes of the  
11 Revenue Stabilization Fund and the Maintenance of State Buildings  
12 Revolving Fund."

13 and when the title is restored, amend the title to  
14 conform

15 Passed the Senate the 21st day of April, 2016.

16  
17 \_\_\_\_\_  
18 Presiding Officer of the Senate

19 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
20 2016.

21  
22 \_\_\_\_\_  
23 Presiding Officer of the House  
24 of Representatives

1 ENGROSSED HOUSE  
2 BILL NO. 2763

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7 [ public finance - Oklahoma Energy Revenues  
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9 Strategy - creating the Board on Revenue  
10 Stabilization - ~~effective date~~ -  
11 emergency ]

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

15 SECTION 4. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 8001 of Title 62, unless there  
17 is created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "Oklahoma Energy  
19 Revenues Stabilization Act".

20 SECTION 5. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 8002 of Title 68, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. Revenues from the gross production tax on oil and gas above  
24 a moving five-year average, in addition to revenue from corporate

1 income tax above a five-year average, shall be deposited into a  
2 revolving fund to be known as the Energy Stabilization Fund.

3 B. The Energy Stabilization Fund shall be invested in a manner  
4 prescribed by the State Treasurer with the primary intent of  
5 generating returns, with all investment returns from the Energy  
6 Stabilization Fund to accrue to the balance of the fund.

7 C. In the event that the Energy Stabilization Fund should grow  
8 to a value equal to seventy-five percent (75%) of the February  
9 projection of gross production tax on oil and gas, all monies above  
10 the seventy-five-percent level shall be deposited to the credit of  
11 the General Revenue Fund for appropriation in the current fiscal  
12 year.

13 SECTION 6. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 8003 of Title 62, unless there  
15 is created a duplication in numbering, reads as follows:

16 It is the finding of the Legislature that the State Treasurer  
17 may be authorized to utilize the financial instruments known as  
18 options on oil and gas futures for the purpose of providing revenue  
19 stability, given that these instruments are not a contractual right  
20 of ownership to stock or of any company. The Legislature further  
21 finds that the purchase of options on oil and gas futures is not to  
22 be considered the lending of the state's credit, but rather that the  
23 state is purchasing options to a commodity which may generally  
24



1 benefit the citizens of the state and that the state is in effect  
2 paying for a service which it has the option to purchase.

3 SECTION 7. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 8004 of Title 62, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. The State Treasurer shall be authorized to contract with a  
7 third-party firm for the purpose of consultation and assessment of  
8 the State of Oklahoma's oil and gas tax revenues and determining the  
9 best strategy for acquiring financial positions which may benefit  
10 the state.

11 B. The State Treasurer shall create a Revenue Protection  
12 Strategy for the next fiscal year.

13 1. The Tax Commission shall report to the State Treasurer the  
14 projected level of revenue that will be reported to the Board of  
15 Equalization at its December meeting. This projection shall be  
16 reported between five (5) and ten (10) days before the December  
17 meeting of the Board of Equalization.

18 2. The State Treasurer shall utilize information from the Tax  
19 Commission to create the Revenue Protection Strategy (RPS) for the  
20 fiscal year for which the projection is applicable.

21 3. The State Treasurer may utilize a third-party consultant to  
22 help in creating the Revenue Protection Strategy.

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1           4. The Revenue Protection Strategy shall report the projected  
2 amount of gross production revenues collected on oil and gas  
3 production.

4           5. The Revenue Protection Strategy may utilize projected gains  
5 from the use of a hedging strategy using options related to oil or  
6 gas or both such commodities. No hedging strategy shall include the  
7 equity securities of a specific company. The Revenue Protection  
8 Strategy shall utilize best practices of risk management and  
9 investment and not be for speculative purposes. The Revenue  
10 Protection Strategy shall detail the proposed use of financial  
11 instruments and cash funds from the Energy Stabilization Fund to  
12 prevent a minimum of a ten-percent decline in gross production tax  
13 revenue receipts from the December equalization projection.

14           6. The Revenue Protection Strategy shall include by what means  
15 the State Treasurer proposes to pay to acquire the revenue-  
16 stabilizing hedging positions. The State Treasurer may utilize  
17 investment returns from the State Treasurer's portfolio or from the  
18 Energy Stabilization Fund to acquire the hedging positions.

19           7. The Revenue Protection Strategy shall detail the anticipated  
20 costs of the proposed Revenue Protection Strategy unless the  
21 strategy is amended by the Board on Revenue Stabilization. The  
22 Revenue Protection Strategy report shall also include the realized  
23 costs of the previous fiscal year's Revenue Protection Strategy.

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1           8. The Energy Stabilization Fund shall not be used until such  
2 time that the Energy Stabilization Fund shall have built a principal  
3 balance that is equal to twenty-five percent (25%) of the five-year  
4 moving average of the gross production tax revenue. The State  
5 Treasurer may use investment returns generated from the fund for the  
6 purpose of acquiring the financial instruments necessary for  
7 carrying out the hedging strategy.

8           9. The State Treasurer may use third-party sources for the  
9 purpose of purchasing the options on futures.

10          10. The State Treasurer shall be authorized to use monies from  
11 investment returns on the State Treasurer's portfolio or from the  
12 Energy Stabilization Fund to acquire both consulting services and  
13 payment of the third-party purchases of options, except as otherwise  
14 provided for in this act. The State Treasurer shall include both  
15 the expenditures and source of financing in the monthly report of  
16 investment activity.

17          11. Revenue gained from the utilization of the Revenue  
18 Protection Strategy shall be expended in line with the requirements  
19 and apportionments of the applicable gross production taxes, except  
20 that one-half of one percent (0.5%) of any gains gathered from the  
21 exercise of the Revenue Protection Strategy shall be deposited to  
22 the credit of the Energy Stabilization Fund.

1 SECTION 8. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 8005 of Title 62, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. There shall be created a Board on Revenue Stabilization.

5 B. The Board shall be composed of the following members:

6 1. The Governor shall appoint one member from any oil company  
7 based in the State of Oklahoma, and one member from any gas company  
8 based in the State of Oklahoma, and one Registered Representative  
9 who has passed both the Series 7/66 Exams;

10 2. The President Pro Tempore of the Oklahoma State Senate shall  
11 appoint one member from any oil or gas company based in the State of  
12 Oklahoma;

13 3. The Speaker of the Oklahoma House of Representatives shall  
14 appoint one Registered Representative who has passed the Series 7/66  
15 exams; and

16 4. The State Treasurer or a designee shall serve as an ex  
17 officio member of the Board.

18 C. The Governor's Registered Representative appointment shall  
19 serve as the Chair of the Board.

20 D. The Board shall meet within forty-eight (48) hours of the  
21 December Board of Equalization revenue certification. The State  
22 Treasurer shall report to the Board findings from any third-party  
23 consultations, and shall provide the Revenue Protection Strategy to  
24 meet the requirements of this act.

1 E. The Board shall vote to approve or disapprove of the State  
2 Treasurer's proposed Revenue Protection Strategy. If the Board  
3 votes to disapprove of the Revenue Protection Strategy, the Board  
4 shall immediately amend the strategy and provide instructions for  
5 the implementation of the revised Revenue Protection Strategy.

6 F. Upon the approval or revision of the proposed Revenue  
7 Protection Strategy, the State Treasurer shall be responsible for  
8 implementing the Revenue Protection Strategy immediately.

9 G. The Board may meet throughout the year as needed to amend  
10 the Revenue Protection Strategy or approve of proposed amendments as  
11 applicable.

12 ~~SECTION 9. This act shall become effective July 1, 2016.~~

13 ~~SECTION 10. It being immediately necessary for the preservation~~  
14 ~~of the public peace, health and safety, an emergency is hereby~~  
15 ~~declared to exist, by reason whereof this act shall take effect and~~  
16 ~~be in full force from and after its passage and approval.~~

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1 Passed the House of Representatives the 9th day of March, 2016.

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3 \_\_\_\_\_  
4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2016.

6  
7  
8 \_\_\_\_\_  
9 Presiding Officer of the Senate