SB 309

THE STATE SENATE

Tuesday, February 15, 2005

Senate Bill No. 309

As Amended

SENATE BILL NO. 309 - By: LERBLANCE of the Senate and MASS of the House.

[revenue and taxation - exempting gas leases from gross production tax - effective date - emergency]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1001.3a of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Economically at-risk oil or gas lease" means any oil or gas lease operated at a net loss or at a net profit which is less than the total gross production tax remitted for such lease during the previous tax reporting year; and

2. "Lease" shall be defined as in Section 1001.2 of Title 68 of the Oklahoma Statutes.

B. When certified as such pursuant to the provisions of this section, production from an economically at-risk oil or gas lease shall be eligible for an exemption from the gross production tax levied pursuant to subsection B of Section 1001 of Title 68 of the

Oklahoma Statutes for production on such lease during the previous calendar year in the following amounts:

1. If the gross production tax rate levied pursuant to subsection B of Section 1001 of Title 68 of the Oklahoma Statutes is seven percent (7%), then the exemption shall equal six-sevenths (6/7) of the gross production tax levied;

2. If the gross production tax rate levied pursuant to subsection B of Section 1001 of Title 68 of the Oklahoma Statutes is four percent (4%), then the exemption shall equal three-fourths (3/4) of the gross production tax levied; and

3. If the gross production tax rate levied pursuant to subsection B of Section 1001 of Title 68 of the Oklahoma Statutes is one percent (1%), no exemption shall apply.

C. The exemption shall also not apply as follows:

1. With respect to oil production, if it is determined by the Oklahoma Tax Commission that during the previous calendar year the weighted average price of Oklahoma oil exceeds Twenty-five Dollars ($25.00) per barrel; or

2. With respect to gas production, if it is determined by the Tax Commission that during the previous calendar year the weighted average wellhead price of Oklahoma gas exceeds Three Dollars and fifty cents ($3.50) per Million British Thermal Units, calculated on an annual calendar year basis.

D. For all production exempt from gross production taxes pursuant to this section, a refund of gross production taxes paid in the previous calendar year in the amounts specified in this subsection shall be issued to the well operator or a designee. The refund shall not be claimed until after July 1 of the subsequent year.

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

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

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

H. Gross production tax exemptions under the provisions of this section shall be limited to production from calendar years 2005, 2006 and 2007.

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

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

COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-8-05 - DO PASS, As Amended and Coauthored.