

**EHB 1588**

**THE STATE SENATE**  
**Monday, April 4, 2005**

**ENGROSSED**

**House Bill No. 1588**

**As Amended**

ENGROSSED HOUSE BILL NO. 1588 - By: ADKINS, ASKINS, BLACKWELL,  
CAREY, HARRISON, HILLIARD, JOHNSON, KIESEL, LAMONS, McMULLEN, MORGAN  
(Danny), PETERSON (Ron), SHERRER, SMALIGO, SWEEDEN and WESSELHOFT of  
the House and MORGAN, ALDRIDGE, ANDERSON, BARRINGTON, BASS, BRANAN,  
BROGDON, COATES, COFFEE, CORN, CRAIN, CRUTCHFIELD, EASLEY, GARRISON,  
GUMM, HARRISON, JOHNSON, JOLLEY, JUSTICE, LAMB, LASTER, LAUGHLIN,  
LAWLER, LERBLANCE, MAZZEI, MYERS, NICHOLS, PADDACK, PRUITT,  
REYNOLDS, RILEY, SHURDEN, WILCOXSON and WILLIAMSON of the Senate.

[ revenue and taxation - amending 68 O.S., Section 1001 -  
gross production tax - effective date -  
emergency ]

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1001, as  
last amended by Section 1, Chapter 444, O.S.L. 2004 (68 O.S. Supp.  
2004, 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, 2007, except  
as otherwise exempted pursuant to subsections D, E, F, G, H, 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

1 production of oil based on a per barrel measurement of forty-two  
2 (42) U.S. gallons of two hundred thirty-one (231) cubic inches per  
3 gallon, computed at a temperature of sixty (60) degrees Fahrenheit.  
4 If the average price of Oklahoma oil as determined by the Oklahoma  
5 Tax Commission pursuant to the provisions of paragraph 3 of this  
6 subsection equals or exceeds Seventeen Dollars (\$17.00) per barrel,  
7 then the tax shall be seven percent (7%). If the average price of  
8 Oklahoma oil as determined by the Tax Commission pursuant to  
9 paragraph 3 of this subsection is less than Seventeen Dollars  
10 (\$17.00) but is equal to or exceeds Fourteen Dollars (\$14.00) per  
11 barrel, then the tax shall be four percent (4%). If the average  
12 price of Oklahoma oil as determined by the Tax Commission pursuant  
13 to paragraph 3 of this subsection is less than Fourteen Dollars  
14 (\$14.00) per barrel, then the tax shall be one percent (1%).

15 2. Effective July 1, 2007, except as otherwise exempted  
16 pursuant to subsections D, E, F, G, H, I and J of this section,  
17 there shall be levied upon the production of oil a tax equal to  
18 seven percent (7%) of the gross value of the production of oil based  
19 on a per barrel measurement of forty-two (42) U.S. gallons of two  
20 hundred thirty-one (231) cubic inches per gallon, computed at a  
21 temperature of sixty (60) degrees Fahrenheit.

22 3. Effective January 1, 1999, through June 30, 2007, the  
23 average price of Oklahoma oil for purposes of this section shall be

1 computed by the Tax Commission based on the total value of oil  
2 reported each month that is subject to the tax levied under this  
3 section. At the first of each month, the Tax Commission shall  
4 compute the average price paid per barrel of oil reported on the  
5 monthly tax report for the most current production month on file.  
6 The average price as computed by the Tax Commission shall be used to  
7 determine the applicable tax rate for the third month following  
8 production. Effective July 1, 2002, through June 30, 2007, the  
9 average price of gas for purposes of this section shall be computed  
10 by the Tax Commission based on the total value of gas reported each  
11 month that is subject to the tax levied by this section. At the  
12 first of each month, the Tax Commission shall compute the average  
13 price paid per thousand cubic feet (mcf) of gas as reported on the  
14 monthly tax report for the most current production month on file.  
15 The average price as computed by the Tax Commission shall be used to  
16 determine the applicable tax rate for the third month following  
17 production.

18 4. Effective July 1, 2002, through June 30, 2007, except as  
19 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of  
20 this section, there is hereby levied upon the production of gas a  
21 tax as set forth in this subsection on the gross value of the  
22 production of gas. If the average price of gas as determined by the  
23 Tax Commission pursuant to the provisions of paragraph 3 of this

1 subsection equals or exceeds Two Dollars and ten cents (\$2.10) per  
2 thousand cubic feet (mcf), then the tax shall be seven percent (7%).  
3 If the average price of gas as determined by the Tax Commission  
4 pursuant to the provisions of paragraph 3 of this subsection is less  
5 than Two Dollars and ten cents (\$2.10) per thousand cubic feet (mcf)  
6 but is equal to or exceeds One Dollar and seventy-five cents (\$1.75)  
7 per thousand cubic feet (mcf), then the tax shall be four percent  
8 (4%). If the average price of gas as determined by the Tax  
9 Commission pursuant to the provisions of paragraph 3 of this  
10 subsection is less than One Dollar and seventy-five cents (\$1.75)  
11 per thousand cubic feet (mcf), then the tax shall be one percent  
12 (1%).

13 5. Effective July 1, 2007, except as otherwise exempted  
14 pursuant to subsections D, E, F, G, H, I and J of this section,  
15 there shall be levied a tax equal to seven percent (7%) of the gross  
16 value of the production of gas.

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

20 D. 1. Except as otherwise provided in this section, any  
21 incremental production attributable to the working interest owners  
22 which results from an enhanced recovery project shall be exempt from  
23 the gross production tax levied pursuant to this section from the

1 project beginning date until project payback is achieved for new  
2 enhanced recovery projects or until project payback is achieved but  
3 not to exceed a period of thirty-six (36) months for tertiary  
4 enhanced recovery projects existing on July 1, 1988. This exemption  
5 shall take effect July 1, 1988, and shall apply to enhanced recovery  
6 projects approved or having a project beginning date prior to July  
7 1, 1993. Project payback pursuant to this paragraph for enhanced  
8 recovery projects qualifying for this exemption on or after July 1,  
9 1990, and on or before June 30, 1993, shall be determined by  
10 appropriate payback indicators which will not include any expenses  
11 beyond the completion date of the well. Project payback pursuant to  
12 this paragraph for enhanced recovery projects qualifying for this  
13 exemption on or after October 17, 1987, and on or before June 30,  
14 1990, shall be determined by appropriate payback indicators as  
15 previously established and allowed by the Tax Commission for  
16 projects qualifying during such period.

17 2. Except as otherwise provided in this section, for secondary  
18 recovery projects approved and having a project beginning date on or  
19 after July 1, 1993, and before July 1, 2000, any incremental  
20 production attributable to the working interest owners which results  
21 from such secondary recovery projects shall be exempt from the gross  
22 production tax levied pursuant to this section from the project  
23 beginning date until project payback is achieved but not to exceed a

1 period of ten (10) years. Project payback pursuant to this  
2 paragraph shall be determined by appropriate payback indicators  
3 which will provide for the recovery of capital expenses and fifty  
4 percent (50%) of operating expenses, in determining project payback.

5 3. Except as otherwise provided in this section, for secondary  
6 recovery properties approved or having an initial project beginning  
7 date on or after July 1, 2000, and before July 1, 2006, any  
8 incremental production attributable to the working interest owners  
9 which results from such secondary recovery property shall be exempt  
10 from the gross production tax levied pursuant to this section for a  
11 period not to exceed five (5) years from the initial project  
12 beginning date or for a period ending upon the termination of the  
13 secondary recovery process, whichever occurs first.

14 4. Except as otherwise provided in this section, for tertiary  
15 recovery projects approved and having a project beginning date on or  
16 after July 1, 1993, and before July 1, 2006, any incremental  
17 production attributable to the working interest owners which results  
18 from such tertiary recovery projects shall be exempt from the gross  
19 production tax levied pursuant to this section from the project  
20 beginning date until project payback is achieved, but not to exceed  
21 a period of ten (10) years. Project payback pursuant to this  
22 paragraph shall be determined by appropriate payback indicators  
23 which will provide for the recovery of capital expenses and

1 operating expenses, excluding administrative expenses, in  
2 determining project payback. The capital expenses of pipelines  
3 constructed to transport carbon dioxide to a tertiary recovery  
4 project shall not be included in determining project payback  
5 pursuant to this paragraph.

6 5. The provisions of this subsection shall also not apply to  
7 any enhanced recovery project using fresh water as the primary  
8 injectant, except when using steam.

9 6. For purposes of this subsection:

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

1                   determined by the Corporation Commission based on the  
2                   production history of the field, its current status,  
3                   and sound reservoir engineering principles, and

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

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

14           8.   For new secondary recovery projects and tertiary recovery  
15                  projects approved by the Corporation Commission on or after July 1,  
16                  1993, and before July 1, 2006, such approval shall constitute  
17                  qualification for an exemption.

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

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

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

7           E. 1. Except as otherwise provided in this section, the  
8 production of oil, gas or oil and gas from a horizontally drilled  
9 well producing prior to July 1, 2002, which production commenced  
10 after July 1, 1995, shall be exempt from the gross production tax  
11 levied pursuant to subsection B of this section from the project  
12 beginning date until project payback is achieved but not to exceed a  
13 period of twenty-four (24) months commencing with the month of  
14 initial production from the horizontally drilled well. Except as  
15 otherwise provided in this section, the production of oil, gas or  
16 oil and gas from a horizontally drilled well producing prior to July  
17 1, 2006, which production commenced after July 1, 2002, shall be  
18 exempt from the gross production tax levied pursuant to subsection B  
19 of this section from the project beginning date until project  
20 payback is achieved but not to exceed a period of forty-eight (48)  
21 months commencing with the month of initial production from the  
22 horizontally drilled well. Provided, any incremental production  
23 which results from a horizontally drilled well producing prior to

1 July 1, 1994, shall be exempt from the gross production tax levied  
2 pursuant to subsection B of this section from the project beginning  
3 date until project payback is achieved but not to exceed a period of  
4 twenty-four (24) months commencing with the month of initial  
5 production from the horizontally drilled well. For purposes of  
6 subsection D of this section and this subsection, project payback  
7 shall be determined as of the date of the completion of the well and  
8 shall not include any expenses beyond the completion date of the  
9 well, and subject to the approval of the Tax Commission.

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

16 F. 1. Except as otherwise provided by this section, the  
17 severance or production of oil, gas or oil and gas from an inactive  
18 well shall be exempt from the gross production tax levied pursuant  
19 to subsection B of this section for a period of twenty-eight (28)  
20 months from the date upon which production is reestablished. This  
21 exemption shall take effect July 1, 1994, and shall apply to wells  
22 for which work to reestablish or enhance production began on or  
23 after July 1, 1994, and for which production is reestablished prior

1 to July 1, 2006. For all such production, a refund against gross  
2 production taxes shall be issued as provided in subsection L of this  
3 section.

4 2. As used in this subsection, for wells for which production  
5 is reestablished prior to July 1, 1997, "inactive well" means any  
6 well that has not produced oil, gas or oil and gas for a period of  
7 not less than two (2) years as evidenced by the appropriate forms on  
8 file with the Corporation Commission reflecting the well's status.  
9 As used in this subsection, for wells for which production is  
10 reestablished on or after July 1, 1997, and prior to July 1, 2006,  
11 "inactive well" means any well that has not produced oil, gas or oil  
12 and gas for a period of not less than one (1) year as evidenced by  
13 the appropriate forms on file with the Corporation Commission  
14 reflecting the well's status. Wells which experience mechanical  
15 failure or loss of mechanical integrity, as defined by the  
16 Corporation Commission, including but not limited to, casing leaks,  
17 collapse of casing or loss of equipment in a wellbore, or any  
18 similar event which causes cessation of production, shall also be  
19 considered inactive wells.

20 G. 1. Except as otherwise provided by this section, any  
21 incremental production which results from a production enhancement  
22 project shall be exempt from the gross production tax levied  
23 pursuant to subsection B of this section for a period of twenty-

1 eight (28) months from the date of first sale after project  
2 completion of the production enhancement project. This exemption  
3 shall take effect July 1, 1994, and shall apply to production  
4 enhancement projects having a project beginning date on or after  
5 July 1, 1994, and prior to July 1, 2006. For all such production, a  
6 refund against gross production taxes shall be issued as provided in  
7 subsection L of this section.

8 2. As used in this subsection:

- 9 a. (1) for production enhancement projects having a  
10 project beginning date prior to July 1, 1997,  
11 "production enhancement project" means any  
12 workover as defined in this paragraph,  
13 recompletion as defined in this paragraph, or  
14 fracturing of a producing well, and  
15 (2) for production enhancement projects having a  
16 project beginning date on or after July 1, 1997,  
17 and prior to July 1, 2006, "production  
18 enhancement project" means any workover as  
19 defined in this paragraph, recompletion as  
20 defined in this paragraph, reentry of plugged and  
21 abandoned wellbores, or addition of a well or  
22 field compression,

1           b. "incremental production" means the amount of crude  
2           oil, natural gas or other hydrocarbons which are  
3           produced as a result of the production enhancement  
4           project in excess of the base production,  
5           c. "base production" means the average monthly amount of  
6           production for the twelve-month period immediately  
7           prior to the commencement of the project or the  
8           average monthly amount of production for the twelve-  
9           month period immediately prior to the commencement of  
10          the project less the monthly rate of production  
11          decline for the project for each month beginning one  
12          hundred eighty (180) days prior to the commencement of  
13          the project. The monthly rate of production decline  
14          shall be equal to the average extrapolated monthly  
15          decline rate for the twelve-month period immediately  
16          prior to the commencement of the project based on the  
17          production history of the well. If the well or wells  
18          covered in the application had production for less  
19          than the full twelve-month period prior to the filing  
20          of the application for the production enhancement  
21          project, the base production shall be the average  
22          monthly production for the months during that period  
23          that the well or wells produced,

- 1           d.    (1)  for production enhancement projects having a  
2                                   project beginning date prior to July 1, 1997,  
3                                   "recompletion" means any downhole operation in an  
4                                   existing oil or gas well that is conducted to  
5                                   establish production of oil or gas from any  
6                                   geological interval not currently completed or  
7                                   producing in such existing oil or gas well, and  
8           (2)  for production enhancement projects having a  
9                                   project beginning date on or after July 1, 1997,  
10                                  and prior to July 1, 2006, "recompletion" means  
11                                  any downhole operation in an existing oil or gas  
12                                  well that is conducted to establish production of  
13                                  oil or gas from any geologic interval not  
14                                  currently completed or producing in such existing  
15                                  oil or gas well within the same or a different  
16                                  geologic formation, and  
17           e.    "workover" means any downhole operation in an existing  
18                                  oil or gas well that is designed to sustain, restore  
19                                  or increase the production rate or ultimate recovery  
20                                  in a geologic interval currently completed or  
21                                  producing in the existing oil or gas well.  For  
22                                  production enhancement projects having a project  
23                                  beginning date prior to July 1, 1997, "workover"

1 includes, but is not limited to, acidizing,  
2 reperforating, fracture treating, sand/paraffin  
3 removal, casing repair, squeeze cementing, or setting  
4 bridge plugs to isolate water productive zones from  
5 oil or gas productive zones, or any combination  
6 thereof. For production enhancement projects having a  
7 project beginning date on or after July 1, 1997, and  
8 prior to July 1, 2006, "workover" includes, but is not  
9 limited to:

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

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

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

11           H. Except as otherwise provided by this section, the production  
12 of oil, gas or oil and gas from wells spudded between July 1, 1994,  
13 and June 30, 2000, and drilled to a depth of fifteen thousand  
14 (15,000) feet or greater shall be exempt from the gross production  
15 tax levied pursuant to subsection B of this section from the date of  
16 first sales for a period of twenty-eight (28) months. For purposes  
17 of qualifying for this exemption, "depth" means the length of the  
18 maximum continuous string of drill pipe utilized between the drill  
19 bit face and the drilling rig's kelly bushing. Except as otherwise  
20 provided in subsection K of this section, the production of oil, gas  
21 or oil and gas from wells spudded between July 1, 1997, and July 1,  
22 2006, and drilled to a depth of twelve thousand five hundred  
23 (12,500) feet or greater shall be exempt from the gross production

1 tax levied pursuant to subsection B of this section from the date of  
2 first sales for a period of twenty-eight (28) months; provided:

3 1. The production of oil, gas or oil and gas from wells spudded  
4 between July 1, 2002, and July 1, 2006, and drilled to a depth of  
5 fifteen thousand (15,000) feet or greater shall be exempt from the  
6 gross production tax levied pursuant to subsection B of this section  
7 from the date of first sales for a period of forty-eight (48)  
8 months; and

9 2. The production of oil, gas or oil and gas from wells spudded  
10 between July 1, 2002, and July 1, 2006, and drilled to a depth of  
11 seventeen thousand five hundred (17,500) feet or greater shall be  
12 exempt from the gross production tax levied pursuant to subsection B  
13 of this section from the date of first sales for a period of sixty  
14 (60) months.

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

17 I. 1. Except as otherwise provided by this section, the  
18 production of oil, gas or oil and gas from wells spudded or  
19 reentered between July 1, 1995, and July 1, 2006, which qualify as a  
20 new discovery pursuant to this subsection shall be exempt from the  
21 gross production tax levied pursuant to subsection B of this section  
22 from the date of first sales for a period of twenty-eight (28)  
23 months. For all such wells spudded or reentered, a refund against

1 gross production taxes shall be issued as provided in subsection L  
2 of this section. As used in this subsection, "new discovery" means  
3 production of oil, gas or oil and gas from:

4 a. (1) for wells spudded or reentered on or after July  
5 1, 1997, a well that discovers crude oil in  
6 paying quantities that is more than one (1) mile  
7 from the nearest oil well producing from the same  
8 producing formation, and

9 (2) for wells spudded or reentered on or after July  
10 1, 1997, and prior to July 1, 2006, a well that  
11 discovers crude oil in paying quantities that is  
12 more than one (1) mile from the nearest oil well  
13 producing from the same producing interval of the  
14 same formation,

15 b. (1) for wells spudded or reentered prior to July 1,  
16 1997, a well that discovers crude oil in paying  
17 quantities beneath current production in a deeper  
18 producing formation that is more than one (1)  
19 mile from the nearest oil well producing from the  
20 same deeper producing formation, and

21 (2) for wells spudded or reentered on or after July  
22 1, 1997, and prior to July 1, 2006, a well that  
23 discovers crude oil in paying quantities beneath

1 current production in a deeper producing interval  
2 that is more than one (1) mile from the nearest  
3 oil well producing from the same deeper producing  
4 interval,

5 c. (1) for wells spudded or reentered prior to July 1,  
6 1997, a well that discovers natural gas in paying  
7 quantities that is more than two (2) miles from  
8 the nearest gas well producing from the same  
9 producing formation, and

10 (2) for wells spudded or reentered on or after July  
11 1, 1997, and prior to July 1, 2006, a well that  
12 discovers natural gas in paying quantities that  
13 is more than two (2) miles from the nearest gas  
14 well producing from the same producing interval,  
15 or

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

22 (2) for wells spudded or reentered on and after July  
23 1, 1997, and prior to July 1, 2006, a well that

1 discovers natural gas in paying quantities  
2 beneath current production in a deeper producing  
3 interval that is more than two (2) miles from the  
4 nearest gas well producing from the same deeper  
5 producing interval.

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

12 J. Except as otherwise provided by this section, the production  
13 of oil, gas or oil and gas from any well, drilling of which is  
14 commenced after July 1, 2000, and prior to July 1, 2006, located  
15 within the boundaries of a three-dimensional seismic shoot and  
16 drilled based on three-dimensional seismic technology, shall be  
17 exempt from the gross production tax levied pursuant to subsection B  
18 of this section from the date of first sales as follows:

19 1. If the three-dimensional seismic shoot is shot prior to July  
20 1, 2000, for a period of eighteen (18) months; and

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

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

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

5 a. to the severance or production of oil, upon  
6 determination by the Tax Commission that the weighted  
7 average price of Oklahoma oil exceeds Thirty Dollars  
8 (\$30.00) per barrel calculated on an annual calendar  
9 year basis, and

10 b. to the severance or production of oil or gas upon  
11 which gross production taxes are paid at a rate of one  
12 percent (1%) pursuant to the provisions of subsection  
13 B of this section, ~~and~~.

14 ~~e.~~

15 2. The exemptions provided for in subsections F, G, I, and J of  
16 this section shall not apply to the severance or production of gas,  
17 upon determination by the Tax Commission that the weighted average  
18 wellhead price of Oklahoma gas exceeds Five Dollars (\$5.00) per  
19 thousand cubic feet (mcf) calculated on an annual calendar year  
20 basis.

21 ~~2.~~ 3. Notwithstanding the exemptions granted pursuant to  
22 subsections E, F, G, H, I and J of this section, there shall  
23 continue to be levied upon the production of petroleum or other

1 crude or mineral oil or natural gas or casinghead gas, as provided  
2 in subsection B of this section, from any wells provided for in  
3 subsection E, F, G, H, I or J of this section, a tax equal to one  
4 percent (1%) of the gross value of the production of petroleum or  
5 other crude or mineral oil or natural gas or casinghead gas. The  
6 tax hereby levied shall be apportioned as follows:

7           a. fifty percent (50%) of the sum collected shall be  
8           apportioned to the County Highway Fund as provided in  
9           subparagraph b of paragraph 1 of Section 1004 of this  
10          title, and

11          b. fifty percent (50%) of the sum collected shall be  
12          apportioned to the appropriate school district as  
13          provided in subparagraph c of paragraph 1 of Section  
14          1004 of this title.

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

18          L. For all oil and gas production exempt from gross production  
19          taxes pursuant to subsections E, F, G, H, I and J of this section  
20          during a given fiscal year, a refund of gross production taxes shall  
21          be issued to the well operator or a designee in the amount of such  
22          gross production taxes paid during such period, subject to the  
23          following provisions:

1           1. A refund shall not be claimed until after the end of such  
2 fiscal year. As used in this subsection, a fiscal year shall be  
3 deemed to begin on July 1 of one calendar year and shall end on June  
4 30 of the subsequent calendar year;

5           2. No claims for refunds pursuant to the provisions of this  
6 subsection shall be filed more than eighteen (18) months after the  
7 first day of the fiscal year in which the refund is first available;

8           3. No claims for refunds pursuant to the provisions of this  
9 subsection shall be filed by or on behalf of persons other than the  
10 operator or a working interest owner of record at the time of  
11 production;

12           4. No refunds shall be claimed or paid pursuant to the  
13 provisions of this subsection for oil or gas production upon which a  
14 tax is paid at a rate of one percent (1%) as specified in subsection  
15 B of this section; and

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

1 provisions of this paragraph may be used to qualify for another  
2 refund pursuant to the provisions of this paragraph.

3 If there are insufficient funds collected from the production of  
4 oil to satisfy the refunds claimed for oil production pursuant to  
5 subsection E, F, G, H, I or J of this section, the Tax Commission  
6 shall pay the balance of the refund claims out of the gross  
7 production taxes collected from the production of gas.

8 M. 1. The Corporation Commission and the Tax Commission shall  
9 promulgate joint rules for the qualification for the exemptions  
10 provided for in subsections E, F, G, H, I and J of this section and  
11 the rules shall contain provisions for verification of any wells  
12 from which production may be qualified for the exemptions.

13 2. Any person requesting any exemption shall file an  
14 application for qualification for the exemption with the Corporation  
15 Commission which, upon finding that the well meets the requirements  
16 of subsection E, F, G, H, I or J of this section, shall approve the  
17 application for qualification.

18 3. Any person seeking an exemption shall:

19 a. file an application for the exemption with the Tax  
20 Commission which, upon determination of qualification  
21 by the Corporation Commission, shall approve the  
22 application for an exemption, and

1           b.    provide a copy of the approved application to the  
2                    remitter of the gross production tax.

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

6           5.    Upon the expiration of the exemption granted pursuant to  
7 subsection E, F, G, H, I or J of this section, the Tax Commission  
8 shall collect the gross production tax levied pursuant to this  
9 section.  If a person who qualifies for the exemption elects to  
10 remit his or her own gross production tax during the exemption  
11 period, the first purchaser shall not be liable to withhold or remit  
12 the tax until the first day of the month following the receipt of  
13 written notification from the person who is qualified for such  
14 exemption stating that such exemption has expired and directing the  
15 first purchaser to resume tax remittance on his or her behalf.

16          N.    All persons shall only be entitled to either the exemption  
17 granted pursuant to subsection D of this section or the exemption  
18 granted pursuant to subsection E, F, G, H, I or J of this section  
19 for each oil, gas or oil and gas well drilled or recompleted in this  
20 state.  However, any person who qualifies for the exemption granted  
21 pursuant to subsection E, F, G, H, I or J of this section shall not  
22 be prohibited from qualification for the exemption granted pursuant

1 to subsection D of this section, if the exemption granted pursuant  
2 to subsection E, F, G, H, I or J of this section has expired.

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

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

1 fine of not more than Five Hundred Dollars (\$500.00), or  
2 imprisonment in the jail of the county where such offense shall have  
3 been committed, for not more than one (1) year, or by both such fine  
4 and imprisonment; and each day of such refusal on the part of such  
5 person shall constitute a separate and distinct offense.

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

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

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

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

1 material used in connection therewith, shall be exempt from ad  
2 valorem tax.

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

8 SECTION 2. This act shall become effective July 1, 2005.

9 SECTION 3. It being immediately necessary for the preservation  
10 of the public peace, health and safety, an emergency is hereby  
11 declared to exist, by reason whereof this act shall take effect and  
12 be in full force from and after its passage and approval.

13 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-29-05 - DO PASS,  
14 As Amended and Coauthored.