

1 ENGROSSED SENATE
2 BILL NO. 1882

By: Bingman, Gumm, Sparks and
Branan of the Senate

3 and

4 Thompson of the House

5
6
7 [revenue and taxation - gross production tax -
8 modifying date -
9 emergency]

10

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

12 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1001, as
13 last amended by Section 1, Chapter 312, O.S.L. 2009 (68 O.S. Supp.
14 2009, 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, 2010~~ June
20 30, 2013, except as otherwise exempted pursuant to subsections D, E,
21 F, G, H, I and J of this section, there is hereby levied upon the
22 production of oil a tax as set forth in this subsection on the gross
23 value of the production of oil based on a per barrel measurement of
24 forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic

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

14 2. Effective ~~July 1, 2010~~ July 1, 2013, except as otherwise
15 exempted pursuant to subsections D, E, F, G, H, I and J of this
16 section, there shall be levied upon the production of oil a tax
17 equal to seven percent (7%) of the gross value of the production of
18 oil based on a per barrel measurement of forty-two (42) U.S. gallons
19 of two hundred thirty-one (231) cubic inches per gallon, computed at
20 a temperature of sixty (60) degrees Fahrenheit.

21 3. Effective January 1, 1999, through ~~June 30, 2010~~ June 30,
22 2013, the average price of Oklahoma oil for purposes of this section
23 shall be computed by the Tax Commission based on the total value of
24 oil reported each month that is subject to the tax levied under this

1 section. At the first of each month, the Tax Commission shall
2 compute the average price paid per barrel of oil reported on the
3 monthly tax report for the most current production month on file.
4 The average price as computed by the Tax Commission shall be used to
5 determine the applicable tax rate for the third month following
6 production. Effective July 1, 2002, through ~~June 30, 2010~~ June 30,
7 2013, the average price of gas for purposes of this section shall be
8 computed by the Tax Commission based on the total value of gas
9 reported each month that is subject to the tax levied by this
10 section. At the first of each month, the Tax Commission shall
11 compute the average price paid per thousand cubic feet (mcf) of gas
12 as reported on the monthly tax report for the most current
13 production month on file. The average price as computed by the Tax
14 Commission shall be used to determine the applicable tax rate for
15 the third month following production.

16 4. Effective July 1, 2002, through ~~June 30, 2010~~ June 30, 2013,
17 except as otherwise exempted pursuant to subsections D, E, F, G, H,
18 I and J of this section, there is hereby levied upon the production
19 of gas a tax as set forth in this subsection on the gross value of
20 the production of gas. If the average price of gas as determined by
21 the Tax Commission pursuant to the provisions of paragraph 3 of this
22 subsection equals or exceeds Two Dollars and ten cents (\$2.10) per
23 thousand cubic feet (mcf), then the tax shall be seven percent (7%).
24 If the average price of gas as determined by the Tax Commission

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

10 5. Effective ~~July 1, 2010~~ July 1, 2013, except as otherwise
11 exempted pursuant to subsections D, E, F, G, H, I and J of this
12 section, there shall be levied a tax equal to seven percent (7%) of
13 the gross value of the production of gas.

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

17 D. 1. Except as otherwise provided in this section, any
18 incremental production attributable to the working interest owners
19 which results from an enhanced recovery project shall be exempt from
20 the gross production tax levied pursuant to this section from the
21 project beginning date until project payback is achieved for new
22 enhanced recovery projects or until project payback is achieved but
23 not to exceed a period of thirty-six (36) months for tertiary
24 enhanced recovery projects existing on July 1, 1988. This exemption

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

13 2. Except as otherwise provided in this section, for secondary
14 recovery projects approved and having a project beginning date on or
15 after July 1, 1993, and before July 1, 2000, any incremental
16 production attributable to the working interest owners which results
17 from such secondary 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 a
20 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 fifty
23 percent (50%) of operating expenses, in determining project payback.

24

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

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

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

4 6. For purposes of this subsection:

- 5 a. "incremental production" means the amount of crude oil
6 or other liquid hydrocarbons which is produced during
7 an enhanced recovery project and which is in excess of
8 the base production amount of crude oil or other
9 liquid hydrocarbons. The base production amount shall
10 be the average monthly amount of production for the
11 twelve-month period immediately prior to the project
12 beginning date minus the monthly rate of production
13 decline for the project for each month beginning one
14 hundred eighty (180) days prior to the project
15 beginning date. The monthly rate of production
16 decline shall be equal to the average extrapolated
17 monthly decline rate for the twelve-month period
18 immediately prior to the project beginning date as
19 determined by the Corporation Commission based on the
20 production history of the field, its current status,
21 and sound reservoir engineering principles, and
- 22 b. "project beginning date" means the date on which the
23 injection of liquids, gases, or other matter begins on
24 an enhanced recovery project.

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

8 8. For new secondary recovery projects and tertiary recovery
9 projects approved by the Corporation Commission on or after July 1,
10 1993, and before July 1, 2012, such approval shall constitute
11 qualification for an exemption.

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

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

19 11. Upon the expiration of the exemption granted pursuant to
20 this subsection, the Tax Commission shall collect the gross
21 production tax levied pursuant to this section.

22 E. 1. Except as otherwise provided in this section, the
23 production of oil, gas or oil and gas from a horizontally drilled
24 well producing prior to July 1, 2002, which production commenced

1 after July 1, 1995, shall be exempt from the gross production tax
2 levied pursuant to subsection B of this section from the project
3 beginning date until project payback is achieved but not to exceed a
4 period of twenty-four (24) months commencing with the month of
5 initial production from the horizontally drilled well. Except as
6 otherwise provided in this section, the production of oil, gas or
7 oil and gas from a horizontally drilled well producing prior to July
8 1, 2012, which production commenced after July 1, 2002, shall be
9 exempt from the gross production tax levied pursuant to subsection B
10 of this section from the project beginning date until project
11 payback is achieved but not to exceed a period of forty-eight (48)
12 months commencing with the month of initial production from the
13 horizontally drilled well. Provided, any incremental production
14 which results from a horizontally drilled well producing prior to
15 July 1, 1994, shall be exempt from the gross production tax levied
16 pursuant to subsection B of this section from the project beginning
17 date until project payback is achieved but not to exceed a period of
18 twenty-four (24) months commencing with the month of initial
19 production from the horizontally drilled well. For purposes of
20 subsection D of this section and this subsection, project payback
21 shall be determined as of the date of the completion of the well and
22 shall not include any expenses beyond the completion date of the
23 well, and subject to the approval of the Tax Commission.

24

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

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

18 2. As used in this subsection, for wells for which production
19 is reestablished prior to July 1, 1997, "inactive well" means any
20 well that has not produced oil, gas or oil and gas for a period of
21 not less than two (2) years as evidenced by the appropriate forms on
22 file with the Corporation Commission reflecting the well's status.
23 As used in this subsection, for wells for which production is
24 reestablished on or after July 1, 1997, and prior to July 1, 2012,

1 "inactive well" means any well that has not produced oil, gas or oil
2 and gas for a period of not less than one (1) year as evidenced by
3 the appropriate forms on file with the Corporation Commission
4 reflecting the well's status. Wells which experience mechanical
5 failure or loss of mechanical integrity, as defined by the
6 Corporation Commission, including but not limited to, casing leaks,
7 collapse of casing or loss of equipment in a wellbore, or any
8 similar event which causes cessation of production, shall also be
9 considered inactive wells.

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

21 2. As used in this subsection:

22 a. (1) for production enhancement projects having a
23 project beginning date prior to July 1, 1997,
24 "production enhancement project" means any

1 workover as defined in this paragraph,
2 recompletion as defined in this paragraph, or
3 fracturing of a producing 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, 2012, "production
7 enhancement project" means any workover as
8 defined in this paragraph, recompletion as
9 defined in this paragraph, reentry of plugged and
10 abandoned wellbores, or addition of a well or
11 field compression,

12 b. "incremental production" means the amount of crude
13 oil, natural gas or other hydrocarbons which are
14 produced as a result of the production enhancement
15 project in excess of the base production,

16 c. "base production" means the average monthly amount of
17 production for the twelve-month period immediately
18 prior to the commencement of the project or the
19 average monthly amount of production for the twelve-
20 month period immediately prior to the commencement of
21 the project less the monthly rate of production
22 decline for the project for each month beginning one
23 hundred eighty (180) days prior to the commencement of
24 the project. The monthly rate of production decline

1 shall be equal to the average extrapolated monthly
2 decline rate for the twelve-month period immediately
3 prior to the commencement of the project based on the
4 production history of the well. If the well or wells
5 covered in the application had production for less
6 than the full twelve-month period prior to the filing
7 of the application for the production enhancement
8 project, the base production shall be the average
9 monthly production for the months during that period
10 that the well or wells produced,

- 11 d. (1) for production enhancement projects having a
12 project beginning date prior to July 1, 1997,
13 "recompletion" means any downhole operation in an
14 existing oil or gas well that is conducted to
15 establish production of oil or gas from any
16 geological interval not currently completed or
17 producing in such existing oil or gas well, and
- 18 (2) for production enhancement projects having a
19 project beginning date on or after July 1, 1997,
20 and prior to July 1, 2012, "recompletion" means
21 any downhole operation in an existing oil or gas
22 well that is conducted to establish production of
23 oil or gas from any geologic interval not
24 currently completed or producing in such existing

1 oil or gas well within the same or a different
2 geologic formation, and

3 e. "workover" means any downhole operation in an existing
4 oil or gas well that is designed to sustain, restore
5 or increase the production rate or ultimate recovery
6 in a geologic interval currently completed or
7 producing in the existing oil or gas well. For
8 production enhancement projects having a project
9 beginning date prior to July 1, 1997, "workover"
10 includes, but is not limited to, acidizing,
11 reperforating, fracture treating, sand/paraffin
12 removal, casing repair, squeeze cementing, or setting
13 bridge plugs to isolate water productive zones from
14 oil or gas productive zones, or any combination
15 thereof. For production enhancement projects having a
16 project beginning date on or after July 1, 1997, and
17 prior to July 1, 2012, "workover" includes, but is not
18 limited to:

- 19 (1) acidizing,
- 20 (2) reperforating,
- 21 (3) fracture treating,
- 22 (4) sand/paraffin/scale removal or other wellbore
23 cleanouts,
- 24 (5) casing repair,

- 1 (6) squeeze cementing,
2 (7) installation of compression on a well or group of
3 wells or initial installation of artificial lifts
4 on gas wells, including plunger lifts, rod pumps,
5 submersible pumps and coiled tubing velocity
6 strings,
7 (8) downsizing existing tubing to reduce well
8 loading,
9 (9) downhole commingling,
10 (10) bacteria treatments,
11 (11) upgrading the size of pumping unit equipment,
12 (12) setting bridge plugs to isolate water production
13 zones, or
14 (13) any combination thereof.

15 "Workover" shall not mean the routine maintenance,
16 routine repair, or like for like replacement of
17 downhole equipment such as rods, pumps, tubing,
18 packers, or other mechanical devices.

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

22 2. Except as otherwise provided in subsection K of this
23 section:
24

1 a. the production of oil, gas or oil and gas from wells
2 spudded between July 1, 1997, and July 1, 2005, and
3 drilled to a depth of twelve thousand five hundred
4 (12,500) feet or greater and wells spudded between
5 July 1, 2005, and July 1, 2012, and drilled to a depth
6 between twelve thousand five hundred (12,500) feet and
7 fourteen thousand nine hundred ninety-nine (14,999)
8 feet shall be exempt from the gross production tax
9 levied pursuant to subsection B of this section from
10 the date of first sales for a period of twenty-eight
11 (28) months;

12 b. the production of oil, gas or oil and gas from wells
13 spudded between July 1, 2002, and July 1, 2005, and
14 drilled to a depth of fifteen thousand (15,000) feet
15 or greater and wells spudded between July 1, 2005, and
16 July 1, 2011, and drilled to a depth between fifteen
17 thousand (15,000) feet and seventeen thousand four
18 hundred ninety-nine (17,499) feet shall be exempt from
19 the gross production tax levied pursuant to subsection
20 B of this section from the date of first sales for a
21 period of forty-eight (48) months; and

22 c. the production of oil, gas or oil and gas from wells
23 spudded between July 1, 2002, and July 1, 2011, and
24 drilled to a depth of seventeen thousand five hundred

1 (17,500) feet or greater shall be exempt from the
2 gross production tax levied pursuant to subsection B
3 of this section from the date of first sales for a
4 period of sixty (60) months.

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

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

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

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

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

20 d. for the fiscal year ending June 30, 2009, and any
21 fiscal year thereafter, the total amount of refunds
22 paid each fiscal year shall be equal to or less than
23 Twenty-five Million Dollars (\$25,000,000.00).
24

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

15 6. If the total amount of claims for refunds made during any
16 fiscal year are greater than the total amount of refunds allowed for
17 that fiscal year as provided for in paragraph 4 of this subsection,
18 the Tax Commission shall proportionately reduce the amount of each
19 claim so that the total amount of claims equal the total amount
20 allowed for refunds.

21 7. If the total amount of claims for a refund filed within the
22 six-month filing period for a fiscal year is less than the total
23 amount of refunds allowed for that fiscal year as provided for in
24 paragraph 4 of this subsection, the Tax Commission shall pay the

1 claims that have been filed. Then for any remaining funds, the Tax
2 Commission shall extend the claims-filing period for three (3)
3 months and shall pay any claims filed during the extended filing
4 period up to the total amount of remaining funds. If the amount of
5 claims for refunds filed during the extended filing period is
6 greater than the total amount of remaining funds, the Tax Commission
7 shall proportionately reduce the amount of each claim as provided
8 for in paragraph 6 of this subsection.

9 I. 1. Except as otherwise provided by this section, the
10 production of oil, gas or oil and gas from wells spudded or
11 reentered between July 1, 1995, and July 1, 2012, which qualify as a
12 new discovery pursuant to this subsection shall be exempt from the
13 gross production tax levied pursuant to subsection B of this section
14 from the date of first sales for a period of twenty-eight (28)
15 months. For all such wells spudded or reentered, a refund against
16 gross production taxes shall be issued as provided in subsection L
17 of this section. As used in this subsection, "new discovery" means
18 production of oil, gas or oil and gas from:

19 a. (1) for wells spudded or reentered on or after July
20 1, 1997, a well that discovers crude oil in
21 paying quantities that is more than one (1) mile
22 from the nearest oil well producing from the same
23 producing formation, and

24

1 (2) for wells spudded or reentered on or after July
2 1, 1997, and prior to July 1, 2012, a well that
3 discovers crude oil in paying quantities that is
4 more than one (1) mile from the nearest oil well
5 producing from the same producing interval of the
6 same formation,

7 b. (1) for wells spudded or reentered prior to July 1,
8 1997, a well that discovers crude oil in paying
9 quantities beneath current production in a deeper
10 producing formation that is more than one (1)
11 mile from the nearest oil well producing from the
12 same deeper producing formation, and

13 (2) for wells spudded or reentered on or after July
14 1, 1997, and prior to July 1, 2012, a well that
15 discovers crude oil in paying quantities beneath
16 current production in a deeper producing interval
17 that is more than one (1) mile from the nearest
18 oil well producing from the same deeper producing
19 interval,

20 c. (1) for wells spudded or reentered prior to July 1,
21 1997, a well that discovers natural gas in paying
22 quantities that is more than two (2) miles from
23 the nearest gas well producing from the same
24 producing formation, and

1 (2) for wells spudded or reentered on or after July
2 1, 1997, and prior to July 1, 2012, a well that
3 discovers natural gas in paying quantities that
4 is more than two (2) miles from the nearest gas
5 well producing from the same producing interval,
6 or

7 d. (1) for wells spudded or reentered prior to July 1,
8 1997, a well that discovers natural gas in paying
9 quantities beneath current production in a deeper
10 producing formation that is more than two (2)
11 miles from the nearest gas well producing from
12 the same deeper producing formation, and

13 (2) for wells spudded or reentered on and after July
14 1, 1997, and prior to July 1, 2012, a well that
15 discovers natural gas in paying quantities
16 beneath current production in a deeper producing
17 interval that is more than two (2) miles from the
18 nearest gas well producing from the same deeper
19 producing interval.

20 2. The Corporation Commission shall deliver to the Legislature
21 a report on the number of wells as defined by paragraph 1 of this
22 subsection that are drilled and the amount of production from those
23 wells. The first such report shall be delivered to the Legislature
24

1 no later than February 1, 1997, and each February 1, thereafter,
2 until the conclusion of the program.

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

10 1. If the three-dimensional seismic shoot is shot prior to July
11 1, 2000, for a period of eighteen (18) months; and

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

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

16 K. 1. The exemptions provided for in subsections F, G, I and J
17 of this section, the exemption provided for in subparagraph a of
18 paragraph 2 of subsection H of this section, and the exemptions
19 provided for in subparagraphs b and c of paragraph 2 of subsection H
20 of this section for production from wells spudded before July 1,
21 2005, shall not apply:

22 a. to the severance or production of oil, upon
23 determination by the Tax Commission that the average
24 annual index price of Oklahoma oil exceeds Thirty

1 Dollars (\$30.00) per barrel calculated on an annual
2 calendar year basis.

3 (1) The "average annual index price" will be
4 calculated by multiplying the West Texas
5 Intermediate closing price by the "index price
6 ratio". The index price ratio is defined as the
7 immediate preceding three-year historical average
8 ratio of the actual weighted average wellhead
9 price to the West Texas Intermediate close price
10 published on the last business day of each month.

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

14 (3) If the West Texas Intermediate Crude price is
15 unavailable for any reason, an industry benchmark
16 price may be substituted and used for the
17 calculation of the index price as determined by
18 the Oklahoma Tax Commission,

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

23 c. to the severance or production of gas, upon
24 determination by the Tax Commission that the average

1 annual index price of Oklahoma gas exceeds Five
2 Dollars (\$5.00) per thousand cubic feet (mcf)
3 calculated on an annual calendar year basis.

4 (1) The "average annual index price" will be
5 calculated by multiplying the Henry Hub 3-Day
6 Average Close price by the "index price ratio".
7 The index price ratio is defined as the immediate
8 preceding three-year historical average ratio of
9 the actual weighted average wellhead price to the
10 Henry Hub 3-Day Average Close price published on
11 the last business day of each month.

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

15 (3) If the Henry Hub 3-Day Average Close price is
16 unavailable for any reason, an industry benchmark
17 price may be substituted and used for the
18 calculation of the index price as determined by
19 the Oklahoma Tax Commission.

20 2. Notwithstanding the exemptions granted pursuant to
21 subsections E, F, G, H, I and J of this section, there shall
22 continue to be levied upon the production of petroleum or other
23 crude or mineral oil or natural gas or casinghead gas, as provided
24 in subsection B of this section, from any wells provided for in

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

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

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

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

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

22 1. A refund shall not be claimed until after the end of such
23 fiscal year. As used in this subsection, a fiscal year shall be
24

1 deemed to begin on July 1 of one calendar year and shall end on June
2 30 of the subsequent calendar year;

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

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

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

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

23 If there are insufficient funds collected from the production of
24 oil to satisfy the refunds claimed for oil production pursuant to

1 subsection E, F, G, H, I or J of this section, the Tax Commission
2 shall pay the balance of the refund claims out of the gross
3 production taxes collected from the production of gas.

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

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

14 3. Any person seeking an exemption shall:

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

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

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

24

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
24 deemed to be necessary for the purpose of correctly computing the

1 amount of the tax; and to examine the books, records and files of
2 such person; and shall have power to conduct hearings and compel the
3 attendance of witnesses, and the production of books, records and
4 papers of any person.

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

22 Q. The Tax Commission shall have the power and authority to
23 ascertain and determine whether or not any report herein required to
24 be filed with it is a true and correct report of the gross products,

1 and of the value thereof, of such person engaged in the mining or
2 production or purchase of asphalt and ores bearing minerals
3 aforesaid and of oil and gas. If any person has made an untrue or
4 incorrect report of the gross production or value or volume thereof,
5 or shall have failed or refused to make such report, the Tax
6 Commission shall, under the rules prescribed by it, ascertain the
7 correct amount of either, and compute the tax.

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

1 hereinbefore named, mined, produced and on hand at the date as of
2 which property is assessed for general and ad valorem taxation for
3 any subsequent tax year, shall be assessed and taxed as other
4 property within the taxing district in which such property is
5 situated at the time.

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

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

22 SECTION 2. AMENDATORY Section 1, Chapter 436, O.S.L.
23 2005, as amended by Section 2, Chapter 260, O.S.L. 2007 (68 O.S.
24 Supp. 2009, Section 1001.3a), is amended to read as follows:

1 Section 1001.3a A. As used in this section:

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

6 2. "Lease" shall be defined as in Section 1001.2 of this title.

7 B. When certified as such pursuant to the provisions of this
8 section, production from an economically at-risk oil or gas lease
9 shall be eligible for an exemption from the gross production tax
10 levied pursuant to subsection B of Section 1001 of this title for
11 production on such lease during the previous calendar year in the
12 following amounts:

13 1. If the gross production tax rate levied pursuant to
14 subsection B of Section 1001 of this title was seven percent (7%),
15 then the exemption shall equal six-sevenths (6/7) of the gross
16 production tax levied;

17 2. If the gross production tax rate levied pursuant to
18 subsection B of Section 1001 of this title was four percent (4%),
19 then the exemption shall equal three-fourths (3/4) of the gross
20 production tax levied; and

21 3. If the gross production tax rate levied pursuant to
22 subsection B of Section 1001 of this title was one percent (1%), no
23 exemption shall apply.

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

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

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

23 F. The Tax Commission shall have sole authority to determine if
24 an oil or gas lease qualifies for certification as an economically

1 at-risk oil or gas lease and shall make the determination within
2 sixty (60) days after an application is filed for economically at-
3 risk oil or gas lease status. The Tax Commission shall promulgate
4 rules governing the certification process.

5 G. Gross production tax exemptions under the provisions of
6 this section shall be limited to production from calendar years
7 2005, 2006, 2007, 2008, 2009, ~~and~~ 2010, 2011, 2012 and 2013.

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

12 Passed the Senate the 9th day of March, 2010.

13

14

Presiding Officer of the Senate

15

16 Passed the House of Representatives the ____ day of _____,
17 2010.

18

19

Presiding Officer of the House
of Representatives

20

21

22

23

24