

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR ENGROSSED

5 SENATE BILL NO. 313

By: Bingman, Gumm and Sparks of
the Senate

6 and

7 Thompson of the House

8
9 SUBCOMMITTEE RECOMMENDATION

10 An Act relating to revenue and taxation; amending 68
11 O.S. 2001, Section 1001, as last amended by Section
12 21 of Enrolled Senate Bill No. 764 of the 1st Session
13 of the 52nd Oklahoma Legislature, which relates to
14 gross production tax; extending time period during
15 which certain exemptions may be claimed; providing an
16 effective date; and declaring an emergency.

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

18 SECTION 1. SECTION 1. AMENDATORY 68 O.S. 2001,

19 Section 1001, as last amended by Section 21 of Enrolled Senate Bill
20 No. 764 of the 1st Session of the 52nd Oklahoma Legislature, is
21 amended to read as follows:

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

1 B. 1. Effective January 1, 1999, through June 30, 2010, except
2 as otherwise exempted pursuant to subsections D, E, F, G, H, I and J
3 of this section, there is hereby levied upon the production of oil a
4 tax as set forth in this subsection on the gross value of the
5 production of oil based on a per barrel measurement of forty-two
6 (42) U.S. gallons of two hundred thirty-one (231) cubic inches per
7 gallon, computed at a temperature of sixty (60) degrees Fahrenheit.
8 If the average price of Oklahoma oil as determined by the Oklahoma
9 Tax Commission pursuant to the provisions of paragraph 3 of this
10 subsection equals or exceeds Seventeen Dollars (\$17.00) per barrel,
11 then the tax shall be seven percent (7%). If the average price of
12 Oklahoma oil as determined by the Tax Commission pursuant to
13 paragraph 3 of this subsection is less than Seventeen Dollars
14 (\$17.00) but is equal to or exceeds Fourteen Dollars (\$14.00) per
15 barrel, then the tax shall be four percent (4%). If the average
16 price of Oklahoma oil as determined by the Tax Commission pursuant
17 to paragraph 3 of this subsection is less than Fourteen Dollars
18 (\$14.00) per barrel, then the tax shall be one percent (1%).

19 2. Effective July 1, 2010, except as otherwise exempted
20 pursuant to subsections D, E, F, G, H, I and J of this section,
21 there shall be levied upon the production of oil a tax equal to
22 seven percent (7%) of the gross value of the production of oil based
23 on a per barrel measurement of forty-two (42) U.S. gallons of two
24

1 hundred thirty-one (231) cubic inches per gallon, computed at a
2 temperature of sixty (60) degrees Fahrenheit.

3 3. Effective January 1, 1999, through June 30, 2010, the
4 average price of Oklahoma oil for purposes of this section shall be
5 computed by the Tax Commission based on the total value of oil
6 reported each month that is subject to the tax levied under this
7 section. At the first of each month, the Tax Commission shall
8 compute the average price paid per barrel of oil reported on the
9 monthly tax report for the most current production month on file.
10 The average price as computed by the Tax Commission shall be used to
11 determine the applicable tax rate for the third month following
12 production. Effective July 1, 2002, through June 30, 2010, the
13 average price of gas for purposes of this section shall be computed
14 by the Tax Commission based on the total value of gas reported each
15 month that is subject to the tax levied by this section. At the
16 first of each month, the Tax Commission shall compute the average
17 price paid per thousand cubic feet (mcf) of gas as reported on the
18 monthly tax report for the most current production month on file.
19 The average price as computed by the Tax Commission shall be used to
20 determine the applicable tax rate for the third month following
21 production.

22 4. Effective July 1, 2002, through June 30, 2010, except as
23 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
24 this section, there is hereby levied upon the production of gas a

1 tax as set forth in this subsection on the gross value of the
2 production of gas. If the average price of gas as determined by the
3 Tax Commission pursuant to the provisions of paragraph 3 of this
4 subsection equals or exceeds Two Dollars and ten cents (\$2.10) per
5 thousand cubic feet (mcf), then the tax shall be seven percent (7%).
6 If the average price of gas as determined by the Tax Commission
7 pursuant to the provisions of paragraph 3 of this subsection is less
8 than Two Dollars and ten cents (\$2.10) per thousand cubic feet (mcf)
9 but is equal to or exceeds One Dollar and seventy-five cents (\$1.75)
10 per thousand cubic feet (mcf), then the tax shall be four percent
11 (4%). If the average price of gas as determined by the Tax
12 Commission pursuant to the provisions of paragraph 3 of this
13 subsection is less than One Dollar and seventy-five cents (\$1.75)
14 per thousand cubic feet (mcf), then the tax shall be one percent
15 (1%).

16 5. Effective July 1, 2010, except as otherwise exempted
17 pursuant to subsections D, E, F, G, H, I and J of this section,
18 there shall be levied a tax equal to seven percent (7%) of the gross
19 value of the production of gas.

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

23 D. 1. Except as otherwise provided in this section, any
24 incremental production attributable to the working interest owners

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

19 2. Except as otherwise provided in this section, for secondary
20 recovery projects approved and having a project beginning date on or
21 after July 1, 1993, and before July 1, 2000, any incremental
22 production attributable to the working interest owners which results
23 from such secondary recovery projects shall be exempt from the gross
24 production tax levied pursuant to this section from the project

1 beginning date until project payback is achieved but not to exceed a
2 period of ten (10) years. Project payback pursuant to this
3 paragraph shall be determined by appropriate payback indicators
4 which will provide for the recovery of capital expenses and fifty
5 percent (50%) of operating expenses, in determining project payback.

6 3. Except as otherwise provided in this section, for secondary
7 recovery projects approved or having an initial project beginning
8 date on or after July 1, 2000, and before July 1, ~~2009~~ 2012, any
9 incremental production attributable to the working interest owners
10 which results from such secondary recovery projects shall be exempt
11 from the gross production tax levied pursuant to this section for a
12 period not to exceed five (5) years from the initial project
13 beginning date or for a period ending upon the termination of the
14 secondary recovery process, whichever occurs first.

15 4. Except as otherwise provided in this section, for tertiary
16 recovery projects approved and having a project beginning date on or
17 after July 1, 1993, and before July 1, ~~2009~~ 2012, any incremental
18 production attributable to the working interest owners which results
19 from such tertiary recovery projects shall be exempt from the gross
20 production tax levied pursuant to this section from the project
21 beginning date until project payback is achieved, but not to exceed
22 a period of ten (10) years. Project payback pursuant to this
23 paragraph shall be determined by appropriate payback indicators
24 which will provide for the recovery of capital expenses and

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

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

9 6. For purposes of this subsection:

10 a. "incremental production" means the amount of crude oil
11 or other liquid hydrocarbons which is produced during
12 an enhanced recovery project and which is in excess of
13 the base production amount of crude oil or other
14 liquid hydrocarbons. The base production amount shall
15 be the average monthly amount of production for the
16 twelve-month period immediately prior to the project
17 beginning date minus the monthly rate of production
18 decline for the project for each month beginning one
19 hundred eighty (180) days prior to the project
20 beginning date. The monthly rate of production
21 decline shall be equal to the average extrapolated
22 monthly decline rate for the twelve-month period
23 immediately prior to the project beginning date as
24 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, ~~2009~~ 2012, 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, 2002, 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, ~~2009~~ 2012, which production commenced after July 1, 2002, shall
15 be exempt from the gross production tax levied pursuant to
16 subsection B of this section from the project beginning date until
17 project payback is achieved but not to exceed a period of forty-
18 eight (48) months commencing with the month of initial production
19 from the horizontally drilled well. Provided, any incremental
20 production which results from a horizontally drilled well producing
21 prior to July 1, 1994, shall be exempt from the gross production tax
22 levied pursuant to subsection B of this section from the project
23 beginning date until project payback is achieved but not to exceed a
24 period of twenty-four (24) months commencing with the month of

1 initial production from the horizontally drilled well. For purposes
2 of subsection D of this section and this subsection, project payback
3 shall be determined as of the date of the completion of the well and
4 shall not include any expenses beyond the completion date of the
5 well, and subject to the approval of the Tax Commission.

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

12 F. 1. Except as otherwise provided by this section, the
13 severance or production of oil, gas or oil and gas from an inactive
14 well shall be exempt from the gross production tax levied pursuant
15 to subsection B of this section for a period of twenty-eight (28)
16 months from the date upon which production is reestablished. This
17 exemption shall take effect July 1, 1994, and shall apply to wells
18 for which work to reestablish or enhance production began on or
19 after July 1, 1994, and for which production is reestablished prior
20 to July 1, ~~2009~~ 2012. For all such production, a refund against
21 gross production taxes shall be issued as provided in subsection L
22 of this section.

23 2. As used in this subsection, for wells for which production
24 is reestablished prior to July 1, 1997, "inactive well" means any

1 well that has not produced oil, gas or oil and gas for a period of
2 not less than two (2) years as evidenced by the appropriate forms on
3 file with the Corporation Commission reflecting the well's status.
4 As used in this subsection, for wells for which production is
5 reestablished on or after July 1, 1997, and prior to July 1, ~~2009~~
6 2012, "inactive well" means any well that has not produced oil, gas
7 or oil and gas for a period of not less than one (1) year as
8 evidenced by the appropriate forms on file with the Corporation
9 Commission reflecting the well's status. Wells which experience
10 mechanical failure or loss of mechanical integrity, as defined by
11 the Corporation Commission, including but not limited to, casing
12 leaks, collapse of casing or loss of equipment in a wellbore, or any
13 similar event which causes cessation of production, shall also be
14 considered inactive wells.

15 G. 1. Except as otherwise provided by this section, any
16 incremental production which results from a production enhancement
17 project shall be exempt from the gross production tax levied
18 pursuant to subsection B of this section for a period of twenty-
19 eight (28) months from the date of first sale after project
20 completion of the production enhancement project. This exemption
21 shall take effect July 1, 1994, and shall apply to production
22 enhancement projects having a project beginning date on or after
23 July 1, 1994, and prior to July 1, ~~2009~~ 2012. For all such
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1 production, a refund against gross production taxes shall be issued
2 as provided in subsection L of this section.

3 2. As used in this subsection:

4 a. (1) for production enhancement projects having a
5 project beginning date prior to July 1, 1997,
6 "production enhancement project" means any
7 workover as defined in this paragraph,
8 recompletion as defined in this paragraph, or
9 fracturing of a producing well, and

10 (2) for production enhancement projects having a
11 project beginning date on or after July 1, 1997,
12 and prior to July 1, ~~2009~~ 2012, "production
13 enhancement project" means any workover as
14 defined in this paragraph, recompletion as
15 defined in this paragraph, reentry of plugged and
16 abandoned wellbores, or addition of a well or
17 field compression,

18 b. "incremental production" means the amount of crude
19 oil, natural gas or other hydrocarbons which are
20 produced as a result of the production enhancement
21 project in excess of the base production,

22 c. "base production" means the average monthly amount of
23 production for the twelve-month period immediately
24 prior to the commencement of the project or the

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

- 17 d. (1) for production enhancement projects having a
18 project beginning date prior to July 1, 1997,
19 "recompletion" means any downhole operation in an
20 existing oil or gas well that is conducted to
21 establish production of oil or gas from any
22 geological interval not currently completed or
23 producing in such existing oil or gas well, and
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1 (2) for production enhancement projects having a
2 project beginning date on or after July 1, 1997,
3 and prior to July 1, ~~2009~~ 2012, "recompletion"
4 means any downhole operation in an existing oil
5 or gas well that is conducted to establish
6 production of oil or gas from any geologic
7 interval not currently completed or producing in
8 such existing oil or gas well within the same or
9 a different geologic formation, and

10 e. "workover" means any downhole operation in an existing
11 oil or gas well that is designed to sustain, restore
12 or increase the production rate or ultimate recovery
13 in a geologic interval currently completed or
14 producing in the existing oil or gas well. For
15 production enhancement projects having a project
16 beginning date prior to July 1, 1997, "workover"
17 includes, but is not limited to, acidizing,
18 reperforating, fracture treating, sand/paraffin
19 removal, casing repair, squeeze cementing, or setting
20 bridge plugs to isolate water productive zones from
21 oil or gas productive zones, or any combination
22 thereof. For production enhancement projects having a
23 project beginning date on or after July 1, 1997, and
24

1 prior to July 1, ~~2009~~ 2012, "workover" includes, but
2 is not limited to:

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

23 "Workover" shall not mean the routine maintenance,
24 routine repair, or like for like replacement of

1 downhole equipment such as rods, pumps, tubing,
2 packers, or other mechanical devices.

3 H. 1. For purposes of this subsection, "depth" means the
4 length of the maximum continuous string of drill pipe utilized
5 between the drill bit face and the drilling rig's kelly bushing.

6 2. Except as otherwise provided in subsection K of this
7 section:

8 a. the production of oil, gas or oil and gas from wells
9 spudded between July 1, 1997, and July 1, 2005, and
10 drilled to a depth of twelve thousand five hundred
11 (12,500) feet or greater and wells spudded between
12 July 1, 2005, and July 1, ~~2009~~ 2012, and drilled to a
13 depth between twelve thousand five hundred (12,500)
14 feet and fourteen thousand nine hundred ninety-nine
15 (14,999) feet shall be exempt from the gross
16 production tax levied pursuant to subsection B of this
17 section from the date of first sales for a period of
18 twenty-eight (28) months;

19 b. the production of oil, gas or oil and gas from wells
20 spudded between July 1, 2002, and July 1, 2005, and
21 drilled to a depth of fifteen thousand (15,000) feet
22 or greater and wells spudded between July 1, 2005, and
23 July 1, 2011, and drilled to a depth between fifteen
24 thousand (15,000) feet and seventeen thousand four

1 hundred ninety-nine (17,499) feet shall be exempt from
2 the gross production tax levied pursuant to subsection
3 B of this section from the date of first sales for a
4 period of forty-eight (48) months; and

5 c. the production of oil, gas or oil and gas from wells
6 spudded between July 1, 2002, and July 1, 2011, and
7 drilled to a depth of seventeen thousand five hundred
8 (17,500) feet or greater shall be exempt from the
9 gross production tax levied pursuant to subsection B
10 of this section from the date of first sales for a
11 period of sixty (60) months.

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

15 4. For all wells spudded after July 1, 2005, and which are
16 exempt from gross production tax pursuant to subparagraphs b and c
17 of paragraph 2 of this subsection, the amount of refunds paid by the
18 Tax Commission shall be limited as follows:

19 a. for the fiscal year ending June 30, 2006, no claims
20 for refunds shall be paid,

21 b. for the fiscal year ending June 30, 2007, the total
22 amount of refunds paid shall be equal to or less than
23 Seventeen Million Dollars (\$17,000,000.00),
24

1 c. for the fiscal year ending June 30, 2008, the total
2 amount of refunds paid shall be equal to or less than
3 Twenty Million Dollars (\$20,000,000.00), and

4 d. for the fiscal year ending June 30, 2009, and any
5 fiscal year thereafter, the total amount of refunds
6 paid each fiscal year shall be equal to or less than
7 Twenty-five Million Dollars (\$25,000,000.00).

8 5. Except as otherwise provided for in paragraph 7 of this
9 subsection and paragraph 2 of subsection L of this section, for the
10 fiscal year ending June 30, 2006, and each fiscal year thereafter,
11 in order to qualify for a refund of gross production tax on wells
12 which are exempt pursuant to subparagraphs b and c of paragraph 2 of
13 this subsection, claims for refunds shall be filed within six (6)
14 months after the first day of the fiscal year in which the refund is
15 first available pursuant to subsection L of this section. When
16 processing applications for qualification for an exemption as
17 provided for in paragraph 2 of subsection M of this section, the
18 Corporation Commission shall give priority to those applications
19 filed for an exemption pursuant to subparagraphs b and c of
20 paragraph 2 of this subsection in order for applicants to comply
21 with the six-month filing period as provided for in this paragraph.

22 6. If the total amount of claims for refunds made during any
23 fiscal year are greater than the total amount of refunds allowed for
24 that fiscal year as provided for in paragraph 4 of this subsection,

1 the Tax Commission shall proportionately reduce the amount of each
2 claim so that the total amount of claims equal the total amount
3 allowed for refunds.

4 7. If the total amount of claims for a refund filed within the
5 six-month filing period for a fiscal year is less than the total
6 amount of refunds allowed for that fiscal year as provided for in
7 paragraph 4 of this subsection, the Tax Commission shall pay the
8 claims that have been filed. Then for any remaining funds, the Tax
9 Commission shall extend the claims-filing period for three (3)
10 months and shall pay any claims filed during the extended filing
11 period up to the total amount of remaining funds. If the amount of
12 claims for refunds filed during the extended filing period is
13 greater than the total amount of remaining funds, the Tax Commission
14 shall proportionately reduce the amount of each claim as provided
15 for in paragraph 6 of this subsection.

16 I. 1. Except as otherwise provided by this section, the
17 production of oil, gas or oil and gas from wells spudded or
18 reentered between July 1, 1995, and July 1, ~~2009~~ 2012, which qualify
19 as a new discovery pursuant to this subsection shall be exempt from
20 the gross production tax levied pursuant to subsection B of this
21 section from the date of first sales for a period of twenty-eight
22 (28) months. For all such wells spudded or reentered, a refund
23 against gross production taxes shall be issued as provided in
24

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, ~~2009~~ 2012, a well
10 that discovers crude oil in paying quantities
11 that is more than one (1) mile from the nearest
12 oil well producing from the same producing
13 interval of the 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, ~~2009~~ 2012, a well
22 that discovers crude oil in paying quantities
23 beneath current production in a deeper producing
24 interval that is more than one (1) mile from the

1 nearest oil well producing from the same deeper
2 producing interval,

3 c. (1) for wells spudded or reentered prior to July 1,
4 1997, a well that discovers natural gas in paying
5 quantities that is more than two (2) miles from
6 the nearest gas 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, ~~2009~~ 2012, a well
10 that discovers natural gas in paying quantities
11 that is more than two (2) miles from the nearest
12 gas well producing from the same producing
13 interval, or

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

20 (2) for wells spudded or reentered on and after July
21 1, 1997, and prior to July 1, ~~2009~~ 2012, a well
22 that discovers natural gas in paying quantities
23 beneath current production in a deeper producing
24 interval that is more than two (2) miles from the

1 nearest gas well producing from the same deeper
2 producing interval.

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

9 J. Except as otherwise provided by this section, the production
10 of oil, gas or oil and gas from any well, drilling of which is
11 commenced after July 1, 2000, and prior to July 1, ~~2009~~ 2012,
12 located within the boundaries of a three-dimensional seismic shoot
13 and drilled based on three-dimensional seismic technology, shall be
14 exempt from the gross production tax levied pursuant to subsection B
15 of this section from the date of first sales as follows:

16 1. If the three-dimensional seismic shoot is shot prior to July
17 1, 2000, for a period of eighteen (18) months; and

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

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

22 K. 1. The exemptions provided for in subsections F, G, I and J
23 of this section, the exemption provided for in subparagraph a of
24 paragraph 2 of subsection H of this section, and the exemptions

1 provided for in subparagraphs b and c of paragraph 2 of subsection H
2 of this section for production from wells spudded before July 1,
3 2005, shall not apply:

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

9 (1) The "average annual index price" will be
10 calculated by multiplying the West Texas
11 Intermediate closing price by the "index price
12 ratio". The index price ratio is defined as the
13 immediate preceding three-year historical average
14 ratio of the actual weighted average wellhead
15 price to the West Texas Intermediate close price
16 published on the last business day of each month.

17 (2) The average annual index price will be updated
18 annually by the Oklahoma Tax Commission no later
19 than March 31 of each year.

20 (3) If the West Texas Intermediate Crude price is
21 unavailable for any reason, an industry benchmark
22 price may be substituted and used for the
23 calculation of the index price as determined by
24 the Oklahoma Tax Commission,

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

5 c. to the severance or production of gas, upon
6 determination by the Tax Commission that the average
7 annual index price of Oklahoma gas exceeds Five
8 Dollars (\$5.00) per thousand cubic feet (mcf)
9 calculated on an annual calendar year basis.

10 (1) The "average annual index price" will be
11 calculated by multiplying the Henry Hub 3-Day
12 Average Close price by the "index price ratio".
13 The index price ratio is defined as the immediate
14 preceding three-year historical average ratio of
15 the actual weighted average wellhead price to the
16 Henry Hub 3-Day Average Close price published on
17 the last business day of each month.

18 (2) The average annual index price will be updated
19 annually by the Oklahoma Tax Commission no later
20 than March 31 of each year.

21 (3) If the Henry Hub 3-Day Average Close price is
22 unavailable for any reason, an industry benchmark
23 price may be substituted and used for the
24

1 calculation of the index price as determined by
2 the Oklahoma Tax Commission.

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

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

16 b. fifty percent (50%) of the sum collected shall be
17 apportioned to the appropriate school district as
18 provided in subparagraph c of paragraph 1 of Section
19 1004 of this title.

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

23 L. For all oil and gas production exempt from gross production
24 taxes pursuant to subsections E, F, G, H, I and J of this section

1 during a given fiscal year, a refund of gross production taxes shall
2 be issued to the well operator or a designee in the amount of such
3 gross production taxes paid during such period, subject to the
4 following provisions:

5 1. A refund shall not be claimed until after the end of such
6 fiscal year. As used in this subsection, a fiscal year shall be
7 deemed to begin on July 1 of one calendar year and shall end on June
8 30 of the subsequent calendar year;

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

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

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

20 5. No refund shall be paid unless the person making the claim
21 for refund demonstrates by affidavit or other means prescribed by
22 the Tax Commission that an amount equal to or greater than the
23 amount of the refund has been invested in the exploration for or
24 production of crude oil or natural gas in this state by such person

1 not more than three (3) years prior to the date of the claim. No
2 amount of investment used to qualify for a refund pursuant to the
3 provisions of this paragraph may be used to qualify for another
4 refund pursuant to the provisions of this paragraph.

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

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

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

20 3. Any person seeking an exemption shall:

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

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

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

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

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

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

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

1 and imprisonment; and each day of such refusal on the part of such
2 person shall constitute a separate and distinct offense.

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

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

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

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

22 T. The exemption from ad valorem tax set forth in subsections R
23 and S of this section shall continue to apply to all property from
24 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 2. This act shall become effective July 1, 2009.

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

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