

ENROLLED SENATE
BILL NO. 1048

By: Easley and Crutchfield of
the Senate

and

Rice of the House

An Act relating to oil and gas; amending 17 O.S. 1991, Section 53, as amended by Section 1, Chapter 340, O.S.L. 1998 (17 O.S. Supp. 1999, Section 53), which relates to plugging of abandoned oil and gas wells; modifying circumstances under which Corporation Commission may not order oil or gas well plugged or closed; amending 52 O.S. 1991, Sections 5, 47.2 and 47.3, which relate to pipelines and the Hazardous Liquid Transportation System Safety Act; prohibiting the Corporation Commission from promulgating, enforcing or interpreting certain rules or regulations inconsistent or more restrictive than the United States Secretary of Transportation; modifying certain reference; defining term; providing procedures for compliance with certain Commission rules; prohibiting Commission enforcement or interpretations of operators in compliance with certain written procedures approved by the United States Secretary of Transportation; amending 68 O.S. 1991, Section 1001, as last amended by Section 1, Chapter 1, 1st Extraordinary Session, O.S.L. 1999 (68 O.S. Supp. 1999, Section 1001), which relates to gross production taxes; modifying statutory references; exempting certain production from gross production taxes for certain time periods; modifying date after which certain production no longer exempt from gross production taxes; modifying wells considered to be inactive; modifying definitions; modifying circumstances under which certain gross production tax exemptions not applicable; deleting obsolete language; defining terms; requiring producer to deduct and withhold certain amount from payments made to royalty interest owner; providing that such requirement not apply to certain payments; allowing credit against income taxes for amount of such payments; providing for remittance of such payments to Oklahoma Tax Commission; requiring filing of return with such remittances; requiring remitter to furnish certain statements; allowing Tax Commission to require remitter to file return and pay withheld amounts at other times under certain circumstances; providing for deposits of such amounts; providing for liability of remitter upon failure to make payments; stating that withheld amounts are held in trust;

providing penalties for failure to pay withheld amounts over to Tax Commission; providing for penalty and interest; providing that certain insurance companies continue to receive tax credit under certain conditions; providing for codification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 17 O.S. 1991, Section 53, as amended by Section 1, Chapter 340, O.S.L. 1998 (17 O.S. Supp. 1999, Section 53), is amended to read as follows:

Section 53. The Corporation Commission is hereby authorized to promulgate rules for the plugging of all abandoned oil and gas wells. Abandoned wells shall be plugged under the direction and supervision of ~~Corporation~~ Commission employees as may be prescribed by the ~~Corporation~~ Commission. Provided, however, the Commission shall not order any oil or gas well to be plugged or closed ~~during any period of time the posted price of Oklahoma Sweet crude oil falls below Fifteen Dollars (\$15.00) per barrel for thirty (30) or more consecutive days~~ if the well is located on an otherwise producing oil or gas lease as defined by the Commission, unless such well poses an imminent threat to the public health and safety which shall be determined by the Commission after conducting a public hearing on the matter.

SECTION 2. AMENDATORY 52 O.S. 1991, Section 5, is amended to read as follows:

Section 5. The Corporation Commission is hereby authorized, directed and empowered to promulgate, adopt and enforce reasonable rules and regulations establishing minimum state safety standards for the design, construction, maintenance and operation of all pipelines used for the transmission and distribution of natural gas in this state; provided, however, the Commission shall not promulgate, enforce or interpret any rule or regulation unless such rule, regulation or interpretation shall be consistent with and no more restrictive than the rules, regulations and interpretations of the United States Secretary of Transportation for pipeline transportation and pipeline facilities. When any such transmission pipeline shall be constructed, operated or maintained under, through and across a highway, section-line road or improved public road or street, there shall be erected directly above where such pipeline enters or leaves said highway, section-line road or improved public road or street, a suitable sign or marker stating thereon the name of the owner of such pipeline and such other information as the Corporation Commission may by rule or regulation direct.

The Corporation Commission may appoint a registered professional engineer with actual experience in the design, construction, maintenance or operation of natural gas pipelines, and such other personnel as may be provided by law, to carry out the provisions of

this act. ~~He~~ Such engineer shall be furnished with ~~such~~ personnel, supplies and equipment as may be necessary to carry out the provisions of this act. The expenses of any inspection shall be borne and paid for by the parties laying and constructing or operating such pipelines for the transportation or transmission of natural gas.

~~The passage of this act shall not affect the validity of any rules or regulations heretofore adopted by the Corporation Commission until the same have been altered, amended or superseded by rules and regulations adopted promulgated pursuant to this section.~~

Unless a different meaning is required by the express term of an applicable federal statute, rule or regulation, the term "liaison" as used in 49 C.F.R. Section 192.615 shall be interpreted by the Corporation Commission according to this section. "Liaison" shall mean any arrangement that is conducive to communications between a pipeline operator or group of operators and appropriate local public officials, including, but not limited to, fire and police officials. Such arrangements may be established and maintained in any manner that allows the officials and the operator or operators the opportunity to exchange information required by 49 U.S.C. Section 60102. A public official's failure to attend a face-to-face meeting arranged by or on behalf of an operator or group of operators shall not be considered by the Corporation Commission as a failure on the part of any operator to establish or maintain a "liaison"; provided, the operator produces either of the following:

1. A written roster of persons invited to the meeting, meeting minutes, an attendance list and return receipts indicating the minutes were sent to those not in attendance; or
2. Evidence of compliance with any alternate arrangement acceptable to the Corporation Commission.

The Corporation Commission shall not apply or enforce any interpretations of its rules or regulations against any operator for any practice, policy or conduct that complies with a written procedure to minimize the hazard resulting from a gas pipeline emergency when that procedure has been annually updated and approved by the United States Secretary of Transportation.

SECTION 3. AMENDATORY 52 O.S. 1991, Section 47.2, is amended to read as follows:

Section 47.2 As used in the Hazardous Liquid Transportation System Safety Act:

1. "Commission" means the ~~Oklahoma~~ Corporation Commission-;
2. "Hazardous liquid" means petroleum or petroleum products and anhydrous ammonia-;
3. "Liaison", unless a different meaning is required by the express terms of an applicable federal statute, rule or regulation, shall mean the same as the term "liaison" as used in 49 C.F.R.,

Section 195.402(c) (12) which means any arrangement that is conducive to communications between a pipeline operator or group of operators and the appropriate local public officials including, but not limited to, fire and police officials. Such arrangements may be established and maintained in any manner that allows the officials and the operator or operators the opportunity to exchange information required by 49 U.S.C. Section 60102. A public official's failure to attend a face-to-face meeting arranged by or on behalf of an operator or group of operators shall not be considered by the Commission as a failure on the part of any operator to establish or maintain a "liaison"; provided, the operator produces either of the following:

- a. a written roster of persons invited to the meeting, meeting minutes, an attendance list and return receipts indicating the minutes were sent to those not in attendance, or
- b. evidence of compliance with any alternate arrangement acceptable to the Commission;

4. "Person" means any individual, corporation, industry, firm, partnership, association, venture, trust, institution, or federal, state, or local governmental instrumentality, or any legal entity however organized; and

~~4.~~ 5. "Transportation system" means a system of pipelines, conduits, pumping stations and force mains, temporary storage facilities, and all other constructions, devices, appurtenances, and facilities used in the movement of hazardous liquids. Said term does not include gathering pipelines in rural areas, onshore oil or gas production, refining, or manufacturing facilities, oil or gas storage facilities, or in-plant piping systems associated with said oil or gas facilities.

SECTION 4. AMENDATORY 52 O.S. 1991, Section 47.3, is amended to read as follows:

Section 47.3 The Corporation Commission shall have the power and duty to:

1. Establish, administer, and enforce safety standards for the design, construction, maintenance, and operation of all transportation systems for hazardous liquid; ~~and~~

2. Advise, consult, and cooperate with other agencies of this state, the federal government, other states, interstate agencies, political subdivisions, and industries, as may be necessary for the discharge of the duties of the Commission pursuant to the provisions of the Hazardous Liquid Transportation System Safety Act; ~~and~~

3. Accept and administer loans and grants from the federal government and from other sources, public or private, for implementing the provisions of the Hazardous Liquid Transportation System Safety Act; ~~and~~

4. Adopt, modify, repeal, promulgate, and enforce rules and regulations implementing or effectuating the powers and duties of the Commission pursuant to the provisions of the Hazardous Liquid Transportation System Safety Act, provided such rules and regulations shall not exceed those found in 49 CFR, Part 195, as provided for by P.L. 96-129; provided that, the Commission shall not promulgate, enforce or interpret any rule or regulation unless such rule, regulation or interpretation shall be consistent with and no more restrictive than the applicable rules, regulations and interpretations of the United States Secretary of Transportation; provided further that, the Commission shall not apply or enforce any interpretation of its rules or regulations against any operator for any practice, policy or conduct that complies with a written procedure to minimize the hazard resulting from a hazardous liquid or carbon dioxide pipeline emergency when that procedure has been annually updated and approved by the United States Secretary of Transportation; and

5. Make periodic investigations and inspections of hazardous liquid transportation systems to ensure compliance with the provisions of the Hazardous Liquid Transportation System Safety Act and rules and regulations promulgated by the Commission pursuant to the provisions of the Hazardous Liquid Transportation System Safety Act; ~~and~~

6. Require the submission of plans, specifications, and other data relative to hazardous liquid transportation systems, and review said plans, specifications, and other data; ~~and~~

7. Approve or disapprove written safety plans for the inspection and maintenance of said transportation systems; ~~and~~

8. Require reports from all persons operating or owning a hazardous liquid transportation system; ~~and~~

9. Require the maintenance of records relating to the operation of hazardous liquid transportation systems; ~~and~~

10. Institute or cause to be instituted any necessary legal proceedings in any court of competent jurisdiction for an injunction or other appropriate relief to enforce the provisions of the Hazardous Liquid Transportation System Safety Act; and

11. Exercise all incidental powers which are necessary and proper to perform the duties of the Commission pursuant to the provisions of the Hazardous Liquid Transportation System Safety Act.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 1001, as last amended by Section 1, Chapter 1, 1st Extraordinary Session, O.S.L. 1999 (68 O.S. Supp. 1999, 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. 1. Effective January 1, 1999, through June 30, 2001, except as otherwise exempted pursuant to subsections D, E, F, G, H ~~and~~ I and J of this section, there is hereby levied upon the production of oil a tax as set forth in this subsection on 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. If the average price of Oklahoma oil as determined by the Oklahoma Tax Commission pursuant to the provisions of paragraph 3 of this subsection equals or exceeds Seventeen Dollars (\$17.00) per barrel, then the tax shall be seven percent (7%). If the average price of Oklahoma oil as determined by the Tax Commission pursuant to paragraph 3 of this subsection is less than Seventeen Dollars (\$17.00) but is equal to or exceeds Fourteen Dollars (\$14.00) per barrel, then the tax shall be four percent (4%). If the average price of Oklahoma oil as determined by the Tax Commission pursuant to paragraph 3 of this subsection is less than Fourteen Dollars (\$14.00) per barrel, then the tax shall be one percent (1%).

2. Effective July 1, 2001, except as otherwise exempted pursuant to subsections D, E, F, G, H ~~and~~ I and J of this section, there shall be 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.

3. Effective January 1, 1999, through June 30, 2001, the average price of Oklahoma oil for purposes of this section shall be computed by the Tax Commission each month. At the first of each month, the Tax Commission shall compute the average price per barrel of sweet crude oil paid by the three largest purchasers of sweet crude oil in this state. The three largest purchasers shall be identified by the most recent annual report published by the Oklahoma Corporation Commission. The three purchasers identified shall report to the Tax Commission, on forms prescribed by the Tax Commission, the average price paid per barrel of sweet crude oil by the purchasers during the preceding calendar month.

4. Effective January 1, 1999, except as otherwise exempted pursuant to subsections D, E, F, G, H ~~and~~ I and J of this section, there shall be levied a tax equal to seven percent (7%) of the gross value of the production of gas.

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

D. 1. Except as otherwise provided in this section, 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 Tax Commission for projects qualifying during such period.

2. Except as otherwise provided in this section, for secondary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 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. Except as otherwise provided in this section, for secondary recovery properties approved or having an initial project beginning date on or after July 1, 2000, and before July 1, 2003, any incremental production attributable to the working interest owners which results from such secondary recovery property shall be exempt from the gross production tax levied pursuant to this section for a period not to exceed five (5) years from the initial project beginning date or for a period ending upon the termination of the secondary recovery process, whichever occurs first.

4. Except as otherwise provided in this section, for tertiary recovery projects approved and having a project beginning date on or after July 1, 1993, and before ~~July 1, 2000~~ July 1, 2003, 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.~~ 5. 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.~~ 6. 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, and
- b. "project beginning date" means the date on which the injection of liquids, gases, or other matter begins on an enhanced recovery project.

~~6.~~ 7. 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~~ 6 of this subsection, and the establishment of appropriate payback indicators as approved by the Tax Commission for the determination of project payback for each of the exemptions authorized by this subsection.

~~7.~~ 8. For new secondary recovery projects and tertiary recovery projects approved by the Corporation Commission on or after July 1, 1993, and before ~~July 1, 2000~~ July 1, 2003, such approval shall constitute qualification for an exemption.

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

~~9.~~ 10. The Tax Commission may require any person requesting such exemption to furnish information or records concerning the exemption as is deemed necessary by the Tax Commission.

~~10.~~ 11. 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. Except as otherwise provided in this section, 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, 2000~~ July 1, 2003, 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 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 the formation.

F. 1. Except as otherwise provided by 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, 2000~~ July 1, 2003. For all such production, a refund against gross production taxes shall be issued as provided in subsection ~~K~~ L 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~~ July 1, 2003, "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. Wells which experience mechanical failure or loss of mechanical integrity, as defined by the Corporation Commission, including but not limited to, casing leaks, collapse of casing or loss of equipment in a wellbore, or any similar event which causes cessation of production, shall also be considered inactive wells.

G. 1. Except as otherwise provided by 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 first sale after 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, 2000~~ July 1, 2003. For all such

production, a refund against gross production taxes shall be issued as provided in subsection ~~K~~ L 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~~ July 1, 2003, "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~~ addition of a well or field compression,
- 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 or the~~ average monthly amount of production for the twelve-month period immediately prior to the commencement of the project less the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the commencement of the project. 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 commencement of the project based on the production history of the well. 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, 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 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~~ July 1, 2003, "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 the existing oil or gas well. 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~~ July 1, 2003, "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 compression on a well or group of wells or 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 by this section, the production of oil, gas or oil and gas from wells spudded between July 1, 1994, and June 30, 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~~ June 30, 2003, 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~~ L 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.~~

~~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 by this section, the production of oil, gas or oil and gas from wells spudded or reentered between July 1, 1995, and ~~June 30, 2000~~ June 30, 2003, 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 ~~¶~~ L 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~~ July 1, 2003, 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~~ July 1, 2003, 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~~ July 1, 2003, 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~~ July 1, 2003, 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. Except as otherwise provided by this section, the production of oil, gas or oil and gas from any well, drilling of which is commenced after July 1, 2000, and prior to July 1, 2003, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology, shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales as follows:

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

2. If the three-dimensional seismic shoot is shot on or after July 1, 2000, for a period of twenty-eight (28) months.

For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

K. 1. The exemptions provided for in subsections F, G, H ~~and~~ I and J of this section shall not apply:

- a. to the severance or production of oil, upon determination by the Tax Commission that the weighted average price of Oklahoma oil exceeds ~~Twenty-five Dollars (\$25.00)~~ Thirty Dollars (\$30.00) per barrel calculated on an annual calendar year basis,
- b. to the severance or production of oil upon which gross production taxes are paid at a rate of one percent (1%) pursuant to the provisions of subsection B of this section, and
- c. to the severance or production of gas, upon determination by the Tax Commission that the weighted average wellhead price of Oklahoma gas exceeds ~~Three Dollars (\$3.00)~~ Three Dollars and fifty cents (\$3.50) 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 and J 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 or J of this section, a tax equal to one percent (1%) of the gross value of the production of petroleum or other crude or mineral oil or natural gas or casinghead gas. The tax hereby levied shall be apportioned as follows:

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

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

~~K. 1. 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.~~

~~2. Beginning July 1, 1997, for~~

L. For all oil and gas production exempt from gross production taxes pursuant to subsections E, F, G, H ~~and~~ I and J of this section during a given fiscal 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. As used in this paragraph, a fiscal year shall be deemed to begin on July 1 of one calendar year and shall end on June 30 of the subsequent calendar year. No refunds shall be claimed or paid pursuant to the provisions of this subsection for oil production upon which a tax is paid at a rate of one percent (1%) as specified in subsection B of this section. If there are insufficient funds collected from the production of oil to satisfy the refunds claimed for oil production pursuant to subsection E, F, G, H ~~or~~ I or J of this section, the Tax Commission shall pay the balance of the refund claims out of the gross production taxes collected from the production of gas.

~~I.~~ M. 1. The Corporation Commission and the Tax Commission shall promulgate joint rules for the qualification for the exemptions provided for in subsections E, F, G, H ~~and~~ I and J 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 or J 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 Tax Commission which, upon determination of qualification by the Corporation Commission, shall approve the application for an exemption, and

- b. provide a copy of 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 or J 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.~~ N. 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 or J 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 or J 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 or J of this section has expired.

~~N.~~ O. 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 the 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.~~ P. 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.~~ Q. 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 the tax.

~~Q.~~ R. 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 the 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.~~ S. 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.~~ T. The exemption from ad valorem tax set forth in subsections ~~Q~~ R and ~~R~~ S 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 or J of this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2385.25 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in Sections 6 through 9 of this act:

1. "Oil" and "gas" shall be defined as such terms are defined in Section 1001.2 of Title 68 of the Oklahoma Statutes;

2. "Remitter" means any person who distributes revenue to royalty interest owners; and

3. "Royalty interest owner" means any individual who retains a non-working interest in oil or gas production.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2385.26 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Each remitter, except as otherwise provided in subsection B of this section, shall deduct and withhold from each payment being made to any royalty interest owner in respect to production of oil and gas in this state, but not including that to which the remitter is entitled, an amount equal to six and three-fourths percent (6 3/4%) of the gross amount which would have otherwise been payable to the person entitled to the payment.

B. The obligation to deduct and withhold from payments as provided in subsection A of this section does not apply to those payments which are made to:

1. Current or permanent residents of Oklahoma;
2. The United States, this state or any state or federal agency or political subdivision;
3. Any charitable institution; or
4. Any federally recognized Indian tribe.

C. Any royalty interest owner from whom an amount is withheld pursuant to the provisions of subsection A of this section and who files an income tax return with this state is entitled to a credit against the tax as shown on the return for the amount withheld by the remitter under subsection A of this section. If the amount withheld is greater than the tax due on the return, the person filing the return shall be entitled to a refund in the amount of the overpayment.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2385.27 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any remitter required to deduct and withhold any amount under Section 7 of this act shall pay to the Oklahoma Tax Commission the amounts required to be deducted and withheld as follows:

1. For payments made to royalty interest owners during the months of January, February and March, the withholding amounts shall be due on or before April 30;

2. For payments made to royalty interest owners during the months of April, May and June, the withholding amounts shall be due on or before July 30;

3. For payments made to royalty interest owners during the months of July, August and September, the withholding amounts shall be due on or before October 30; and

4. For payments made to royalty interest owners during the months of October, November and December, the withholding amounts shall be due on or before January 30 of the succeeding calendar year.

B. The remitter shall file a return with each payment to the Tax Commission. The return, in a form prescribed by the Tax Commission, shall show the amount of total royalty payments made subject to withholding under Section 7 of this act and the amount of the payment withheld.

C. Every remitter required under Section 7 of this act to deduct and withhold an amount from payments made during a calendar year shall furnish by January 31 of the succeeding year to the person to whom such payment was made and to the Tax Commission a written statement showing the name of the remitter, the name of the recipient of the royalty payment, the recipient's social security number or federal identification number, the amount of royalty payments made, the amounts withheld, and any such other information as the Tax Commission may require.

D. If the Tax Commission, in any case, has justifiable reason to believe that the collection of the amount provided for in Section 7 of this act is in jeopardy, the Tax Commission may require a remitter to file a return and pay the withheld amounts at any time.

E. All amounts received by the Tax Commission pursuant to the provisions of Sections 6 through 9 of this act shall be deposited as provided in Section 2385.16 of Title 68 of the Oklahoma Statutes. Except as otherwise provided in Sections 6 through 9 of this act, such amounts shall be treated as other amounts withheld under the provisions of Section 2385.1 of Title 68 of the Oklahoma Statutes.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2385.28 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any amounts withheld in accordance with the provisions of Section 7 of this act shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the remitter shall have a fiduciary duty to the State of Oklahoma in regard to such amounts and shall be subject to the trust laws of this state. Any remitter who fails to pay to the Tax Commission any amounts required to be withheld by such remitter, after such amounts have been withheld from oil or gas royalty payments, and appropriates the amount held in trust to the remitter's own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

B. If any remitter fails to withhold the amounts required to be withheld by Section 7 of this act and thereafter income tax is paid by the recipient of the oil or gas production payment with respect to such payment, the amount so required to be withheld shall not be collected from the remitter but such remitter shall not be relieved from the liability for penalties or interest otherwise applicable because of such failure to withhold such amount.

C. If a remitter fails to file a return or to pay to the Tax Commission the amounts withheld within the time prescribed by Sections 6 through 9 of this act, there shall be imposed on the remitter a penalty equal to ten percent (10%) of the amount required to be withheld, or ten percent (10%) of the amount of the underpayment of the amount required to be withheld, if such failure is not corrected on or before the last day of the month when due. There shall also be imposed on such remitter interest at the rate of one and one-quarter percent (1 1/4%) per month during the period such underpayment exists. For the purposes of this subsection, "underpayment" shall mean the excess of the amount required to be paid over the amount thereof actually paid on or before the date prescribed therefor. Such penalty and interest shall be added to and become a part of the amount assessed. However, the Tax Commission shall not collect the penalty assessed if the remitter remits the amount required to be withheld within thirty (30) days of the mailing of a proposed assessment or voluntarily pays such amount upon the filing of an amended return.

D. Any remitter who is required under the provisions of subsection C of Section 8 of this act to furnish a statement to a recipient of oil or gas royalty payment, but who willfully fails to furnish such recipient the statement, shall be punished by an administrative fine not exceeding One Thousand Dollars (\$1,000.00).

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 625.3 of Title 36, unless there is created a duplication in numbering, reads as follows:

An insurance company that has operated a regional home office in this state that has qualified for the tax credit provided for in Section 625.1 of Title 36 of the Oklahoma Statutes and that redomiciles and moves its home office to this state shall continue to receive such tax credit under the terms for which is was originally allowed.

SECTION 11. Sections 1, 5 and 10 of this act shall become effective July 1, 2000.

SECTION 12. Sections 6 through 9 of this act shall become effective October 1, 2000.

SECTION 13. 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 Senate the 26th day of May, 2000.

President of the Senate

Passed the House of Representatives the 26th day of May, 2000.

Speaker of the House of
Representatives