

SB 1650

THE STATE SENATE  
Thursday, February 18, 2010

Senate Bill No. 1650  
As Amended

SENATE BILL NO. 1650 - By: Brogdon of the Senate and Watson of the House.

[ revenue and taxation - gross production tax - effective dates - emergency ]

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1001, as last amended by Section 1, Chapter 312, O.S.L. 2009 (68 O.S. Supp. 2009, Section 1001), is amended to read as follows:

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

B. 1. Effective January 1, 1999, through June 30, 2010, except as otherwise exempted pursuant to subsections D, E, F, G, H, I and J of this section, there is hereby levied upon the production of oil a tax as set forth in this subsection on the gross value of the production of oil based on a per barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit. If the average price of Oklahoma oil as determined by the Oklahoma

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

11 2. a. Effective July 1, 2010, except as otherwise exempted  
12 pursuant to subsections D, E, F, G, H, I and J of this  
13 section, there shall be levied upon the production of  
14 oil a tax ~~equal to seven percent (7%) of~~ as set forth  
15 in this subsection on the gross value of the  
16 production of oil based on a per barrel measurement of  
17 forty-two (42) U.S. gallons of two hundred thirty-one  
18 (231) cubic inches per gallon, computed at a  
19 temperature of sixty (60) degrees Fahrenheit. If the  
20 average price of Oklahoma oil as determined by the Tax  
21 Commission pursuant to the provisions of paragraph 3  
22 of this subsection equals or exceeds Twenty-one  
23 Dollars and ninety-six cents (\$21.96), then the tax

1 shall be seven percent (7%). If the average price of  
2 Oklahoma oil as determined by the Tax Commission  
3 pursuant to paragraph 3 of this subsection is less  
4 than Twenty-one Dollars and ninety-six cents (\$21.96)  
5 but is equal to or exceeds Eighteen Dollars and nine  
6 cents (\$18.09) per barrel, then the tax shall be four  
7 percent (4%). If the average price of Oklahoma oil as  
8 determined by the Tax Commission pursuant to paragraph  
9 3 of this subsection is less than Eighteen Dollars and  
10 nine cents (\$18.09) per barrel, then the tax shall be  
11 one percent (1%).

12 b. Prior to July, 1, 2011, and annually each year  
13 thereafter prior to July 1, the Tax Commission shall  
14 adjust the dollar amounts prescribed in subparagraph a  
15 of this paragraph to reflect price inflation or  
16 deflation as measured by the Consumer Price Index, as  
17 published by the Bureau of Labor Statistics of the  
18 U.S. Department of Labor or its successor agency.  
19 Such adjustment shall be based on the most current  
20 data available for the preceding twelve-month period  
21 and shall be applied in the twelve-month period  
22 immediately following the time period for which the  
23 adjustment is calculated.

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

20           4. Effective July 1, 2002, through June 30, 2010, except as  
21 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of  
22 this section, there is hereby levied upon the production of gas a  
23 tax as set forth in this subsection on the gross value of the

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

15 5. a. Effective July 1, 2010, except as otherwise exempted  
16 pursuant to subsections D, E, F, G, H, I and J of this  
17 section, there shall be levied a tax ~~equal to seven~~  
18 ~~percent (7%) of~~ as set forth in this subsection on the  
19 gross value of the production of gas. If the average  
20 price of gas as determined by the Tax Commission  
21 pursuant to the provisions of paragraph 3 of this  
22 subsection equals or exceeds Two Dollars and fifty-one  
23 cents (\$2.51) per thousand cubic feet (mcf), then the

1 tax shall be seven percent (7%). If the average price  
2 of gas as determined by the Tax Commission pursuant to  
3 the provisions of paragraph 3 of this subsection is  
4 less than Two Dollars and fifty-one cents (\$2.51) per  
5 thousand cubic feet (mcf) but is equal to or exceeds  
6 Two Dollars and nine cents (\$2.09) per thousand cubic  
7 feet (mcf), then the tax shall be four percent (4%).  
8 If the average price of gas as determined by the Tax  
9 Commission pursuant to the provisions of paragraph 3  
10 of this subsection is less than Two Dollars and nine  
11 cents (\$2.09) per thousand cubic feet (mcf), then the  
12 tax shall be one percent (1%).

13 b. Prior to July 1, 2011, and annually each year  
14 thereafter prior to July 1, the Tax Commission shall  
15 adjust the dollar amounts prescribed in subparagraph a  
16 of this paragraph to reflect price inflation or  
17 deflation as measured by the Consumer Price Index, as  
18 published by the Bureau of Labor Statistics of the  
19 U.S. Department of Labor or its successor agency.  
20 Such adjustment shall be based on the most current  
21 data available for the preceding twelve-month period  
22 and shall be applied in the twelve-month period

1                   immediately following the time period for which the  
2                   adjustment is calculated.

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

6           D. 1. Except as otherwise provided in this section, any  
7 incremental production attributable to the working interest owners  
8 which results from an enhanced recovery project shall be exempt from  
9 the gross production tax levied pursuant to this section from the  
10 project beginning date until project payback is achieved for new  
11 enhanced recovery projects or until project payback is achieved but  
12 not to exceed a period of thirty-six (36) months for tertiary  
13 enhanced recovery projects existing on July 1, 1988. This exemption  
14 shall take effect July 1, 1988, and shall apply to enhanced recovery  
15 projects approved or having a project beginning date prior to July  
16 1, 1993. Project payback pursuant to this paragraph for enhanced  
17 recovery projects qualifying for this exemption on or after July 1,  
18 1990, and on or before June 30, 1993, shall be determined by  
19 appropriate payback indicators which will not include any expenses  
20 beyond the completion date of the well. Project payback pursuant to  
21 this paragraph for enhanced recovery projects qualifying for this  
22 exemption on or after October 17, 1987, and on or before June 30,  
23 1990, shall be determined by appropriate payback indicators as

1 previously established and allowed by the Tax Commission for  
2 projects qualifying during such period.

3       2. Except as otherwise provided in this section, for secondary  
4 recovery projects approved and having a project beginning date on or  
5 after July 1, 1993, and before July 1, 2000, any incremental  
6 production attributable to the working interest owners which results  
7 from such secondary recovery projects shall be exempt from the gross  
8 production tax levied pursuant to this section from the project  
9 beginning date until project payback is achieved but not to exceed a  
10 period of ten (10) years. Project payback pursuant to this  
11 paragraph shall be determined by appropriate payback indicators  
12 which will provide for the recovery of capital expenses and fifty  
13 percent (50%) of operating expenses, in determining project payback.

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

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

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

19           6. For purposes of this subsection:

20           a. "incremental production" means the amount of crude oil  
21           or other liquid hydrocarbons which is produced during  
22           an enhanced recovery project and which is in excess of  
23           the base production amount of crude oil or other

1 liquid hydrocarbons. The base production amount shall  
2 be the average monthly amount of production for the  
3 twelve-month period immediately prior to the project  
4 beginning date minus the monthly rate of production  
5 decline for the project for each month beginning one  
6 hundred eighty (180) days prior to the project  
7 beginning date. The monthly rate of production  
8 decline shall be equal to the average extrapolated  
9 monthly decline rate for the twelve-month period  
10 immediately prior to the project beginning date as  
11 determined by the Corporation Commission based on the  
12 production history of the field, its current status,  
13 and sound reservoir engineering principles, and  
14 b. "project beginning date" means the date on which the  
15 injection of liquids, gases, or other matter begins on  
16 an enhanced recovery project.

17 7. The Corporation Commission shall promulgate rules for the  
18 qualification for this exemption which shall include, but not be  
19 limited to, procedures for determining incremental production as  
20 defined in subparagraph a of paragraph 6 of this subsection, and the  
21 establishment of appropriate payback indicators as approved by the  
22 Tax Commission for the determination of project payback for each of  
23 the exemptions authorized by this subsection.

1           8. For new secondary recovery projects and tertiary recovery  
2 projects approved by the Corporation Commission on or after July 1,  
3 1993, and before July 1, 2012, such approval shall constitute  
4 qualification for an exemption.

5           9. Any person seeking an exemption shall file an application  
6 for such exemption with the Tax Commission which, upon determination  
7 of qualification by the Corporation Commission, shall approve the  
8 application for such exemption.

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

12           11. Upon the expiration of the exemption granted pursuant to  
13 this subsection, the Tax Commission shall collect the gross  
14 production tax levied pursuant to this section.

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

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

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

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

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

1 Corporation Commission, including but not limited to, casing leaks,  
2 collapse of casing or loss of equipment in a wellbore, or any  
3 similar event which causes cessation of production, shall also be  
4 considered inactive wells.

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

16 2. As used in this subsection:

17 a. (1) for production enhancement projects having a  
18 project beginning date prior to July 1, 1997,  
19 "production enhancement project" means any  
20 workover as defined in this paragraph,  
21 recompletion as defined in this paragraph, or  
22 fracturing of a producing well, and

1 (2) for production enhancement projects having a  
2 project beginning date on or after July 1, 1997,  
3 and prior to July 1, 2012, "production  
4 enhancement project" means any workover as  
5 defined in this paragraph, recompletion as  
6 defined in this paragraph, reentry of plugged and  
7 abandoned wellbores, or addition of a well or  
8 field compression,

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

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

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

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

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

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

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

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

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

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

1           c.    the production of oil, gas or oil and gas from wells  
2                   spudded between July 1, 2002, and July 1, 2011, and  
3                   drilled to a depth of seventeen thousand five hundred  
4                   (17,500) feet or greater shall be exempt from the  
5                   gross production tax levied pursuant to subsection B  
6                   of this section from the date of first sales for a  
7                   period of sixty (60) months.

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

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

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

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

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

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

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

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

1 claim so that the total amount of claims equal the total amount  
2 allowed for refunds.

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

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

1 of this section. As used in this subsection, "new discovery" means  
2 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, 2012, a well that  
10 discovers crude oil in paying quantities that is  
11 more than one (1) mile from the nearest oil well  
12 producing from the same producing interval of the  
13 same formation,

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

20 (2) for wells spudded or reentered on or after July  
21 1, 1997, and prior to July 1, 2012, a well that  
22 discovers crude oil in paying quantities beneath  
23 current production in a deeper producing interval

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

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

9 (2) for wells spudded or reentered on or after July  
10 1, 1997, and prior to July 1, 2012, a well that  
11 discovers natural gas in paying quantities that  
12 is more than two (2) miles from the nearest gas  
13 well producing from the same producing interval,  
14 or

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

21 (2) for wells spudded or reentered on and after July  
22 1, 1997, and prior to July 1, 2012, a well that  
23 discovers natural gas in paying quantities

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

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

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

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

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

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

1           K. 1. The exemptions provided for in subsections F, G, I and J  
2 of this section, the exemption provided for in subparagraph a of  
3 paragraph 2 of subsection H of this section, and the exemptions  
4 provided for in subparagraphs b and c of paragraph 2 of subsection H  
5 of this section for production from wells spudded before July 1,  
6 2005, shall not apply:

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

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

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

1 (3) If the West Texas Intermediate Crude price is  
2 unavailable for any reason, an industry benchmark  
3 price may be substituted and used for the  
4 calculation of the index price as determined by  
5 the ~~Oklahoma~~ Tax Commission,

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

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

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



1 provided in subparagraph c of paragraph 1 of Section  
2 1004 of this title.

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

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

12 1. A refund shall not be claimed until after the end of such  
13 fiscal year. As used in this subsection, a fiscal year shall be  
14 deemed to begin on July 1 of one calendar year and shall end on June  
15 30 of the subsequent calendar year;

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

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

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

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

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

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

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

6           3. Any person seeking an exemption shall:

7           a. file an application for the exemption with the Tax  
8 Commission which, upon determination of qualification  
9 by the Corporation Commission, shall approve the  
10 application for an exemption, and

11           b. provide a copy of the approved application to the  
12 remitter of the gross production tax.

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

16           5. Upon the expiration of the exemption granted pursuant to  
17 subsection E, F, G, H, I or J of this section, the Tax Commission  
18 shall collect the gross production tax levied pursuant to this  
19 section. If a person who qualifies for the exemption elects to  
20 remit his or her own gross production tax during the exemption  
21 period, the first purchaser shall not be liable to withhold or remit  
22 the tax until the first day of the month following the receipt of  
23 written notification from the person who is qualified for such

1 exemption stating that such exemption has expired and directing the  
2 first purchaser to resume tax remittance on his or her behalf.

3 N. All persons shall only be entitled to either the exemption  
4 granted pursuant to subsection D of this section or the exemption  
5 granted pursuant to subsection E, F, G, H, I or J of this section  
6 for each oil, gas or oil and gas well drilled or recompleted in this  
7 state. However, any person who qualifies for the exemption granted  
8 pursuant to subsection E, F, G, H, I or J of this section shall not  
9 be prohibited from qualification for the exemption granted pursuant  
10 to subsection D of this section, if the exemption granted pursuant  
11 to subsection E, F, G, H, I or J of this section has expired.

12 O. The Tax Commission shall have the power to require any such  
13 person engaged in mining or the production or the purchase of such  
14 asphalt, mineral ores aforesaid, oil, or gas, or the owner of any  
15 royalty interest therein to furnish any additional information by it  
16 deemed to be necessary for the purpose of correctly computing the  
17 amount of the tax; and to examine the books, records and files of  
18 such person; and shall have power to conduct hearings and compel the  
19 attendance of witnesses, and the production of books, records and  
20 papers of any person.

21 P. Any person or any member of any firm or association, or any  
22 officer, official, agent or employee of any corporation who shall  
23 fail or refuse to testify; or who shall fail or refuse to produce

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

15 Q. The Tax Commission shall have the power and authority to  
16 ascertain and determine whether or not any report herein required to  
17 be filed with it is a true and correct report of the gross products,  
18 and of the value thereof, of such person engaged in the mining or  
19 production or purchase of asphalt and ores bearing minerals  
20 aforesaid and of oil and gas. If any person has made an untrue or  
21 incorrect report of the gross production or value or volume thereof,  
22 or shall have failed or refused to make such report, the Tax

1 Commission shall, under the rules prescribed by it, ascertain the  
2 correct amount of either, and compute the tax.

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

1 property within the taxing district in which such property is  
2 situated at the time.

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

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

19 SECTION 2. This act shall become effective July 1, 2010.

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

1 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-16-10 - DO PASS,  
2 As Amended and Coauthored.