

**EHB 1693**

**THE STATE SENATE**  
**Monday, April 11, 2005**

**ENGROSSED**

**House Bill No. 1693**

**As Amended**

ENGROSSED HOUSE BILL NO. 1693 - By: CALVEY, DORMAN, NANCE,  
WESSELHOFT and SULLIVAN of the House and JOLLEY and BARRINGTON of  
the Senate.

[ revenue and taxation - amending 68 O.S., Sections 2358 and  
1001 - taxable income - gross production tax - effective  
date ]

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2358, as  
last amended by Section 14, Chapter 322, O.S.L. 2004 (68 O.S. Supp.  
2004, Section 2358), is amended to read as follows:

Section 2358. For all tax years beginning after December 31,  
1981, taxable income and adjusted gross income shall be adjusted to  
arrive at Oklahoma taxable income and Oklahoma adjusted gross income  
as required by this section.

A. The taxable income of any taxpayer shall be adjusted to  
arrive at Oklahoma taxable income for corporations and Oklahoma  
adjusted gross income for individuals, as follows:

1. There shall be added interest income on obligations of any  
state or political subdivision thereto which is not otherwise  
exempted pursuant to other laws of this state, to the extent that

1 such interest is not included in taxable income and adjusted gross  
2 income.

3 2. There shall be deducted amounts included in such income that  
4 the state is prohibited from taxing because of the provisions of the  
5 Federal Constitution, the State Constitution, federal laws or laws  
6 of Oklahoma.

7 3. The amount of any federal net operating loss deduction shall  
8 be adjusted as follows:

9 a. For carryovers and carrybacks to taxable years  
10 beginning before January 1, 1981, the amount of any  
11 net operating loss deduction allowed to a taxpayer for  
12 federal income tax purposes shall be reduced to an  
13 amount which is the same portion thereof as the loss  
14 from sources within this state, as determined pursuant  
15 to this section and Section 2362 of this title, for  
16 the taxable year in which such loss is sustained is of  
17 the total loss for such year;

18 b. For carryovers and carrybacks to taxable years  
19 beginning after December 31, 1980, the amount of any  
20 net operating loss deduction allowed for the taxable  
21 year shall be an amount equal to the aggregate of the  
22 Oklahoma net operating loss carryovers and carrybacks  
23 to such year. Oklahoma net operating losses shall be

1 separately determined by reference to Section 172 of  
2 the Internal Revenue Code, 26 U.S.C., Section 172, as  
3 modified by the Oklahoma Income Tax Act, Section 2351  
4 et seq. of this title, and shall be allowed without  
5 regard to the existence of a federal net operating  
6 loss. For tax years beginning after December 31,  
7 2000, the years to which such losses may be carried  
8 shall be determined solely by reference to Section 172  
9 of the Internal Revenue Code, 26 U.S.C., Section 172,  
10 with the exception that the terms "net operating loss"  
11 and "taxable income" shall be replaced with "Oklahoma  
12 net operating loss" and "Oklahoma taxable income".

13 4. Items of the following nature shall be allocated as  
14 indicated. Allowable deductions attributable to items separately  
15 allocable in subparagraphs a, b and c of this paragraph, whether or  
16 not such items of income were actually received, shall be allocated  
17 on the same basis as those items:

18 a. Income from real and tangible personal property, such  
19 as rents, oil and mining production or royalties, and  
20 gains or losses from sales of such property, shall be  
21 allocated in accordance with the situs of such  
22 property;

1           b.    Income from intangible personal property, such as  
2                    interest, dividends, patent or copyright royalties,  
3                    and gains or losses from sales of such property, shall  
4                    be allocated in accordance with the domiciliary situs  
5                    of the taxpayer, except that:

6                    (1)   where such property has acquired a nonunitary  
7                            business or commercial situs apart from the  
8                            domicile of the taxpayer such income shall be  
9                            allocated in accordance with such business or  
10                           commercial situs; interest income from  
11                           investments held to generate working capital for  
12                           a unitary business enterprise shall be included  
13                           in apportionable income; a resident trust or  
14                           resident estate shall be treated as having a  
15                           separate commercial or business situs insofar as  
16                           undistributed income is concerned, but shall not  
17                           be treated as having a separate commercial or  
18                           business situs insofar as distributed income is  
19                           concerned,

20                   (2)   income from such property which is required to be  
21                            allocated pursuant to the provisions of paragraph  
22                            5 of this subsection shall be allocated as herein  
23                            provided;

1           c.    Net income or loss from a business activity which is  
2                   not a part of business carried on within or without  
3                   the state of a unitary character shall be separately  
4                   allocated to the state in which such activity is  
5                   conducted;

6           d.    In the case of a manufacturing or processing  
7                   enterprise the business of which in Oklahoma consists  
8                   solely of marketing its products by:

9                   (1)  sales having a situs without this state, shipped  
10                   directly to a point from without the state to a  
11                   purchaser within the state, commonly known as  
12                   interstate sales,

13                   (2)  sales of the product stored in public warehouses  
14                   within the state pursuant to "in transit"  
15                   tariffs, as prescribed and allowed by the  
16                   Interstate Commerce Commission, to a purchaser  
17                   within the state,

18                   (3)  sales of the product stored in public warehouses  
19                   within the state where the shipment to such  
20                   warehouses is not covered by "in transit"  
21                   tariffs, as prescribed and allowed by the  
22                   Interstate Commerce Commission, to a purchaser  
23                   within or without the state,

1 the Oklahoma net income shall, at the option of the  
2 taxpayer, be that portion of the total net income of  
3 the taxpayer for federal income tax purposes derived  
4 from the manufacture and/or processing and sales  
5 everywhere as determined by the ratio of the sales  
6 defined in this section made to the purchaser within  
7 the state to the total sales everywhere. The term  
8 "public warehouse" as used in this subparagraph means  
9 a licensed public warehouse, the principal business of  
10 which is warehousing merchandise for the public;

11 e. In the case of insurance companies, Oklahoma taxable  
12 income shall be taxable income of the taxpayer for  
13 federal tax purposes, as adjusted for the adjustments  
14 provided pursuant to the provisions of paragraphs 1  
15 and 2 of this subsection, apportioned as follows:  
16 (1) except as otherwise provided by division (2) of  
17 this subparagraph, taxable income of an insurance  
18 company for a taxable year shall be apportioned  
19 to this state by multiplying such income by a  
20 fraction, the numerator of which is the direct  
21 premiums written for insurance on property or  
22 risks in this state, and the denominator of which  
23 is the direct premiums written for insurance on

1 property or risks everywhere. For purposes of  
2 this subsection, the term "direct premiums  
3 written" means the total amount of direct  
4 premiums written, assessments and annuity  
5 considerations as reported for the taxable year  
6 on the annual statement filed by the company with  
7 the Insurance Commissioner in the form approved  
8 by the National Association of Insurance  
9 Commissioners, or such other form as may be  
10 prescribed in lieu thereof,

11 (2) if the principal source of premiums written by an  
12 insurance company consists of premiums for  
13 reinsurance accepted by it, the taxable income of  
14 such company shall be apportioned to this state  
15 by multiplying such income by a fraction, the  
16 numerator of which is the sum of (a) direct  
17 premiums written for insurance on property or  
18 risks in this state, plus (b) premiums written  
19 for reinsurance accepted in respect of property  
20 or risks in this state, and the denominator of  
21 which is the sum of (c) direct premiums written  
22 for insurance on property or risks everywhere,  
23 plus (d) premiums written for reinsurance

1           accepted in respect of property or risks  
2           everywhere. For purposes of this paragraph,  
3           premiums written for reinsurance accepted in  
4           respect of property or risks in this state,  
5           whether or not otherwise determinable, may at the  
6           election of the company be determined on the  
7           basis of the proportion which premiums written  
8           for insurance accepted from companies  
9           commercially domiciled in Oklahoma bears to  
10          premiums written for reinsurance accepted from  
11          all sources, or alternatively in the proportion  
12          which the sum of the direct premiums written for  
13          insurance on property or risks in this state by  
14          each ceding company from which reinsurance is  
15          accepted bears to the sum of the total direct  
16          premiums written by each such ceding company for  
17          the taxable year.

18          5. The net income or loss remaining after the separate  
19          allocation in paragraph 4 of this subsection, being that which is  
20          derived from a unitary business enterprise, shall be apportioned to  
21          this state on the basis of the arithmetical average of three factors  
22          consisting of property, payroll and sales or gross revenue  
23          enumerated as subparagraphs a, b and c of this paragraph. Net

1 income or loss as used in this paragraph includes that derived from  
2 patent or copyright royalties, purchase discounts, and interest on  
3 accounts receivable relating to or arising from a business activity,  
4 the income from which is apportioned pursuant to this subsection,  
5 including the sale or other disposition of such property and any  
6 other property used in the unitary enterprise. Deductions used in  
7 computing such net income or loss shall not include taxes based on  
8 or measured by income. Provided, for corporations whose property  
9 for purposes of the tax imposed by Section 2355 of this title has an  
10 initial investment cost equaling or exceeding Two Hundred Million  
11 Dollars (\$200,000,000.00) and such investment is made on or after  
12 July 1, 1997, or for corporations which expand their property or  
13 facilities in this state and such expansion has an investment cost  
14 equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00)  
15 over a period not to exceed three (3) years, and such expansion is  
16 commenced on or after January 1, 2000, the three factors shall be  
17 apportioned with property and payroll, each comprising twenty-five  
18 percent (25%) of the apportionment factor and sales comprising fifty  
19 percent (50%) of the apportionment factor. The apportionment  
20 factors shall be computed as follows:

21 a. The property factor is a fraction, the numerator of  
22 which is the average value of the taxpayer's real and  
23 tangible personal property owned or rented and used in

1 this state during the tax period and the denominator  
2 of which is the average value of all the taxpayer's  
3 real and tangible personal property everywhere owned  
4 or rented and used during the tax period.

5 (1) Property, the income from which is separately  
6 allocated in paragraph 4 of this subsection,  
7 shall not be included in determining this  
8 fraction. The numerator of the fraction shall  
9 include a portion of the investment in  
10 transportation and other equipment having no  
11 fixed situs, such as rolling stock, buses, trucks  
12 and trailers, including machinery and equipment  
13 carried thereon, airplanes, salespersons'  
14 automobiles and other similar equipment, in the  
15 proportion that miles traveled in Oklahoma by  
16 such equipment bears to total miles traveled,

17 (2) Property owned by the taxpayer is valued at its  
18 original cost. Property rented by the taxpayer  
19 is valued at eight times the net annual rental  
20 rate. Net annual rental rate is the annual  
21 rental rate paid by the taxpayer, less any annual  
22 rental rate received by the taxpayer from  
23 subrentals,

1 (3) The average value of property shall be determined  
2 by averaging the values at the beginning and  
3 ending of the tax period but the Oklahoma Tax  
4 Commission may require the averaging of monthly  
5 values during the tax period if reasonably  
6 required to reflect properly the average value of  
7 the taxpayer's property;

8 b. The payroll factor is a fraction, the numerator of  
9 which is the total compensation for services rendered  
10 in the state during the tax period, and the  
11 denominator of which is the total compensation for  
12 services rendered everywhere during the tax period.  
13 "Compensation", as used in this subsection means those  
14 paid-for services to the extent related to the unitary  
15 business but does not include officers' salaries,  
16 wages and other compensation.

17 (1) In the case of a transportation enterprise, the  
18 numerator of the fraction shall include a portion  
19 of such expenditure in connection with employees  
20 operating equipment over a fixed route, such as  
21 railroad employees, airline pilots, or bus  
22 drivers, in this state only a part of the time,  
23 in the proportion that mileage traveled in

1 Oklahoma bears to total mileage traveled by such  
2 employees,

3 (2) In any case the numerator of the fraction shall  
4 include a portion of such expenditures in  
5 connection with itinerant employees, such as  
6 traveling salespersons, in this state only a part  
7 of the time, in the proportion that time spent in  
8 Oklahoma bears to total time spent in furtherance  
9 of the enterprise by such employees;

10 c. The sales factor is a fraction, the numerator of which  
11 is the total sales or gross revenue of the taxpayer in  
12 this state during the tax period, and the denominator  
13 of which is the total sales or gross revenue of the  
14 taxpayer everywhere during the tax period. "Sales",  
15 as used in this subsection does not include sales or  
16 gross revenue which are separately allocated in  
17 paragraph 4 of this subsection.

18 (1) Sales of tangible personal property have a situs  
19 in this state if the property is delivered or  
20 shipped to a purchaser other than the United  
21 States government, within this state regardless  
22 of the FOB point or other conditions of the sale;  
23 or the property is shipped from an office, store,

1 warehouse, factory or other place of storage in  
2 this state and (a) the purchaser is the United  
3 States government or (b) the taxpayer is not  
4 doing business in the state of the destination of  
5 the shipment.

6 (2) In the case of a railroad or interurban railway  
7 enterprise, the numerator of the fraction shall  
8 not be less than the allocation of revenues to  
9 this state as shown in its annual report to the  
10 Corporation Commission.

11 (3) In the case of an airline, truck or bus  
12 enterprise or freight car, tank car, refrigerator  
13 car or other railroad equipment enterprise, the  
14 numerator of the fraction shall include a portion  
15 of revenue from interstate transportation in the  
16 proportion that interstate mileage traveled in  
17 Oklahoma bears to total interstate mileage  
18 traveled.

19 (4) In the case of an oil, gasoline or gas pipeline  
20 enterprise, the numerator of the fraction shall  
21 be either the total of traffic units of the  
22 enterprise within Oklahoma or the revenue  
23 allocated to Oklahoma based upon miles moved, at

1 the option of the taxpayer, and the denominator  
2 of which shall be the total of traffic units of  
3 the enterprise or the revenue of the enterprise  
4 everywhere as appropriate to the numerator. A  
5 "traffic unit" is hereby defined as the  
6 transportation for a distance of one (1) mile of  
7 one (1) barrel of oil, one (1) gallon of gasoline  
8 or one thousand (1,000) cubic feet of natural or  
9 casinghead gas, as the case may be.

10 (5) In the case of a telephone or telegraph or other  
11 communication enterprise, the numerator of the  
12 fraction shall include that portion of the  
13 interstate revenue as is allocated pursuant to  
14 the accounting procedures prescribed by the  
15 Federal Communications Commission; provided that  
16 in respect to each corporation or business entity  
17 required by the Federal Communications Commission  
18 to keep its books and records in accordance with  
19 a uniform system of accounts prescribed by such  
20 Commission, the intrastate net income shall be  
21 determined separately in the manner provided by  
22 such uniform system of accounts and only the  
23 interstate income shall be subject to allocation

1                   pursuant to the provisions of this subsection.

2                   Provided further, that the gross revenue factors  
3                   shall be those as are determined pursuant to the  
4                   accounting procedures prescribed by the Federal  
5                   Communications Commission.

6   In any case where the apportionment of the three factors prescribed  
7   in this paragraph attributes to Oklahoma a portion of net income of  
8   the enterprise out of all appropriate proportion to the property  
9   owned and/or business transacted within this state, because of the  
10  fact that one or more of the factors so prescribed are not employed  
11  to any appreciable extent in furtherance of the enterprise; or  
12  because one or more factors not so prescribed are employed to a  
13  considerable extent in furtherance of the enterprise; or because of  
14  other reasons, the Tax Commission is empowered to permit, after a  
15  showing by taxpayer that an excessive portion of net income has been  
16  attributed to Oklahoma, or require, when in its judgment an  
17  insufficient portion of net income has been attributed to Oklahoma,  
18  the elimination, substitution, or use of additional factors, or  
19  reduction or increase in the weight of such prescribed factors.

20  Provided, however, that any such variance from such prescribed  
21  factors which has the effect of increasing the portion of net income  
22  attributable to Oklahoma must not be inherently arbitrary, and  
23  application of the recomputed final apportionment to the net income

1 of the enterprise must attribute to Oklahoma only a reasonable  
2 portion thereof.

3 6. For calendar years 1997 and 1998, the owner of a new or  
4 expanded agricultural commodity processing facility in this state  
5 may exclude from Oklahoma taxable income, or in the case of an  
6 individual, the Oklahoma adjusted gross income, fifteen percent  
7 (15%) of the investment by the owner in the new or expanded  
8 agricultural commodity processing facility. For calendar year 1999,  
9 and all subsequent years, the percentage, not to exceed fifteen  
10 percent (15%), available to the owner of a new or expanded  
11 agricultural commodity processing facility in this state claiming  
12 the exemption shall be adjusted annually so that the total estimated  
13 reduction in tax liability does not exceed One Million Dollars  
14 (\$1,000,000.00) annually. The Tax Commission shall promulgate rules  
15 for determining the percentage of the investment which each eligible  
16 taxpayer may exclude. The exclusion provided by this paragraph  
17 shall be taken in the taxable year when the investment is made. In  
18 the event the total reduction in tax liability authorized by this  
19 paragraph exceeds One Million Dollars (\$1,000,000.00) in any  
20 calendar year, the Tax Commission shall permit any excess over One  
21 Million Dollars (\$1,000,000.00) and shall factor such excess into  
22 the percentage for subsequent years. Any amount of the exemption  
23 permitted to be excluded pursuant to the provisions of this

1 paragraph but not used in any year may be carried forward as an  
2 exemption from income pursuant to the provisions of this paragraph  
3 for a period not exceeding six (6) years following the year in which  
4 the investment was originally made.

5 For purposes of this paragraph:

6 a. "Agricultural commodity processing facility" means  
7 building, structures, fixtures and improvements used  
8 or operated primarily for the processing or production  
9 of marketable products from agricultural commodities.  
10 The term shall also mean a dairy operation that  
11 requires a depreciable investment of at least Two  
12 Hundred Fifty Thousand Dollars (\$250,000.00) and which  
13 produces milk from dairy cows. The term does not  
14 include a facility that provides only, and nothing  
15 more than, storage, cleaning, drying or transportation  
16 of agricultural commodities, and

17 b. "Facility" means each part of the facility which is  
18 used in a process primarily for:  
19 (1) the processing of agricultural commodities,  
20 including receiving or storing agricultural  
21 commodities, or the production of milk at a dairy  
22 operation,

- 1                   (2) transporting the agricultural commodities or  
2                                   product before, during or after the processing,  
3                                   or  
4                   (3) packaging or otherwise preparing the product for  
5                                   sale or shipment.

6           7. Despite any provision to the contrary in paragraph 3 of this  
7 subsection, for taxable years beginning after December 31, 1999, in  
8 the case of a taxpayer which has a farming loss, such farming loss  
9 shall be considered a net operating loss carryback in accordance  
10 with and to the extent of the Internal Revenue Code, 26 U.S.C.,  
11 Section 172(b)(G). However, the amount of the net operating loss  
12 carryback shall not exceed the lesser of:

- 13           a. Sixty Thousand Dollars (\$60,000.00), or  
14           b. the loss properly shown on Schedule F of the Internal  
15                   Revenue Service Form 1040 reduced by one-half (1/2) of  
16                   the income from all other sources other than reflected  
17                   on Schedule F.

18           8. In taxable years beginning after December 31, 1995, all  
19 qualified wages equal to the federal income tax credit set forth in  
20 26 U.S.C.A., Section 45A, shall be deducted from taxable income.  
21 The deduction allowed pursuant to this paragraph shall only be  
22 permitted for the tax years in which the federal tax credit pursuant  
23 to 26 U.S.C.A., Section 45A, is allowed. For purposes of this

1 paragraph, "qualified wages" means those wages used to calculate the  
2 federal credit pursuant to 26 U.S.C.A., Section 45A.

3 B. The taxable income of any corporation shall be further  
4 adjusted to arrive at Oklahoma taxable income, except those  
5 corporations electing treatment as provided in subchapter S of the  
6 Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section  
7 2365 of this title, deductions pursuant to the provisions of the  
8 Accelerated Cost Recovery System as defined and allowed in the  
9 Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C.,  
10 Section 168, for depreciation of assets placed into service after  
11 December 31, 1981, shall not be allowed in calculating Oklahoma  
12 taxable income. Such corporations shall be allowed a deduction for  
13 depreciation of assets placed into service after December 31, 1981,  
14 in accordance with provisions of the Internal Revenue Code, 26  
15 U.S.C., Section 1 et seq., in effect immediately prior to the  
16 enactment of the Accelerated Cost Recovery System. The Oklahoma tax  
17 basis for all such assets placed into service after December 31,  
18 1981, calculated in this section shall be retained and utilized for  
19 all Oklahoma income tax purposes through the final disposition of  
20 such assets.

21 Notwithstanding any other provisions of the Oklahoma Income Tax  
22 Act, Section 2351 et seq. of this title, or of the Internal Revenue  
23 Code to the contrary, this subsection shall control calculation of

1 depreciation of assets placed into service after December 31, 1981,  
2 and before January 1, 1983.

3 For assets placed in service and held by a corporation in which  
4 accelerated cost recovery system was previously disallowed, an  
5 adjustment to taxable income is required in the first taxable year  
6 beginning after December 31, 1982, to reconcile the basis of such  
7 assets to the basis allowed in the Internal Revenue Code. The  
8 purpose of this adjustment is to equalize the basis and allowance  
9 for depreciation accounts between that reported to the Internal  
10 Revenue Service and that reported to Oklahoma.

11 C. 1. For taxable years beginning after December 31, 1987, the  
12 taxable income of any corporation shall be further adjusted to  
13 arrive at Oklahoma taxable income for transfers of technology to  
14 qualified small businesses located in Oklahoma. Such transferor  
15 corporation shall be allowed an exemption from taxable income of an  
16 amount equal to the amount of royalty payment received as a result  
17 of such transfer; provided, however, such amount shall not exceed  
18 ten percent (10%) of the amount of gross proceeds received by such  
19 transferor corporation as a result of the technology transfer. Such  
20 exemption shall be allowed for a period not to exceed ten (10) years  
21 from the date of receipt of the first royalty payment accruing from  
22 such transfer. No exemption may be claimed for transfers of

1 technology to qualified small businesses made prior to January 1,  
2 1988.

3 2. For purposes of this subsection:

4 a. "Qualified small business" means an entity, whether  
5 organized as a corporation, partnership, or  
6 proprietorship, organized for profit with its  
7 principal place of business located within this state  
8 and which meets the following criteria:

9 (1) Capitalization of not more than Two Hundred Fifty  
10 Thousand Dollars (\$250,000.00),

11 (2) Having at least fifty percent (50%) of its  
12 employees and assets located in Oklahoma at the  
13 time of the transfer, and

14 (3) Not a subsidiary or affiliate of the transferor  
15 corporation;

16 b. "Technology" means a proprietary process, formula,  
17 pattern, device or compilation of scientific or  
18 technical information which is not in the public  
19 domain;

20 c. "Transferor corporation" means a corporation which is  
21 the exclusive and undisputed owner of the technology  
22 at the time the transfer is made; and

1           d.   "Gross proceeds" means the total amount of  
2                   consideration for the transfer of technology, whether  
3                   the consideration is in money or otherwise.

4           D.   The Oklahoma adjusted gross income of any individual  
5 taxpayer shall be further adjusted as follows to arrive at Oklahoma  
6 taxable income:

7           1.   a.   In the case of individuals, there shall be added or  
8                   deducted, as the case may be, the difference necessary  
9                   to allow personal exemptions of One Thousand Dollars  
10                  (\$1,000.00) in lieu of the personal exemptions allowed  
11                  by the Internal Revenue Code.

12           b.   There shall be allowed an additional exemption of One  
13                  Thousand Dollars (\$1,000.00) for each taxpayer or  
14                  spouse who is blind at the close of the tax year. For  
15                  purposes of this subparagraph, an individual is blind  
16                  only if the central visual acuity of the individual  
17                  does not exceed 20/200 in the better eye with  
18                  correcting lenses, or if the visual acuity of the  
19                  individual is greater than 20/200, but is accompanied  
20                  by a limitation in the fields of vision such that the  
21                  widest diameter of the visual field subtends an angle  
22                  no greater than twenty (20) degrees.

1 c. There shall be allowed an additional exemption of One  
2 Thousand Dollars (\$1,000.00) for each taxpayer or  
3 spouse who is sixty-five (65) years of age or older at  
4 the close of the tax year based upon the filing status  
5 and federal adjusted gross income of the taxpayer.  
6 Taxpayers with the following filing status may claim  
7 this exemption if the federal adjusted gross income  
8 does not exceed:

9 (1) Twenty-five Thousand Dollars (\$25,000.00) if  
10 married and filing jointly;

11 (2) Twelve Thousand Five Hundred Dollars (\$12,500.00)  
12 if married and filing separately;

13 (3) Fifteen Thousand Dollars (\$15,000.00) if single;  
14 and

15 (4) Nineteen Thousand Dollars (\$19,000.00) if a  
16 qualifying head of household.

17 Provided, for taxable years beginning after December  
18 31, 1999, amounts included in the calculation of  
19 federal adjusted gross income pursuant to the  
20 conversion of a traditional individual retirement  
21 account to a Roth individual retirement account shall  
22 be excluded from federal adjusted gross income for

1 purposes of the income thresholds provided in this  
2 subparagraph.

3 d. For taxable years beginning after December 31, 1990,  
4 and beginning before January 1, 1992, there shall be  
5 allowed a one-time additional exemption of Four  
6 Hundred Dollars (\$400.00) for each taxpayer or spouse  
7 who is a member of the National Guard or any reserve  
8 unit of the Armed Forces of the United States and who  
9 was at any time during such taxable year deployed in  
10 active service during a time of war or conflict with  
11 an enemy of the United States.

12 2. In the case of individuals who use the standard deduction in  
13 determining taxable income, there shall be added or deducted, as the  
14 case may be, the difference necessary to allow a standard deduction  
15 in lieu of the standard deduction allowed by the Internal Revenue  
16 Code, in an amount equal to the larger of fifteen percent (15%) of  
17 the Oklahoma adjusted gross income or One Thousand Dollars  
18 (\$1,000.00), but not to exceed Two Thousand Dollars (\$2,000.00),  
19 except that in the case of a married individual filing a separate  
20 return such deduction shall be the larger of fifteen percent (15%)  
21 of such Oklahoma adjusted gross income or Five Hundred Dollars  
22 (\$500.00), but not to exceed the maximum amount of One Thousand  
23 Dollars (\$1,000.00).

1           3. In the case of resident and part-year resident individuals  
2 having adjusted gross income from sources both within and without  
3 the state, the itemized or standard deductions and personal  
4 exemptions shall be reduced to an amount which is the same portion  
5 of the total thereof as Oklahoma adjusted gross income is of  
6 adjusted gross income. To the extent itemized deductions include  
7 allowable moving expense, proration of moving expense shall not be  
8 required or permitted but allowable moving expense shall be fully  
9 deductible for those taxpayers moving within or into Oklahoma and no  
10 part of moving expense shall be deductible for those taxpayers  
11 moving without or out of Oklahoma. All other itemized or standard  
12 deductions and personal exemptions shall be subject to proration as  
13 provided by law.

14           4. A resident individual with a physical disability  
15 constituting a substantial handicap to employment may deduct from  
16 Oklahoma adjusted gross income such expenditures to modify a motor  
17 vehicle, home or workplace as are necessary to compensate for his or  
18 her handicap. A veteran certified by the Veterans Administration of  
19 the federal government as having a service-connected disability  
20 shall be conclusively presumed to be an individual with a physical  
21 disability constituting a substantial handicap to employment. The  
22 Tax Commission shall promulgate rules containing a list of  
23 combinations of common disabilities and modifications which may be

1 presumed to qualify for this deduction. The Tax Commission shall  
2 prescribe necessary requirements for verification.

3 5. In any taxable year, the first One Thousand Five Hundred  
4 Dollars (\$1,500.00) salary or any other form of compensation  
5 received by any person from the United States as salary or  
6 compensation in any form, other than retirement benefits, as a  
7 member of any component of the Armed Forces of the United States  
8 shall be deducted from taxable income. Whenever the filing of a  
9 timely income tax return by a member of the Armed Forces of the  
10 United States is made impracticable or impossible of accomplishment  
11 by reason of:

- 12 a. absence from the United States, which term includes  
13 only the states and the District of Columbia;
- 14 b. absence from the State of Oklahoma while on active  
15 duty; or
- 16 c. confinement in a hospital within the United States for  
17 treatment of wounds, injuries or disease,  
18 the time for filing a return and paying an income tax shall  
19 be and is hereby extended without incurring liability for  
20 interest or penalties, to the fifteenth day of the third  
21 month following the month in which:

22 (1) Such individual shall return to the United States  
23 if the extension is granted pursuant to

1           subparagraph a of this paragraph, return to the  
2           State of Oklahoma if the extension is granted  
3           pursuant to subparagraph b of this paragraph or  
4           be discharged from such hospital if the extension  
5           is granted pursuant to subparagraph c of this  
6           paragraph; or

7           (2) An executor, administrator, or conservator of the  
8           estate of the taxpayer is appointed, whichever  
9           event occurs the earliest.

10        Provided, that the Tax Commission may, in its discretion, grant any  
11        member of the Armed Forces of the United States an extension of time  
12        for filing of income tax returns and payment of income tax without  
13        incurring liabilities for interest or penalties. Such extension may  
14        be granted only when in the judgment of the Tax Commission a good  
15        cause exists therefor and may be for a period in excess of six (6)  
16        months. A record of every such extension granted, and the reason  
17        therefor, shall be kept.

18        6. The salary or any other form of compensation, received from  
19        the United States by a member of any component of the Armed Forces  
20        of the United States, shall be deducted from taxable income during  
21        the time in which the person is detained by the enemy in a conflict,  
22        is a prisoner of war or is missing in action and not deceased.

1           7. Notwithstanding anything in the Internal Revenue Code or in  
2 the Oklahoma Income Tax Act to the contrary, it is expressly  
3 provided that, in the case of resident individuals, amounts received  
4 as dividends or distributions of earnings from savings and loan  
5 associations or credit unions located in Oklahoma, and interest  
6 received on savings accounts and time deposits from such sources or  
7 from state and national banks or trust companies located in  
8 Oklahoma, shall qualify as dividends for the purpose of the dividend  
9 exclusion, and taxable income shall be adjusted accordingly to  
10 arrive at Oklahoma taxable income; provided, however, that the  
11 dividend, distribution of earnings and/or interest exclusion  
12 provided for hereinabove shall not be cumulative to the maximum  
13 dividend exclusion allowed by the Internal Revenue Code. Any  
14 dividend exclusion already allowed by the Internal Revenue Code and  
15 reflected in the taxpayer's Oklahoma taxable income together with  
16 exclusion allowed herein shall not exceed the total of One Hundred  
17 Dollars (\$100.00) per individual or Two Hundred Dollars (\$200.00)  
18 per couple filing a joint return.

19           8.    a.    An individual taxpayer, whether resident or  
20                        nonresident, may deduct an amount equal to the federal  
21                        income taxes paid by the taxpayer during the taxable  
22                        year.

1           b.    Federal taxes as described in subparagraph a of this  
2                    paragraph shall be deductible by any individual  
3                    taxpayer, whether resident or nonresident, only to the  
4                    extent they relate to income subject to taxation  
5                    pursuant to the provisions of the Oklahoma Income Tax  
6                    Act.  The maximum amount allowable in the preceding  
7                    paragraph shall be prorated on the ratio of the  
8                    Oklahoma adjusted gross income to federal adjusted  
9                    gross income.

10           c.   For the purpose of this paragraph, "federal income  
11                    taxes paid" shall mean federal income taxes, surtaxes  
12                    imposed on incomes or excess profits taxes, as though  
13                    the taxpayer was on the accrual basis.  In determining  
14                    the amount of deduction for federal income taxes for  
15                    tax year 2001, the amount of the deduction shall not  
16                    be adjusted by the amount of any accelerated ten  
17                    percent (10%) tax rate bracket credit or advanced  
18                    refund of the credit received during the tax year  
19                    provided pursuant to the federal Economic Growth and  
20                    Tax Relief Reconciliation Act of 2001, P.L. No. ~~170-16~~  
21                    107-16, and the advanced refund of such credit shall  
22                    not be subject to taxation.

1           d.    The provisions of this paragraph shall apply to all  
2                    taxable years ending after December 31, 1978.

3           9.    Retirement benefits not to exceed Five Thousand Five Hundred  
4 Dollars (\$5,500.00) for the 2004 tax year and Seven Thousand Five  
5 Hundred Dollars (\$7,500.00) for the 2005 tax year and all subsequent  
6 tax years, which are received by an individual from the civil  
7 service of the United States, any component of the Armed Forces of  
8 the United States, the Oklahoma Public Employees Retirement System,  
9 the Teachers' Retirement System of Oklahoma, the Oklahoma Law  
10 Enforcement Retirement System, the Oklahoma Firefighters Pension and  
11 Retirement System, the Oklahoma Police Pension and Retirement  
12 System, the employee retirement systems created by counties pursuant  
13 to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the  
14 Uniform Retirement System for Justices and Judges, the Oklahoma  
15 Wildlife Conservation Department Retirement Fund, the Oklahoma  
16 Employment Security Commission Retirement Plan, or the employee  
17 retirement systems created by municipalities pursuant to Section 48-  
18 101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt  
19 from taxable income.

20          10.   In taxable years beginning after December 31, 1984, Social  
21 Security benefits received by an individual shall be exempt from  
22 taxable income, to the extent such benefits are included in the

1 federal adjusted gross income pursuant to the provisions of Section  
2 86 of the Internal Revenue Code, 26 U.S.C., Section 86.

3 11. For taxable years beginning after December 31, 1994, lump-  
4 sum distributions from employer plans of deferred compensation,  
5 which are not qualified plans within the meaning of Section 401(a)  
6 of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which  
7 are deposited in and accounted for within a separate bank account or  
8 brokerage account in a financial institution within this state,  
9 shall be excluded from taxable income in the same manner as a  
10 qualifying rollover contribution to an individual retirement account  
11 within the meaning of Section 408 of the Internal Revenue Code, 26  
12 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage  
13 account, including any earnings thereon, shall be included in  
14 taxable income when withdrawn in the same manner as withdrawals from  
15 individual retirement accounts within the meaning of Section 408 of  
16 the Internal Revenue Code.

17 12. In taxable years beginning after December 31, 1995,  
18 contributions made to and interest received from a medical savings  
19 account established pursuant to Sections 2621 through 2623 of Title  
20 63 of the Oklahoma Statutes shall be exempt from taxable income.

21 13. For taxable years beginning after December 31, 1996, the  
22 Oklahoma adjusted gross income of any individual taxpayer who is a  
23 swine or poultry producer may be further adjusted for the deduction

1 for depreciation allowed for new construction or expansion costs  
2 which may be computed using the same depreciation method elected for  
3 federal income tax purposes except that the useful life shall be  
4 seven (7) years for purposes of this paragraph. If depreciation is  
5 allowed as a deduction in determining the adjusted gross income of  
6 an individual, any depreciation calculated and claimed pursuant to  
7 this section shall in no event be a duplication of any depreciation  
8 allowed or permitted on the federal income tax return of the  
9 individual.

10 14. a. In taxable years beginning after December 31, 2002,  
11 nonrecurring adoption expenses paid by a resident  
12 individual taxpayer in connection with:

- 13 (1) the adoption of a minor, or  
14 (2) a proposed adoption of a minor which did not  
15 result in a decreed adoption,  
16 may be deducted from the Oklahoma adjusted gross  
17 income.

18 b. The deductions for adoptions and proposed adoptions  
19 authorized by this paragraph shall not exceed Twenty  
20 Thousand Dollars (\$20,000.00) per calendar year.

21 c. The Tax Commission shall promulgate rules to implement  
22 the provisions of this paragraph which shall contain a  
23 specific list of nonrecurring adoption expenses which

1           may be presumed to qualify for the deduction. The Tax  
2           Commission shall prescribe necessary requirements for  
3           verification.

4           d. "Nonrecurring adoption expenses" means adoption fees,  
5           court costs, medical expenses, attorney fees and  
6           expenses which are directly related to the legal  
7           process of adoption of a child including, but not  
8           limited to, costs relating to the adoption study,  
9           health and psychological examinations, transportation  
10          and reasonable costs of lodging and food for the child  
11          or adoptive parents which are incurred to complete the  
12          adoption process and are not reimbursed by other  
13          sources. The term "nonrecurring adoption expenses"  
14          shall not include attorney fees incurred for the  
15          purpose of litigating a contested adoption, from and  
16          after the point of the initiation of the contest,  
17          costs associated with physical remodeling, renovation  
18          and alteration of the adoptive parents' home or  
19          property, except for a special needs child as  
20          authorized by the court.

21          15. In taxable years beginning before January 1, 2005,  
22          retirement benefits not to exceed the amounts specified in this  
23          paragraph, which are received by an individual sixty-five (65) years

1 of age or older and whose Oklahoma adjusted gross income is Twenty-  
2 five Thousand Dollars (\$25,000.00) or less if the filing status is  
3 single, head of household, or married filing separate, or Fifty  
4 Thousand Dollars (\$50,000.00) or less if the filing status is  
5 married filing joint or qualifying widow, shall be exempt from  
6 taxable income. In taxable years beginning after December 31, 2004,  
7 retirement benefits not to exceed the amounts specified in this  
8 paragraph, which are received by an individual whose Oklahoma  
9 adjusted gross income is Thirty-seven Thousand Five Hundred Dollars  
10 (\$37,500.00) or less if the filing status is single, head of  
11 household, or married filing separate, or Seventy-Five Thousand  
12 Dollars (\$75,000.00) or less if the filing status is married filing  
13 jointly or qualifying widow, shall be exempt from taxable income.  
14 For purposes of this paragraph, "retirement benefits" means the  
15 total distributions or withdrawals from the following:

- 16 a. an employee pension benefit plan which satisfies the  
17 requirements of Section 401 of the Internal Revenue  
18 Code, 26 U.S.C., Section 401,  
19 b. an eligible deferred compensation plan that satisfies  
20 the requirements of Section 457 of the Internal  
21 Revenue Code, 26 U.S.C., Section 457,  
22 c. an individual retirement account, annuity or trust or  
23 simplified employee pension that satisfies the

- 1 requirements of Section 408 of the Internal Revenue  
2 Code, 26 U.S.C., Section 408,
- 3 d. an employee annuity subject to the provisions of  
4 Section 403(a) or (b) of the Internal Revenue Code, 26  
5 U.S.C., Section 403(a) or (b),
- 6 e. United States Retirement Bonds which satisfy the  
7 requirements of Section 86 of the Internal Revenue  
8 Code, 26 U.S.C., Section 86, or
- 9 f. lump-sum distributions from a retirement plan which  
10 satisfies the requirements of Section 402(e) of the  
11 Internal Revenue Code, 26 U.S.C., Section 402(e).

12 The amount of the exemption provided by this paragraph shall be  
13 limited to Five Thousand Five Hundred Dollars (\$5,500.00) for the  
14 2004 tax year and Seven Thousand Five Hundred Dollars (\$7,500.00)  
15 for the 2005 tax year and for all subsequent tax years. Any  
16 individual who claims the exemption provided for in paragraph 9 of  
17 this subsection shall not be permitted to claim a combined total  
18 exemption pursuant to this paragraph and paragraph 9 of this  
19 subsection in an amount exceeding Five Thousand Five Hundred Dollars  
20 (\$5,500.00) for the 2004 tax year and Seven Thousand Five Hundred  
21 Dollars (\$7,500.00) for the 2005 tax year and subsequent tax years.

22 16. In taxable years beginning after December 31, 1999, for an  
23 individual engaged in production agriculture who has filed a

1 Schedule F form with the taxpayer's federal income tax return for  
2 such taxable year, there shall be excluded from taxable income any  
3 amount which was included as federal taxable income or federal  
4 adjusted gross income and which consists of the discharge of an  
5 obligation by a creditor of the taxpayer incurred to finance the  
6 production of agricultural products.

7 17. In taxable years beginning December 31, 2000, an amount  
8 equal to one hundred percent (100%) of the amount of any scholarship  
9 or stipend received from participation in the Oklahoma Police Corps  
10 Program, as established in Section 2-140.3 of Title 47 of the  
11 Oklahoma Statutes shall be exempt from taxable income.

12 18. In taxable years beginning after December 31, 2001, there  
13 shall be allowed a deduction in the amount of contributions to  
14 accounts established pursuant to the Oklahoma College Savings Plan  
15 Act. The deduction shall equal the amount of contributions to  
16 accounts, but in no event shall the deduction for each contributor  
17 exceed Two Thousand Five Hundred Dollars (\$2,500.00) each taxable  
18 year for each account.

19 19. In taxable years beginning after December 31, 1998, any  
20 grants received by an individual from the Federal Emergency  
21 Management Agency for the construction of a storm shelter or safe  
22 room shall be exempt from taxable income provided the grants are  
23 included on the federal adjusted gross income of the individual.

1       E. 1. For taxable years beginning after December 31, 2004, a  
2 deduction from the Oklahoma adjusted gross income of any individual  
3 taxpayer shall be allowed for qualifying gains receiving capital  
4 treatment earned by the individual taxpayer during the taxable year  
5 and included in the federal taxable income of such individual  
6 taxpayer.

7       2. As used in this subsection:

8           a. "qualifying gains receiving capital treatment" means  
9           the amount of net capital gains, as defined in Section  
10           1222(11) of the Internal Revenue Code, included in an  
11           individual taxpayer's federal income tax return that  
12           was:

- 13           (1) earned by the individual taxpayer on real or  
14           tangible personal property located within  
15           Oklahoma that has been owned by the individual  
16           taxpayer for a holding period of at least five  
17           (5) years prior to the date of the transaction  
18           from which such net capital gains arise, or  
19           (2) earned on the sale of stock or on the sale of an  
20           ownership interest in an Oklahoma company,  
21           limited liability company, or partnership where  
22           such stock or ownership interest has been owned  
23           by the individual taxpayer for a holding period

1 of at least three (3) years prior to the date of  
2 the transaction from which the net capital gains  
3 arise,

4 b. "holding period" means an uninterrupted period of  
5 time, and

6 c. "Oklahoma company," "limited liability company," or  
7 "partnership" means an entity whose primary  
8 headquarters have been located in Oklahoma for at  
9 least three (3) uninterrupted years prior to the date  
10 of the transaction from which the net capital gains  
11 arise.

12 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1001, as  
13 last amended by Section 1, Chapter 444, O.S.L. 2004 (68 O.S. Supp.  
14 2004, Section 1001), is amended to read as follows:

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

19 B. 1. Effective January 1, 1999, through June 30, 2007, except  
20 as otherwise exempted pursuant to subsections D, E, F, G, H, I and J  
21 of this section, there is hereby levied upon the production of oil a  
22 tax as set forth in this subsection on the gross value of the  
23 production of oil based on a per barrel measurement of forty-two

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

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

21 3. Effective January 1, 1999, through June 30, 2007, the  
22 average price of Oklahoma oil for purposes of this section shall be  
23 computed by the Tax Commission based on the total value of oil

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

17 4. Effective July 1, 2002, through June 30, 2007, except as  
18 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of  
19 this section, there is hereby levied upon the production of gas a  
20 tax as set forth in this subsection on the gross value of the  
21 production of gas. If the average price of gas as determined by the  
22 Tax Commission pursuant to the provisions of paragraph 3 of this  
23 subsection equals or exceeds Two Dollars and ten cents (\$2.10) per

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

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

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

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

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

16 2. Except as otherwise provided in this section, for secondary  
17 recovery projects approved and having a project beginning date on or  
18 after July 1, 1993, and before July 1, 2000, any incremental  
19 production attributable to the working interest owners which results  
20 from such secondary recovery projects shall be exempt from the gross  
21 production tax levied pursuant to this section from the project  
22 beginning date until project payback is achieved but not to exceed a  
23 period of ten (10) years. Project payback pursuant to this

1 paragraph shall be determined by appropriate payback indicators  
2 which will provide for the recovery of capital expenses and fifty  
3 percent (50%) of operating expenses, in determining project payback.

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

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

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

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

8 6. For purposes of this subsection:

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

1 production history of the field, its current status,  
2 and sound reservoir engineering principles, and

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

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

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

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

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

1        11. Upon the expiration of the exemption granted pursuant to  
2 this subsection, the Tax Commission shall collect the gross  
3 production tax levied pursuant to this section.

4        E. 1. Except as otherwise provided in this section, the  
5 production of oil, gas or oil and gas from a horizontally drilled  
6 well producing prior to July 1, 2001, which production commenced  
7 after July 1, 1995, shall be exempt from the gross production tax  
8 levied pursuant to subsection B of this section from the project  
9 beginning date until project payback is achieved but not to exceed a  
10 period of twenty-four (24) months commencing with the month of  
11 initial production from the horizontally drilled well. Except as  
12 otherwise provided in this section, the production of oil, gas or  
13 oil and gas from a horizontally drilled well ~~producing prior to July~~  
14 ~~1, 2006,~~ which production commenced after July 1, 2002, shall be  
15 exempt from the gross production tax levied pursuant to subsection B  
16 of this section from the project beginning date until project  
17 payback is achieved but not to exceed a period of forty-eight (48)  
18 months commencing with the month of initial production from the  
19 horizontally drilled well. Provided, any incremental production  
20 which results from a horizontally drilled well producing prior to  
21 July 1, 1994, shall be exempt from the gross production tax levied  
22 pursuant to subsection B of this section from the project beginning  
23 date until project payback is achieved but not to exceed a period of

1 twenty-four (24) months commencing with the month of initial  
2 production from the horizontally drilled well. For purposes of  
3 subsection D of this section and this subsection, project payback  
4 shall be determined as of the date of the completion of the well and  
5 shall not include any expenses beyond the completion date of the  
6 well, and subject to the approval of the Tax Commission.

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

13 F. 1. Except as otherwise provided by this section, the  
14 severance or production of oil, gas or oil and gas from an inactive  
15 well shall be exempt from the gross production tax levied pursuant  
16 to subsection B of this section for a period of twenty-eight (28)  
17 months from the date upon which production is reestablished. This  
18 exemption shall take effect July 1, 1994, and shall apply to wells  
19 for which work to reestablish or enhance production began on or  
20 after July 1, 1994, and for which production is reestablished prior  
21 to July 1, 2006. For all such production, a refund against gross  
22 production taxes shall be issued as provided in subsection L of this  
23 section.

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

17           G. 1. Except as otherwise provided by this section, any  
18 incremental production which results from a production enhancement  
19 project shall be exempt from the gross production tax levied  
20 pursuant to subsection B of this section for a period of twenty-  
21 eight (28) months from the date of first sale after project  
22 completion of the production enhancement project. This exemption  
23 shall take effect July 1, 1994, and shall apply to production

1 enhancement projects having a project beginning date on or after  
2 July 1, 1994, ~~and prior to July 1, 2006~~. For all such production, a  
3 refund against gross production taxes shall be issued as provided in  
4 subsection L of this section.

5 2. As used in this subsection:

- 6 a. (1) for production enhancement projects having a  
7 project beginning date prior to July 1, 1997,  
8 "production enhancement project" means any  
9 workover as defined in this paragraph,  
10 recompletion as defined in this paragraph, or  
11 fracturing of a producing well, and
- 12 (2) for production enhancement projects having a  
13 project beginning date on or after July 1, 1997,  
14 ~~and prior to July 1, 2006~~, "production  
15 enhancement project" means any workover as  
16 defined in this paragraph, recompletion as  
17 defined in this paragraph, reentry of plugged and  
18 abandoned wellbores, or addition of a well or  
19 field compression,
- 20 b. "incremental production" means the amount of crude  
21 oil, natural gas or other hydrocarbons which are  
22 produced as a result of the production enhancement  
23 project in excess of the base production,

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

20           d.    (1) for production enhancement projects having a  
21                   project beginning date prior to July 1, 1997,  
22                   "recompletion" means any downhole operation in an  
23                   existing oil or gas well that is conducted to

1           establish production of oil or gas from any  
2           geological interval not currently completed or  
3           producing in such existing oil or gas well, and  
4           (2) for production enhancement projects having a  
5           project beginning date on or after July 1, 1997,  
6           ~~and prior to July 1, 2006,~~ "recompletion" means  
7           any downhole operation in an existing oil or gas  
8           well that is conducted to establish production of  
9           oil or gas from any geologic interval not  
10          currently completed or producing in such existing  
11          oil or gas well within the same or a different  
12          geologic formation, and

13          e. "workover" means any downhole operation in an existing  
14          oil or gas well that is designed to sustain, restore  
15          or increase the production rate or ultimate recovery  
16          in a geologic interval currently completed or  
17          producing in the existing oil or gas well. For  
18          production enhancement projects having a project  
19          beginning date prior to July 1, 1997, "workover"  
20          includes, but is not limited to, acidizing,  
21          reperforating, fracture treating, sand/paraffin  
22          removal, casing repair, squeeze cementing, or setting  
23          bridge plugs to isolate water productive zones from

1 oil or gas productive zones, or any combination  
2 thereof. For production enhancement projects having a  
3 project beginning date on or after July 1, 1997, ~~and~~  
4 ~~prior to July 1, 2006,~~ "workover" includes, but is not  
5 limited to:  
6 (1) acidizing,  
7 (2) reperforating,  
8 (3) fracture treating,  
9 (4) sand/paraffin/scale removal or other wellbore  
10 cleanouts,  
11 (5) casing repair,  
12 (6) squeeze cementing,  
13 (7) installation of compression on a well or group of  
14 wells or initial installation of artificial lifts  
15 on gas wells, including plunger lifts, rod pumps,  
16 submersible pumps and coiled tubing velocity  
17 strings,  
18 (8) downsizing existing tubing to reduce well  
19 loading,  
20 (9) downhole commingling,  
21 (10) bacteria treatments,  
22 (11) upgrading the size of pumping unit equipment,

1 (12) setting bridge plugs to isolate water production  
2 zones, or

3 (13) any combination thereof.

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

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

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

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

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

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

1 subsection L of this section. As used in this subsection, "new  
2 discovery" means production of oil, gas or oil and gas from:

- 3 a. (1) for wells spudded or reentered on or after July  
4 1, 1997, a well that discovers crude oil in  
5 paying quantities that is more than one (1) mile  
6 from the nearest oil well producing from the same  
7 producing formation, and  
8 (2) for wells spudded or reentered on or after July  
9 1, 1997, ~~and prior to July 1, 2006,~~ a well that  
10 discovers crude oil in paying quantities that is  
11 more than one (1) mile from the nearest oil well  
12 producing from the same producing interval of the  
13 same formation,  
14 b. (1) for wells spudded or reentered prior to July 1,  
15 1997, a well that discovers crude oil in paying  
16 quantities beneath current production in a deeper  
17 producing formation that is more than one (1)  
18 mile from the nearest oil well producing from the  
19 same deeper producing formation, and  
20 (2) for wells spudded or reentered on or after July  
21 1, 1997, ~~and prior to July 1, 2006,~~ a well that  
22 discovers crude oil in paying quantities beneath  
23 current production in a deeper producing interval

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

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

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

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

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

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

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

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

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

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

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

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

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

12 c. ~~to the severance or production of gas, upon~~  
13 ~~determination by the Tax Commission that the weighted~~  
14 ~~average wellhead price of Oklahoma gas exceeds Five~~  
15 ~~Dollars (\$5.00) per thousand cubic feet (mcf)~~  
16 ~~calculated on an annual calendar year basis.~~

17 2. Notwithstanding the exemptions granted pursuant to  
18 subsections E, F, G, H, I and J of this section, there shall  
19 continue to be levied upon the production of petroleum or other  
20 crude or mineral oil or natural gas or casinghead gas, as provided  
21 in subsection B of this section, from any wells provided for in  
22 subsection E, F, G, H, I or J of this section, a tax equal to one  
23 percent (1%) of the gross value of the production of petroleum or

1 other crude or mineral oil or natural gas or casinghead gas. The  
2 tax hereby levied shall be apportioned as follows:

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

7 b. fifty percent (50%) of the sum collected shall be  
8 apportioned to the appropriate school district as  
9 provided in subparagraph c of paragraph 1 of Section  
10 1004 of this title.

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

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

20 1. A refund shall not be claimed until after the end of such  
21 fiscal year. As used in this subsection, a fiscal year shall be  
22 deemed to begin on July 1 of one calendar year and shall end on June  
23 30 of the subsequent calendar year;

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

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

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

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

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

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

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

8 2. Any person requesting any exemption shall file an  
9 application for qualification for the exemption with the Corporation  
10 Commission which, upon finding that the well meets the requirements  
11 of subsection E, F, G, H, I or J of this section, shall approve the  
12 application for qualification.

13 3. Any person seeking an exemption shall:

14 a. file an application for the exemption with the Tax  
15 Commission which, upon determination of qualification  
16 by the Corporation Commission, shall approve the  
17 application for an exemption, and

18 b. provide a copy of the approved application to the  
19 remitter of the gross production tax.

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

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

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

20           O. The Tax Commission shall have the power to require any such  
21 person engaged in mining or the production or the purchase of such  
22 asphalt, mineral ores aforesaid, oil, or gas, or the owner of any  
23 royalty interest therein to furnish any additional information by it

1 deemed to be necessary for the purpose of correctly computing the  
2 amount of the tax; and to examine the books, records and files of  
3 such person; and shall have power to conduct hearings and compel the  
4 attendance of witnesses, and the production of books, records and  
5 papers of any person.

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

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

11 R. The payment of the taxes herein levied shall be in full, and  
12 in lieu of all taxes by the state, counties, cities, towns, school  
13 districts and other municipalities upon any property rights attached  
14 to or inherent in the right to the minerals, upon producing leases  
15 for the mining of asphalt and ores bearing lead, zinc, jack, gold,  
16 silver or copper, or for oil, or for gas, upon the mineral rights  
17 and privileges for the minerals aforesaid belonging or appertaining  
18 to land, upon the machinery, appliances and equipment used in and  
19 around any well producing oil, or gas, or any mine producing asphalt  
20 or any of the mineral ores aforesaid and actually used in the  
21 operation of such well or mine. The payment of gross production tax  
22 shall also be in lieu of all taxes upon the oil, gas, asphalt or  
23 ores bearing minerals hereinbefore mentioned during the tax year in

1 which the same is produced, and upon any investment in any of the  
2 leases, rights, privileges, minerals or other property described  
3 herein. Any interest in the land, other than that herein  
4 enumerated, and oil in storage, asphalt and ores bearing minerals  
5 hereinbefore named, mined, produced and on hand at the date as of  
6 which property is assessed for general and ad valorem taxation for  
7 any subsequent tax year, shall be assessed and taxed as other  
8 property within the taxing district in which such property is  
9 situated at the time.

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

21 T. The exemption from ad valorem tax set forth in subsections R  
22 and S of this section shall continue to apply to all property from  
23 which production of oil, gas or oil and gas is exempt from gross

1 production tax pursuant to subsection D, E, F, G, H, I or J of this  
2 section.

3 SECTION 3. This act shall become effective January 1, 2006.

4 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 4-5-05 - DO PASS,  
5 As Amended.