

ENROLLED HOUSE
BILL NO. 2140

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Mitchell, O'Neal, Ramsey, Sadler, Smith
(Dale), Thomas, Weaver and Wells of the
House

and

Easley and Campbell of the Senate

An Act relating to oil and gas production and revenue and taxation; amending 52 O.S. 1991, Section 29, as amended by Section 2, Chapter 14, O.S.L. 1992 (52 O.S. Supp. 1996, Section 29), which relates to limits on gas production; modifying production limits; providing certain exception; providing for production allowables; defining term; amending 68 O.S. 1991, Section 1001, as last amended by Section 1, Chapter 360, O.S.L. 1996, and Section 2, Chapter 360, O.S.L. 1996 (68 O.S. Supp. 1996, Sections 1001 and 1001.3), which relate to gross production tax; extending sunset dates for certain exemptions from gross production tax; clarifying dates for wells eligible for certain exemptions; providing and modifying definitions; exempting certain production from gross production tax; allowing operator to include certain costs; modifying dollar limit for certain exemptions to apply; clarifying time period and procedure for issuing certain refunds; amending 68 O.S. 1991, Sections 1356, as last amended by Section 15 of Enrolled House Bill No. 1807 of the 1st Session of the 46th Oklahoma Legislature, and 1359, as last amended by Section 18 of Enrolled House Bill No. 1807 of the 1st Session of the 46th Oklahoma Legislature, which relate to sales tax exemptions; providing sales tax exemption for certain transfer of personal property; modifying effective date of certain exemption from sales tax; transferring certain funds by the Director of State Finance; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 52 O.S. 1991, Section 29, as amended by Section 2, Chapter 14, O.S.L. 1992 (52 O.S. Supp. 1996, Section 29), is amended to read as follows:

Section 29. A. Every corporation, joint stock company, limited copartnership, partnership or other person now or hereafter claiming or exercising the right to produce natural gas within the limits of this state, as owner, lessee, licensee, or by virtue of any other

right or claim is hereby prohibited from producing from any gas well:

- ~~1. During the period comprising the calendar months of March through October of any year more than the greater of:
 - a. seven hundred fifty thousand (750,000) cubic feet of natural gas per day, or
 - b. twenty-five percent (25%) of the daily natural flow of such natural gas well; or~~
- ~~2. During the period comprising the calendar months of November through February of any calendar year more than the greater of:
 - a. one million (1,000,000) cubic feet of natural gas per day, or
 - b. forty percent (40%) of the daily natural flow of such natural gas well;~~

~~unless and until the Corporation Commission promulgates production rules pursuant to subsection B of this section an amount in excess of that prescribed by the Oklahoma Corporation Commission.~~

~~B. The Except as otherwise provided in this section, the Corporation Commission shall have the power and authority to promulgate production rules from time to time for all natural gas wells producing within this state, or for such categories of natural gas wells producing within this state as the Commission may deem appropriate, establishing different levels of production, which may be greater or lesser than those set forth herein, upon a finding that the levels of production so established will be sufficient to prevent waste as the same is defined in Section 86.3 of this title and will protect the interests of the public against production of the natural gas reserves underlying this state in amounts in excess of the reasonable market demand therefor.~~

~~C. For thirty (30) months from the date of first production, a discovery gas well, as defined in this subsection, subject to the provisions of this section, shall have a production allowable which shall be the greater of one thousand three hundred (1,300) MCFD or sixty-five percent (65%) of the absolute open flow (AOF) as specified by the Corporation Commission. Such discovery well allowable shall not be available for any discovery gas well wherein two (2) or more separate common sources of supply are commingled and one (1) common source of supply would not qualify a new gas well as a discovery gas well, as defined in this section.~~

~~Drilling and spacing units which are downspaced after June 1, 1997, shall not qualify for the discovery gas well allowable.~~

~~For purposes of this subsection, "discovery gas well" shall mean a new gas well, which is not an off-pattern well, which is the first well completed in a common source of supply within a drilling and spacing unit and is at least one (1) mile from all existing gas wells which are completed in the same common source of supply. In the absence of spacing, a discovery well shall be the first well in the governmental section completed in a common source of supply, provided that the discovery gas well shall not be drilled closer than one thousand three hundred twenty (1,320) feet from the boundaries of the governmental section and is at least one (1) mile from all existing gas wells which are completed in the same common source of supply.~~

~~D. The authority granted to the Corporation Commission by this section is in addition to that provided for in Section 239 of this title.~~

~~E. The Corporation Commission may, for good cause shown under the exigencies of a particular case and after appropriate notice and hearing, establish a production level different from the~~

levels provided by this section or established by rule promulgated by the Corporation Commission.

~~E.~~ F. Production rules promulgated by the Corporation Commission pursuant to the authority granted in subsection B of this section shall be promulgated pursuant to Article I of the Administrative Procedures Act, Sections 250.3 through 308.2 of Title 75 of the Oklahoma Statutes, including the provisions contained therein prescribing the required notice and hearing for rulemaking.

~~F.~~ G. The provisions of subsection A of this section and production rules promulgated by the Corporation Commission pursuant to subsection B of this section shall not supersede or invalidate the provisions of any rule or order of the Corporation Commission establishing production levels for natural gas from a well which has been expressly authorized by Corporation Commission order to produce at a specified rate applicable only to that well where the basis for the rate established is based upon a determination by the Corporation Commission that reasonable cause exists to expect that production below ~~said~~ the rate would damage the well and cause waste, a so-called "hardship well", or establishing field rules under Section 239 of this title governing the taking of gas from a specified common source of supply or field.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 1001, as last amended by Section 1, Chapter 360, O.S.L. 1996 (68 O.S. Supp. 1996, Section 1001), is amended to read as follows:

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

(b) Except as otherwise exempted pursuant to subsections (d), (e), (f), (g), (h) and (i) of this section, there is hereby levied upon the production of oil a tax equal to seven percent (7%) of the gross value of the production of oil based on a per barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit and a tax equal to seven percent (7%) of the gross value of the production of gas.

(c) The tax hereby levied shall also attach to, and is levied on, what is known as the royalty interest; and the amount of such tax shall be a lien on such interest.

(d) (1) Any incremental production attributable to the working interest owners which results from an enhanced recovery project shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved for new enhanced recovery projects or until project payback is achieved but not to exceed a period of thirty-six (36) months for tertiary enhanced recovery projects existing on July 1, 1988. This exemption shall take effect July 1, 1988 and shall apply to enhanced recovery projects approved or having a project beginning date prior to July 1, 1993. Project payback pursuant to this paragraph for enhanced recovery projects qualifying for this exemption on or after July 1, 1990, and on or before June 30, 1993, shall be determined by appropriate payback indicators which will not include any expenses beyond the completion date of the well. Project payback pursuant to this paragraph for enhanced recovery projects qualifying for this exemption on or after October 17, 1987, and on or before June 30, 1990, shall be determined by appropriate payback indicators as previously established and allowed by the Oklahoma Tax Commission for projects qualifying during such period.

(2) For secondary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1,

~~1998~~ 2000, any incremental production attributable to the working interest owners which results from such secondary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved but not to exceed a period of ten (10) years. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and fifty percent (50%) of operating expenses, in determining project payback.

(3) For tertiary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, ~~1998~~ 2000, any incremental production attributable to the working interest owners which results from such tertiary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved, but not to exceed a period of ten (10) years. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and operating expenses, excluding administrative expenses, in determining project payback. The capital expenses of pipelines constructed to transport carbon dioxide to a tertiary recovery project shall not be included in determining project payback pursuant to this paragraph.

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

(5) For purposes of this subsection:

- a. "incremental production" means the amount of crude oil or other liquid hydrocarbons which is produced during an enhanced recovery project and which is in excess of the base production amount of crude oil or other liquid hydrocarbons. The base production amount shall be the average monthly amount of production for the twelve-month period immediately prior to the project beginning date minus the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the project beginning date. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the project beginning date as determined by the Corporation Commission based on the production history of the field, its current status, and sound reservoir engineering principles.
- b. "project beginning date" means the date on which the injection of liquids, gases, or other matter begins on an enhanced recovery project.

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

(7) For new secondary recovery projects and tertiary recovery projects approved by the Corporation Commission on or after July 1, 1993, and before July 1, ~~1998~~ 2000, such approval shall constitute qualification for an exemption.

(8) Any person seeking an exemption shall file an application for such exemption with the Oklahoma Tax Commission which, upon

determination of qualification by the Corporation Commission, shall approve the application for such exemption.

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

(10) Upon the expiration of the exemption granted pursuant to this subsection, the Tax Commission shall collect the gross production tax levied pursuant to this section.

(e) (1) The production of oil, gas or oil and gas from a horizontally drilled well producing prior to July 1, 1994, which production commenced after July 1, 1990, or producing prior to July 1, ~~1997~~ 2000, which production commenced after July 1, 1995, shall be exempt from the gross production tax levied pursuant to subsection (b) of this section from the project beginning date until project payback is achieved but not to exceed a period of twenty-four (24) months commencing with the month of initial production from the horizontally drilled well. Provided, any incremental production which results from a horizontally drilled well producing prior to July 1, 1994, shall be exempt from the gross production tax levied pursuant to subsection (b) of this section from the project beginning date until project payback is achieved but not to exceed a period of twenty-four (24) months commencing with the month of initial production from the horizontally drilled well. For purposes of subsection (d) of this section and this subsection, project payback shall be determined as of the date of the completion of the well and shall not include any expenses beyond the completion date of the well, and subject to the approval of the Oklahoma Tax Commission.

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

(f) (1) Except as otherwise provided in subsection (j) of this section, the severance or production of oil, gas or oil and gas from an inactive well shall be exempt from the gross production tax levied pursuant to subsection (b) of this section for a period of twenty-eight (28) months from the date upon which production is reestablished. This exemption shall take effect July 1, 1994, and shall apply to wells for which work to reestablish or enhance production began on or after July 1, 1994, and for which production is reestablished prior to July 1, ~~1997~~ 2000. For all such production, a refund against gross production taxes shall be issued as provided in subsection (k) of this section.

(2) As used in this subsection, for wells for which production is reestablished prior to July 1, 1997, "inactive well" means any well that has not produced oil, gas or oil and gas for a period of not less than two (2) years as evidenced by the appropriate forms on file with the Corporation Commission reflecting the well's status. As used in this subsection, for wells for which production is reestablished on or after July 1, 1997, and prior to July 1, 2000, "inactive well" means any well that has not produced oil, gas or oil and gas for a period of not less than one (1) year as evidenced by the appropriate forms on file with the Corporation Commission reflecting the well's status.

(g) (1) Except as otherwise provided in subsection (j) of this section, any incremental production which results from a production enhancement project shall be exempt from the gross production tax levied pursuant to subsection (b) of this section for a period of

twenty-eight (28) months from the date of project completion of the production enhancement project. This exemption shall take effect July 1, 1994, and shall apply to production enhancement projects having a project beginning date on or after July 1, 1994, and prior to July 1, 1997 2000. For all such production, a credit against gross production taxes shall be issued as provided in subsection (k) of this section.

(2) As used in this subsection:

- a.
 1. for production enhancement projects having a project beginning date prior to July 1, 1997, "production enhancement project" means any workover as defined in this paragraph, recompletion as defined in this paragraph, or fracturing of a producing well, and
 2. for production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2000, "production enhancement project" means any workover as defined in this paragraph, recompletion as defined in this paragraph, reentry of plugged and abandoned wellbores, or fracturing of a producing well,
- b. "incremental production" means the amount of crude oil, natural gas or other hydrocarbons which are produced as a result of the production enhancement project in excess of the base production,
- c. "base production" means the average monthly amount of production for the twelve-month period immediately prior to either the filing of the application of the production enhancement project or the commencement of the project, whichever is earlier. If the well or wells covered in the application had production for less than the full twelve-month period prior to the filing of the application for the production enhancement project, then the base production shall be the average monthly production for the months during that period that the well or wells produced,
- d.
 1. for production enhancement projects having a project beginning date prior to July 1, 1997, "recompletion" means any downhole operation in an existing oil or gas well that is conducted to establish production of oil or gas from any geological interval not currently completed or producing in ~~said~~ such existing oil or gas well, and
 2. for production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2000, "recompletion" means any downhole operation in an existing oil or gas well that is conducted to establish production of oil or gas from any geologic interval not currently completed or producing in such existing oil or gas well within the same or a different geologic formation, and
- e. "workover" means any downhole operation in an existing oil or gas well that is designed to sustain, restore or increase the production rate or ultimate recovery in a geologic interval currently completed or producing in said existing oil or gas well.
~~"Workover"~~ For production enhancement projects having

a project beginning date prior to July 1, 1997, "workover" includes, but is not limited to, acidizing, reperforating, fracture treating, sand/paraffin removal, casing repair, squeeze cementing, or setting bridge plugs to isolate water productive zones from oil or gas productive zones, or any combination thereof. For production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2000, "workover" includes, but is not limited to:

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

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

(h) (1) Except as otherwise provided in subsection (j) of this section, the production of oil, gas or oil and gas from wells spudded between July 1, 1994, and June 30, ~~1997~~ 2000, and drilled to a depth of fifteen thousand (15,000) feet or greater shall be exempt from the gross production tax levied pursuant to subsection (b) of this section from the date of first sales for a period of twenty-eight (28) months. For purposes of qualifying for this exemption, "depth" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing. Except as otherwise provided in subsection (j) of this section, the production of oil, gas or oil and gas from wells spudded between July 1, 1997, and June 30, 2000, and drilled to a depth of twelve thousand five hundred (12,500) feet or greater shall be exempt from the gross production tax levied pursuant to subsection (b) of this section from the date of first sales for a period of twenty-eight (28) months. For all such wells spudded, a refund against gross production taxes shall be issued as provided in subsection (k) of this section.

(2) If a drilling prospect of at least twelve thousand five hundred (12,500) feet is developed using three-dimensional seismic data, the operator shall be entitled to include the incremental cost attributed to the prospect in the drilling costs of the well. These costs will be determined as follows:

- a. the total costs for a three-dimensional seismic shoot shall be allocated on a per-acre basis and shall include, but not be limited to, design, permits, acquisition and processing charges. Such costs shall

be documented prior to the drilling of the first prospect in a cost recovery area. Actual invoices or other documents acceptable to the Corporation Commission may be used for this purpose,

- b. the cost recovery shall be based on a proration unit, which shall be determined using the eight (8) wells or acreages surrounding the original well or acreage. The cost per acre shall be allowed on each new well as it is drilled,
- c. only the costs of the three-dimensional seismic shoot can be recovered,
- d. once a cost recovery area has been designated for one prospect, it may not be used again for any other prospects,
- e. the operator shall have up to six (6) years from the time of the completion of the processing, as documented with the Corporation Commission, to drill and recover costs, and
- f. if other companies participate in the three-dimensional shoot or if the data is purchased from another operator or from a contractor, only the total costs to the purchasing company on a per-acre basis shall be used for the cost recovery area.

(3) In no case shall the total amount of gross production tax exemption provided for in paragraph (1) of this subsection exceed the total cost of drilling and completing the well.

~~(3)~~ (4) The Corporation Commission shall deliver to the Legislature a report on the number of wells as defined by paragraph (1) of this subsection that are drilled and the amount of production from those wells. The first such report shall be delivered to the Legislature no later than February 1, 1996, and each February 1, thereafter, until the conclusion of the program.

(i) (1) Except as otherwise provided in subsection (j) of this section, the production of oil, gas or oil and gas from wells spudded or reentered between July 1, 1995, and June 30, 1997 2000, which qualify as a new discovery pursuant to this subsection shall be exempt from the gross production tax levied pursuant to subsection (b) of this section from the date of first sales for a period of twenty-eight (28) months. For all such wells spudded or reentered, a refund against gross production taxes shall be issued as provided in subsection (k) of this section. As used in this subsection, "new discovery" means production of oil, gas or oil and gas from:

- a. 1. for wells spudded or reentered on or after July 1, 1997, a well that discovers crude oil in paying quantities that is more than one (1) mile from the nearest oil well producing from the same producing formation, and
- 2. for wells spudded or reentered on or after July 1, 1997, and prior to July 1, 2000, a well that discovers crude oil in paying quantities that is more than one (1) mile from the nearest oil well producing from the same producing interval of the same formation,
- b. 1. for wells spudded or reentered prior to July 1, 1997, a well that discovers crude oil in paying quantities beneath current production in a deeper producing formation that is more than one (1) mile from the nearest oil well producing from the same deeper producing formation, and

2. for wells spudded or reentered on or after July 1, 1997, and prior to July 1, 2000, a well that discovers crude oil in paying quantities beneath current production in a deeper producing interval that is more than one (1) mile from the nearest oil well producing from the same deeper producing interval,
- c. 1. for wells spudded or reentered prior to July 1, 1997, a well that discovers natural gas in paying quantities that is more than two (2) miles from the nearest gas well producing from the same producing formation, and
 2. for wells spudded or reentered on or after July 1, 1997, and prior to July 1, 2000, a well that discovers natural gas in paying quantities that is more than two (2) miles from the nearest gas well producing from the same producing interval, or
- d. 1. for wells spudded or reentered prior to July 1, 1997, a well that discovers natural gas in paying quantities beneath current production in a deeper producing formation that is more than two (2) miles from the nearest gas well producing from the same deeper producing formation, and
 2. for wells spudded or reentered on and after July 1, 1997, and prior to July 1, 2000, a well that discovers natural gas in paying quantities beneath current production in a deeper producing interval that is more than two (2) miles from the nearest gas well producing from the same deeper producing interval.

(2) In no case shall the total amount of gross production tax exemption or credit provided for in paragraph (1) of this subsection exceed the total cost of drilling and completing the well.

(3) The Corporation Commission shall deliver to the Legislature a report on the number of wells as defined by paragraph (1) of this subsection that are drilled and the amount of production from those wells. The first such report shall be delivered to the Legislature no later than February 1, 1997, and each February 1, thereafter, until the conclusion of the program.

(j) (1) The exemptions provided for in subsections (f), (g), (h) and (i) of this section shall not apply:

- a.—to the severance or production of oil, upon determination by the Oklahoma Tax Commission that the weighted average price of Oklahoma oil exceeds ~~Twenty Dollars (\$20.00)~~ Twenty-five Dollars (\$25.00) per barrel calculated on an annual calendar year basis, and
- b.—to the severance or production of gas, upon determination by the Oklahoma Tax Commission that the weighted average wellhead price of Oklahoma gas exceeds ~~Two Dollars and fifty cents (\$2.50)~~ Three Dollars (\$3.00) per Million British Thermal Units (1MM BTU) calculated on an annual calendar year basis.

(2) Notwithstanding the exemptions granted pursuant to subsections (e), (f), (g), (h) and (i) of this section, there shall continue to be levied upon the production of petroleum or other crude or mineral oil or natural gas or casinghead gas, as provided in subsection (b) of this section, from any wells provided for in subsection (e), (f), (g), (h) or (i) of this section, a tax equal to

one percent (1%) of the gross value of the production of petroleum or other crude or mineral oil or natural gas or casinghead gas. The tax hereby levied shall be apportioned as follows:

- ~~a.~~ (1) Fifty percent (50%) of the sum collected shall be apportioned to the County Highway Fund as provided in paragraph 3 of Section 1004 of this title, and
- ~~b.~~ (2) Fifty percent (50%) of the sum collected shall be apportioned to the appropriate school district as provided in paragraph 4 of Section 1004 of this title.

Upon the expiration of the exemption granted pursuant to subsection (e), (f), (g), (h) or (i) of this section, the provisions of this paragraph shall have no force or effect.

(k) For all production exempt from gross production taxes pursuant to subsections (f), (g) and (h) of this section between July 1, 1994, and June 30, 1995, a refund against gross production taxes shall be issued to the well operator or a designee in the amount of such gross production taxes paid from the date of first sales through June 30, 1995, which shall not be claimed until after July 1, 1995. For all production exempt from gross production taxes pursuant to subsections (e), (f), (g), (h) and (i) of this section between July 1, 1995, and June 30, 1996, a refund against gross production taxes shall be issued to the well operator or a designee in the amount of such gross production taxes paid during such period, which shall not be claimed until after July 1, 1996. For all such production between July 1, 1996, and June 30, 1997, a refund against gross production taxes shall be issued to the well operator or a designee in the amount of such gross production taxes paid during such period, which shall not be claimed until after July 1, 1997. Beginning July 1, 1997, for all such production during a given fiscal year, which shall begin on July 1 of one calendar year and shall end on June 30 of the subsequent calendar year, a refund of gross production taxes shall be issued to the well operator or a designee in the amount of such gross production taxes paid during such period which shall not be claimed until after the end of such fiscal year.

(1) (1) The Corporation Commission and the Oklahoma Tax Commission shall promulgate joint rules for the qualification for the exemptions provided for in subsections (e), (f), (g), (h) and (i) of this section and the rules shall contain provisions for verification of any wells from which production may be qualified for the exemptions.

(2) Any person requesting any exemption shall file an application for qualification for the exemption with the Corporation Commission which, upon finding that the well meets the requirements of subsection (e), (f), (g), (h) or (i) of this section, shall approve the application for qualification.

(3) Any person seeking an exemption shall:

- a. file an application for the exemption with the Oklahoma Tax Commission which, upon determination of qualification by the Corporation Commission, shall approve the application for an exemption, and
- b. provide a copy of ~~said~~ the approved application to the remitter of the gross production tax.

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

(5) Upon the expiration of the exemption granted pursuant to subsection (e), (f), (g), (h) or (i) of this section, the Tax

Commission shall collect the gross production tax levied pursuant to this section. If a person who qualifies for the exemption elects to remit his or her own gross production tax during the exemption period, the first purchaser shall not be liable to withhold or remit the tax until the first day of the month following the receipt of written notification from the person who is qualified for such exemption stating that such exemption has expired and directing the first purchaser to resume tax remittance on his or her behalf.

(m) All persons shall only be entitled to either the exemption granted pursuant to subsection (d) of this section or the exemption granted pursuant to subsection (e), (f), (g), (h) or (i) of this section for each oil, gas or oil and gas well drilled or recompleted in this state. However, any person who qualifies for the exemption granted pursuant to subsection (e), (f), (g), (h) or (i) of this section shall not be prohibited from qualification for the exemption granted pursuant to subsection (d) of this section, if the exemption granted pursuant to subsection (e), (f), (g), (h) or (i) of this section has expired.

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

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

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

(q) The payment of the taxes herein levied shall be in full, and in lieu of all taxes by the state, counties, cities, towns, school districts and other municipalities upon any property rights attached to or inherent in the right to said minerals, upon producing leases for the mining of asphalt and ores bearing lead, zinc, jack, gold, silver or copper, or for oil, or for gas, upon the

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

(r) No equipment, material or property shall be exempt from the payment of ad valorem tax by reason of the payment of the gross production tax except such equipment, machinery, tools, material or property as is actually necessary and being used and in use in the production of asphalt or of ores bearing lead, zinc, jack, gold, silver or copper or of oil or gas. It is expressly declared that no ice plants, hospitals, office buildings, garages, residences, gasoline extraction or absorption plants, water systems, fuel systems, rooming houses and other buildings, nor any equipment or material used in connection therewith, shall be exempt from ad valorem tax.

(s) The exemption from ad valorem tax set forth in subsections (q) and (r) of this section shall continue to apply to all property from which production of oil, gas or oil and gas is exempt from gross production tax pursuant to subsection (d), (e), (f), (g), (h) or (i) of this section.

SECTION 3. AMENDATORY Section 2, Chapter 360, O.S.L. 1996 (68 O.S. Supp. 1996, Section 1001.3), is amended to read as follows:

Section 1001.3 A. "Economically at-risk oil lease" means any lease operated at a net loss or net profit which is less than the total gross production tax remitted for such lease during the previous tax reporting year. For the purpose of this section "lease" shall be defined as in Section 1001.2 of Title 68 of the Oklahoma Statutes.

B. When certified as such pursuant to the provisions of this section, an economically at-risk oil lease shall be eligible for an exemption equaling six-sevenths (6/7) of the gross production tax levied pursuant to subsection (b) of Section 1001 of ~~Title 68 of the Oklahoma Statutes~~ this title for production on such lease during the previous calendar year. The exemption shall not apply if it is determined by the Oklahoma Tax Commission that during the previous calendar year the weighted average price of Oklahoma oil exceeds ~~Twenty Dollars (\$20.00)~~ Twenty-five Dollars (\$25.00) per barrel calculated on an annual calendar year basis. For all production exempt from gross production taxes pursuant to this section, a refund of gross production taxes paid in the previous calendar year shall be issued to the well operator or a designee. The refund shall not be claimed until after July 1 of the subsequent year.

C. Notwithstanding the exemption granted pursuant to this section, all revenue derived from the one-seventh (1/7) remaining of the tax levy imposed by Section 1001 of ~~Title 68 of the Oklahoma Statutes~~ this title as gross production tax after the exemption shall be apportioned as follows:

1. Fifty percent (50%) of the sum collected shall be apportioned to the County Highway Fund as provided in paragraph 3 of Section 1004 of ~~Title 68 of the Oklahoma Statutes~~ this title; and

2. Fifty percent (50%) of the sum collected shall be apportioned to the appropriate school district as provided in paragraph 4 of Section 1004 of ~~Title 68 of the Oklahoma Statutes~~ this title.

D. Any operator making application for an economically at-risk oil lease status under the provisions of this section shall submit documentation to the Oklahoma Tax Commission, as determined by the Oklahoma Tax Commission to be appropriate and necessary including, but not limited to, the operator's federal income tax return for the previous year for such lease.

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

F. The Oklahoma Tax Commission shall have sole authority to determine if an oil lease qualifies for certification as an economically at-risk oil lease and shall make the determination within sixty (60) days after an application is filed for economically at-risk oil lease status. The Oklahoma Tax Commission shall promulgate rules governing the certification process.

G. Gross production tax exemptions under the provisions of this section shall be limited to production from calendar years ~~1996,~~ 1997 ~~and,~~ 1998 ~~and~~ 1999.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 1356, as last amended by Section 15 of Enrolled House Bill No. 1807 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

There are hereby specifically exempted from the tax levied by this article:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by this article, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheatres and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls shall be exempt from sales tax;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority and the Oklahoma Municipal Power Authority, or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State

Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

13. Sales of tangible personal property made by:

- a. a public school,
- b. a private school offering instruction for grade levels kindergarten through twelfth grade,
- c. a public school district,
- d. a public or private school board,
- e. a public or private school student group or organization,
- f. a parent-teacher association or organization, or
- g. public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization.

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:

- a. local 4-H clubs,
- b. county, regional or state 4-H councils,
- c. county, regional or state 4-H committees,
- d. 4-H leader associations,
- e. county, regional or state 4-H foundations, and
- f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (4);

16. Items or services which are subsequently given away by the Oklahoma Department of Tourism and Recreation as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and
- d. any community based health center which meets all of the following criteria:
 - (1) provides primary care services at no cost to the recipient, and
 - (2) is exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have

otherwise been made, to YMCAs or YWCAs for the use of facilities and programs;

24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of this title shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;

28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof; ~~and~~

29. Sales of tangible personal property or services to an organization exempt from tax pursuant to Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), which is supported or sponsored by one or more churches, members of which serve as trustees of the organization; and

30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 1359, as last amended by Section 18 of Enrolled House Bill No. 1807 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 1359. Exemptions - Manufacturers.

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

1. Goods, wares, merchandise, and property purchased for the purpose of being used or consumed in the process of manufacturing, compounding, processing, assembling, or preparing for sale a finished article and such goods, wares, merchandise, or property

become integral parts of the manufactured, compounded, processed, assembled, or prepared products or are consumed in the process of manufacturing, compounding, processing, assembling, or preparing products for resale. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

2. Ethyl alcohol when sold and used for the purpose of blending same with motor fuel on which motor fuel tax is levied by Section 529 of this title;

3. Sale of machinery and equipment purchased and used by persons establishing new manufacturing plants in Oklahoma, and machinery and equipment purchased or equipment built on site and used by persons in the operation of manufacturing plants already established in Oklahoma. This exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property for sale or resale. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such. For the purposes of this paragraph, sales made to a contractor or subcontractor of persons who are determined to be qualified for incentive benefits pursuant to the Oklahoma Quality Jobs Program Act shall be considered sales made to such persons; provided, the sales were made after July 1, 1993, and before December 31, 1995, but not more than twelve (12) months before such person was determined to be qualified for incentive benefits and that the sales are otherwise qualified for the exemption provided by this paragraph and that the property which is the subject of the sales is utilized for the purpose of the contract by which the person obtained the services of the contractor or subcontractor;

4. Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden, or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles and the cartons, crates, pallets, and containers used to transport returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers in this state to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty or filled containers shall be taxable under this Code. Additionally, this exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

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

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

7. Machinery, equipment, fuels and chemicals or other materials incorporated into and directly used or consumed in the process of

treatment to substantially reduce the volume or harmful properties of hazardous waste at treatment facilities specifically permitted pursuant to the Hazardous Waste Management Act and operated at the place of waste generation, or facilities approved by the Department of Environmental Quality for the cleanup of a site of contamination. The term "hazardous" waste may include low-level radioactive waste for the purpose of this subsection;

8. Sales of tangible personal property to a qualified manufacturer to be consumed or incorporated in a new manufacturing facility or to expand an existing manufacturing facility. For purposes of this subsection, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified manufacturer for construction or expansion of a manufacturing facility shall be considered sales made to a qualified manufacturer. For the purposes of this subsection, "qualified manufacturer" means any enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Five Million Dollars (\$5,000,000.00) and in which at least one hundred (100) new full-time-equivalent employees, as certified by the Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility. For purposes of this paragraph, the total cost of construction shall include building and construction material and engineering and architectural fees or charges directly associated with the construction of a new or expanded facility. The total cost of construction shall not include attorney fees. Provided, however, where the total cost of construction of a new or expanded facility exceeds Ten Million Dollars (\$10,000,000.00) and the combined cost of construction material, machinery, equipment and other tangible personal property exempt from sales tax under the provisions of this subsection exceeds the sum of Fifty Million Dollars (\$50,000,000.00) the required number of new full-time-equivalent employees under this subsection shall be reduced to seventy-five (75) new employees. The employment requirement of this subsection can be satisfied by the employment of a portion of the required number of new full-time-equivalent employees at a manufacturing facility that is related to or supported by the new or expanded manufacturing facility so long as both facilities are owned by one person or business entity. For purposes of this section, "manufacturing facility" shall mean building and land improvements used in manufacturing as defined by the Standard Industrial Classification Code and shall also mean building and land improvements used for the purpose of packing, repackaging, labeling or assembling for distribution to market, products at least seventy percent (70%) of which are made in Oklahoma by the same company but at an off-site in-state manufacturing facility or facilities. It shall not include a retail outlet unless the retail outlet is operated in conjunction with and on the same site or premises as the manufacturing facility. Up to ten percent (10%) of the square feet of a manufacturing facility building may be devoted to office space used to provide clerical support for the manufacturing operation. Such ten percent (10%) may be in a separate building as long as it is part of the same contiguous tract of property on which the manufacturing facility is located. Only sales of tangible personal property made after June 1, 1988, shall be eligible for the exemption provided by this subsection;

9. Sales of tangible personal property purchased and used by a licensed radio or television station in broadcasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the

proper production of a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. This exemption begins with the equipment used in producing live programming or the electronic equipment directly behind the satellite receiving dish or antenna, and ends with the transmission of the broadcast signal from the broadcast antenna system. For purposes of this subsection, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations;

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

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

12. Sales of any pattern used in the process of manufacturing iron, steel or other metal castings. The exemption provided by this subsection shall be applicable irrespective of ownership of the pattern provided that such pattern is used in the commercial production of metal castings;

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

14. Beginning ~~July~~ January 1, 1998, machinery, electricity, fuels, explosives and materials, excluding chemicals, used in the mining of coal in this state.

SECTION 6. TRANSFER The Director of State Finance, on July 1, 1997, shall transfer the sum of Three Hundred Fifty Thousand Dollars (\$350,000.00) from the Safety Consultation and Regulation Revolving Fund to the General Revenue Fund for the fiscal year ending June 30, 1998.

SECTION 7. This act shall become effective July 1, 1997.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 30th day of May, 1997.

Speaker of the House of Representatives

Passed the Senate the 30th day of May, 1997.

President of the Senate