

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3654 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Sean Roberts

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 3654

By: Roberts (Sean)

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; ordering a legislative referendum pursuant to the Oklahoma Constitution; amending 68 O.S. 2011, Section 1001, as last amended by Section 1, Chapter 5, 1st Extraordinary Session, O.S.L. 2017 (68 O.S. Supp. 2017, Section 1001), which relates to gross production tax; limiting period where certain reduced rate is applicable; implementing a new reduced rate for certain production after a certain date; enacting the Oklahoma Zero-Emission Facility Energy Tax Act of 2018; stating purpose of tax pursuant to Section 19 of Article X of the Oklahoma Constitution; defining terms; imposing levy of tax on certain electrical power production; providing levy in addition to and not in lieu of certain other taxes; providing exemption from tax for certain wind turbines; requiring remittance of tax; specifying persons or entities required to remit; providing for monthly remittance; providing for penalty; providing for imposition of interest; providing for apportionment of revenue to the General Revenue Fund; providing for codification; providing ballot title; and directing filing.

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

1 SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma
2 Constitution, there is hereby ordered the following legislative
3 referendum which shall be filed with the Secretary of State, who
4 shall submit the same to the people for their approval or rejection
5 at the next General Election.

6 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1001, as
7 last amended by Section 1, Chapter 5, 1st Extraordinary Session,
8 O.S.L. 2017 (68 O.S. Supp. 2017, Section 1001), is amended to read
9 as follows:

10 Section 1001. A. There is hereby levied upon the production of
11 asphalt, ores bearing lead, zinc, jack and copper a tax equal to
12 three-fourths of one percent ($\frac{3}{4}$ of 1%) on the gross value thereof.

13 B. 1. Effective July 1, 2013, through June 30, 2015, except as
14 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
15 this section, there shall be levied upon the production of oil a tax
16 equal to seven percent (7%) of the gross value of the production of
17 oil based on a per barrel measurement of forty-two (42) U.S. gallons
18 of two hundred thirty-one (231) cubic inches per gallon, computed at
19 a temperature of sixty (60) degrees Fahrenheit.

20 2. Effective July 1, 2013, through June 30, 2015, except as
21 otherwise exempted pursuant to subsections D, E, F, G, H, I and J of
22 this section, there shall be levied a tax equal to seven percent
23 (7%) of the gross value of the production of gas.
24

1 3. Effective July 1, 2015, except as otherwise provided in this
2 section, there shall be levied a tax on the gross value of the
3 production of oil and gas as follows:

4 a. upon the production of oil a tax equal to seven
5 percent (7%) of the gross value of the production of
6 oil based on a per barrel measurement of forty-two
7 (42) U.S. gallons of two hundred thirty-one (231)
8 cubic inches per gallon, computed at a temperature of
9 sixty (60) degrees Fahrenheit,

10 b. upon the production of gas a tax equal to seven
11 percent (7%) of the gross value of the production of
12 gas, ~~and~~

13 c. notwithstanding the levies in subparagraphs a and b of
14 this paragraph, the production of oil, gas, or oil and
15 gas from wells spudded on or after July 1, 2015, but
16 prior to the effective date of this act, shall be
17 taxed at a rate of two percent (2%) commencing with
18 the month of first production for a period of thirty-
19 six (36) months. Thereafter, the production shall be
20 taxed as provided in subparagraphs a and b of this
21 paragraph, and

22 d. notwithstanding the levies in subparagraphs a and b of
23 this paragraph, the production of oil, gas, or oil and
24 gas from wells spudded on or after the effective date

1 of this act shall be taxed at a rate of four percent
2 (4%) commencing with the month of first production for
3 a period of thirty-six (36) months. Thereafter, the
4 production shall be taxed as provided in subparagraphs
5 a and b of this paragraph.

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

9 D. 1. Except as otherwise provided in this section, for
10 secondary recovery projects approved or having an initial project
11 beginning date on or after July 1, 2000, and before July 1, 2017,
12 any incremental production attributable to the working interest
13 owners which results from such secondary recovery projects shall be
14 exempt from the gross production tax levied pursuant to this section
15 for a period not to exceed five (5) years from the initial project
16 beginning date or for a period ending upon the termination of the
17 secondary recovery process, whichever occurs first; provided
18 however, that the exemption provided by this paragraph shall not
19 apply to production occurring on or after July 1, 2017.

20 2. Except as otherwise provided in this section, for tertiary
21 recovery projects approved and having a project beginning date on or
22 after July 1, 1993, and before July 1, 2017, any incremental
23 production attributable to the working interest owners which results
24 from such tertiary recovery projects shall be exempt from the gross

1 production tax levied pursuant to this section from the project
2 beginning date until project payback is achieved, but not to exceed
3 a period of ten (10) years; provided however, that the exemption
4 provided by this paragraph shall not apply to production occurring
5 on or after July 1, 2017. Project payback pursuant to this
6 paragraph shall be determined by appropriate payback indicators
7 which will provide for the recovery of capital expenses and
8 operating expenses, excluding administrative expenses, in
9 determining project payback. The capital expenses of pipelines
10 constructed to transport carbon dioxide to a tertiary recovery
11 project shall not be included in determining project payback
12 pursuant to this paragraph.

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

16 4. For purposes of this subsection:

17 a. "incremental production" means the amount of crude oil
18 or other liquid hydrocarbons which is produced during
19 an enhanced recovery project and which is in excess of
20 the base production amount of crude oil or other
21 liquid hydrocarbons. The base production amount shall
22 be the average monthly amount of production for the
23 twelve-month period immediately prior to the project
24 beginning date minus the monthly rate of production

1 decline for the project for each month beginning one
2 hundred eighty (180) days prior to the project
3 beginning date. The monthly rate of production
4 decline shall be equal to the average extrapolated
5 monthly decline rate for the twelve-month period
6 immediately prior to the project beginning date as
7 determined by the Corporation Commission based on the
8 production history of the field, its current status,
9 and sound reservoir engineering principles, and

10 b. "project beginning date" means the date on which the
11 injection of liquids, gases, or other matter begins on
12 an enhanced recovery project.

13 5. The Corporation Commission shall promulgate rules for the
14 qualification for this exemption which shall include, but not be
15 limited to, procedures for determining incremental production as
16 defined in subparagraph a of paragraph 4 of this subsection, and the
17 establishment of appropriate payback indicators as approved by the
18 Tax Commission for the determination of project payback for each of
19 the exemptions authorized by this subsection.

20 6. For new secondary recovery projects and tertiary recovery
21 projects approved by the Corporation Commission on or after July 1,
22 1993, and before July 1, 2017, such approval shall constitute
23 qualification for an exemption.

1 7. Any person seeking an exemption shall file an application
2 for such exemption with the Tax Commission which, upon determination
3 of qualification by the Corporation Commission, shall approve the
4 application for such exemption.

5 8. The Tax Commission may require any person requesting such
6 exemption to furnish information or records concerning the exemption
7 as is deemed necessary by the Tax Commission.

8 9. Upon the expiration of the exemption granted pursuant to
9 this subsection, the Tax Commission shall collect the gross
10 production tax levied pursuant to this section.

11 E. 1. Except as otherwise provided in this section, the
12 production of oil, gas or oil and gas from a horizontally drilled
13 well producing prior to July 1, 2011, which production commenced
14 after July 1, 2002, shall be exempt from the gross production tax
15 levied pursuant to subsection B of this section from the project
16 beginning date until project payback is achieved but not to exceed a
17 period of forty-eight (48) months commencing with the month of
18 initial production from the horizontally drilled well. For purposes
19 of subsection D of this section and this subsection, project payback
20 shall be determined as of the date of the completion of the well and
21 shall not include any expenses beyond the completion date of the
22 well, and subject to the approval of the Tax Commission.

1 2. Claims for refund for the production periods within the
2 fiscal years ending June 30, 2010, and June 30, 2011, shall be filed
3 and received by the Tax Commission no later than December 31, 2011.

4 3. For production commenced on or after July 1, 2011, and prior
5 to July 1, 2015, the tax levied pursuant to the provisions of this
6 section on the production of oil, gas or oil and gas from a
7 horizontally drilled well shall be reduced to a rate of one percent
8 (1%) for a period of forty-eight (48) months from the month of
9 initial production; provided however, such production occurring on
10 or after July 1, 2017, for the remainder of such forty-eight-month
11 period shall be subject to a reduced rate of four percent (4%);
12 further provided, any reduced rate provided by this paragraph shall
13 not apply to production occurring during or after the first full
14 month following the effective date of this act. The taxes collected
15 from the production of oil shall be apportioned pursuant to the
16 provisions of paragraph 7 of subsection B of Section 1004 of this
17 title. The taxes collected from the production of gas shall be
18 apportioned pursuant to the provisions of paragraph 3 of subsection
19 B of Section 1004 of this title.

20 4. The production of oil, gas or oil and gas on or after July
21 1, 2011, and prior to July 1, 2015, from these qualifying wells
22 shall be taxed at a rate of one percent (1%) until the expiration of
23 forty-eight (48) months commencing with the month of initial
24 production.

1 5. 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;
12 provided however, that the exemption provided by this paragraph
13 shall not apply to production occurring on or after July 1, 2017.
14 This exemption shall take effect July 1, 1994, and shall apply to
15 wells for which work to reestablish or enhance production began on
16 or after July 1, 1994, and for which production is reestablished
17 prior to July 1, 2017. For all such production, a refund against
18 gross production taxes shall be issued as provided in subsection L
19 of this section.

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

1 As used in this subsection, for wells for which production is
2 reestablished on or after July 1, 1997, and prior to July 1, 2017,
3 "inactive well" means any well that has not produced oil, gas or oil
4 and gas for a period of not less than one (1) year as evidenced by
5 the appropriate forms on file with the Corporation Commission
6 reflecting the well's status. Wells which experience mechanical
7 failure or loss of mechanical integrity, as defined by the
8 Corporation Commission, including but not limited to, casing leaks,
9 collapse of casing or loss of equipment in a wellbore, or any
10 similar event which causes cessation of production, shall also be
11 considered inactive wells.

12 G. 1. Except as otherwise provided by this section, any
13 incremental production which results from a production enhancement
14 project shall be exempt from the gross production tax levied
15 pursuant to subsection B of this section for a period of twenty-
16 eight (28) months from the date of first sale after project
17 completion of the production enhancement project; provided however,
18 that the exemption provided by this paragraph shall not apply to
19 production occurring on or after July 1, 2017. This exemption shall
20 take effect July 1, 1994, and shall apply to production enhancement
21 projects having a project beginning date on or after July 1, 1994,
22 and prior to July 1, 2017. For all such production, a refund
23 against gross production taxes shall be issued as provided in
24 subsection L of this section.

1 2. As used in this subsection:

- 2 a. for production enhancement projects having a project
3 beginning date on or after July 1, 1997, and prior to
4 July 1, 2017, "production enhancement project" means
5 any workover as defined in this paragraph,
6 recompletion as defined in this paragraph, reentry of
7 plugged and abandoned wellbores, or addition of a well
8 or 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
24 prior to the commencement of the project based on the

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

8 d. for production enhancement projects having a project
9 beginning date on or after July 1, 1997, and prior to
10 July 1, 2017, "recompletion" means any downhole
11 operation in an existing oil or gas well that is
12 conducted to establish production of oil or gas from
13 any geologic interval not currently completed or
14 producing in such existing oil or gas well within the
15 same or a different geologic formation, and

16 e. "workover" means any downhole operation in an existing
17 oil or gas well that is designed to sustain, restore
18 or increase the production rate or ultimate recovery
19 in a geologic interval currently completed or
20 producing in the existing oil or gas well. For
21 production enhancement projects having a project
22 beginning date on or after July 1, 1997, and prior to
23 July 1, 2017, "workover" includes, but is not limited
24 to:

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

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

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

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

- 6 a. the production of oil, gas or oil and gas from wells
7 spudded between July 1, 1997, and July 1, 2005, and
8 drilled to a depth of twelve thousand five hundred
9 (12,500) feet or greater and wells spudded between
10 July 1, 2005, and July 1, 2015, and drilled to a depth
11 between twelve thousand five hundred (12,500) feet and
12 fourteen thousand nine hundred ninety-nine (14,999)
13 feet shall be exempt from the gross production tax
14 levied pursuant to subsection B of this section from
15 the date of first sales for a period of twenty-eight
16 (28) months; provided however, that the exemption
17 provided by this subparagraph shall not apply to
18 production occurring on or after July 1, 2017,
- 19 b. the production of oil, gas or oil and gas from wells
20 spudded between July 1, 2002, and July 1, 2005, and
21 drilled to a depth of fifteen thousand (15,000) feet
22 or greater and wells spudded between July 1, 2005, and
23 July 1, 2011, and drilled to a depth between fifteen
24 thousand (15,000) feet and seventeen thousand four

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

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

12 d. the tax levied pursuant to the provisions of this
13 section on the production of oil, gas or oil and gas
14 from wells spudded between July 1, 2011, and July 1,
15 2015, and drilled to a depth between fifteen thousand
16 (15,000) feet and seventeen thousand four hundred
17 ninety-nine (17,499) feet shall be reduced to a rate
18 of four percent (4%) for a period of forty-eight (48)
19 months from the date of first sales; provided, the
20 reduced rate provided by this subparagraph shall not
21 apply to production occurring during or after the
22 first full month following the effective date of this
23 act. The taxes collected from the production of oil
24 shall be apportioned pursuant to the provisions of

1 paragraph 7 of subsection B of Section 1004 of this
2 title. The taxes collected from the production of gas
3 shall be apportioned pursuant to the provisions of
4 paragraph 3 of subsection B of Section 1004 of this
5 title,

- 6 e. the tax levied pursuant to the provisions of this
7 section on the production of oil, gas or oil and gas
8 from wells spudded between July 1, 2011, and July 1,
9 2015, and drilled to a depth of seventeen thousand
10 five hundred (17,500) feet or greater shall be reduced
11 to a rate of four percent (4%) for a period of sixty
12 (60) months from the date of first sales; provided
13 however, the reduced rate provided by this
14 subparagraph shall not apply to production occurring
15 during or after the first full month following the
16 effective date of this act. The taxes collected from
17 the production of oil shall be apportioned pursuant to
18 the provisions of paragraph 7 of subsection B of
19 Section 1004 of this title. The taxes collected from
20 the production of gas shall be apportioned pursuant to
21 the provisions of paragraph 3 of subsection B of
22 Section 1004 of this title, and
- 23 f. the provisions of subparagraphs b and c of this
24 paragraph shall only apply to the production of wells

1 qualifying for the exemption provided under these
2 subparagraphs prior to July 1, 2011. The production
3 of oil, gas or oil and gas on or after July 1, 2011,
4 and before July 1, 2015, from wells qualifying under
5 subparagraph b of this paragraph shall be taxed at a
6 rate of four percent (4%) until the expiration of
7 forty-eight (48) months from the date of first sales
8 and the production of oil, gas or oil and gas on or
9 after July 1, 2011, and before July 1, 2015, from
10 wells qualifying under subparagraph c of this
11 paragraph shall be taxed at a rate of four percent
12 (4%) until the expiration of sixty (60) months from
13 the date of first sales.

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

17 I. Except as otherwise provided by this section, the production
18 of oil, gas or oil and gas from wells spudded or reentered between
19 July 1, 1995, and July 1, 2015, which qualify as a new discovery
20 pursuant to this subsection shall be exempt from the gross
21 production tax levied pursuant to subsection B of this section from
22 the date of first sales for a period of twenty-eight (28) months;
23 provided however, that the exemption provided by this subsection
24 shall not apply to production occurring on or after July 1, 2017.

1 For all such wells spudded or reentered, a refund against gross
2 production taxes shall be issued as provided in subsection L of this
3 section. As used in this subsection, "new discovery" means
4 production of oil, gas or oil and gas from:

5 1. For wells spudded or reentered on or after July 1, 1997, and
6 prior to July 1, 2015, a well that discovers crude oil in paying
7 quantities that is more than one (1) mile from the nearest oil well
8 producing from the same producing interval of the same formation;

9 2. For wells spudded or reentered on or after July 1, 1997, and
10 prior to July 1, 2015, a well that discovers crude oil in paying
11 quantities beneath current production in a deeper producing interval
12 that is more than one (1) mile from the nearest oil well producing
13 from the same deeper producing interval;

14 3. For wells spudded or reentered on or after July 1, 1997, and
15 prior to July 1, 2015, a well that discovers natural gas in paying
16 quantities that is more than two (2) miles from the nearest gas well
17 producing from the same producing interval; or

18 4. For wells spudded or reentered on and after July 1, 1997,
19 and prior to July 1, 2015, a well that discovers natural gas in
20 paying quantities beneath current production in a deeper producing
21 interval that is more than two (2) miles from the nearest gas well
22 producing from the same deeper producing interval.

23 J. Except as otherwise provided by this section, the production
24 of oil, gas or oil and gas from any well, drilling of which is

1 commenced after July 1, 2000, and prior to July 1, 2015, located
2 within the boundaries of a three-dimensional seismic shoot and
3 drilled based on three-dimensional seismic technology, shall be
4 exempt from the gross production tax levied pursuant to subsection B
5 of this section from the date of first sales as follows:

6 1. If the three-dimensional seismic shoot is shot prior to July
7 1, 2000, for a period of eighteen (18) months; and

8 2. If the three-dimensional seismic shoot is shot on or after
9 July 1, 2000, for a period of twenty-eight (28) months; provided
10 however, that the exemption provided by this subsection shall not
11 apply to production occurring on or after July 1, 2017. For all
12 such production, a refund against gross production taxes shall be
13 issued as provided in subsection L of this section.

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

20 a. to the severance or production of oil, upon
21 determination by the Tax Commission that the average
22 annual index price of Oklahoma oil exceeds Thirty
23 Dollars (\$30.00) per barrel calculated on an annual
24 calendar year basis, as adjusted for inflation using

1 the Consumer Price Index-All Urban Consumers (CPI-U)
2 as published by the Bureau of Labor Statistics of the
3 U.S. Department of Labor or its successor agency.

4 Such adjustment shall be based on the most current
5 data available for the preceding twelve-month period
6 and shall be applied for the fiscal year which begins
7 on the July 1 date immediately following the release
8 of the CPI-U data by the Bureau of Statistics.

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

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

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

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

5 c. to the severance or production of gas, upon
6 determination by the Tax Commission that the average
7 annual index price of Oklahoma gas exceeds Five
8 Dollars (\$5.00) per thousand cubic feet (mcf)
9 calculated on an annual calendar year basis as
10 adjusted for inflation using the Consumer Price Index-
11 All Urban Consumers (CPI-U) as published by the Bureau
12 of Labor Statistics of the U.S. Department of Labor or
13 its successor agency. Such adjustment shall be based
14 on the most current data available for the preceding
15 twelve-month period and shall be applied for the
16 fiscal year which begins on the July 1 date
17 immediately following the release of the CPI-U data by
18 the Bureau of Statistics.

19 (1) The "average annual index price" will be
20 calculated by multiplying the Henry Hub 3-Day
21 Average Close price by the "index price ratio".
22 The index price ratio is defined as the immediate
23 preceding three-year historical average ratio of
24 the actual weighted average wellhead price to the

Henry Hub 3-Day Average Close price published on the last business day of each month.

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

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

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

a. fifty percent (50%) of the sum collected shall be apportioned to the County Highway Fund as provided in

1 subparagraph b of paragraph 1 of subsection B of
2 Section 1004 of this title, and

- 3 b. fifty percent (50%) of the sum collected shall be
4 apportioned to the appropriate school district as
5 provided in subparagraph c of paragraph 1 of
6 subsection B of Section 1004 of this title.

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

10 L. 1. Prior to July 1, 2015, and except as provided in
11 subsection M of this section, for all oil and gas production exempt
12 from gross production taxes pursuant to subsections E, F, G, H, I
13 and J of this section during a given fiscal year, a refund of gross
14 production taxes shall be issued to the well operator or a designee
15 in the amount of such gross production taxes paid during such
16 period, subject to the following provisions:

- 17 a. a refund shall not be claimed until after the end of
18 such fiscal year. As used in this subsection, a
19 fiscal year shall be deemed to begin on July 1 of one
20 calendar year and shall end on June 30 of the
21 subsequent calendar year,
22 b. unless otherwise specified, no claims for refunds
23 pursuant to the provisions of this subsection shall be
24 filed more than eighteen (18) months after the first

1 day of the fiscal year in which the refund is first
2 available,

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

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

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

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 2. On or after July 1, 2015, for all oil and gas production
5 exempt from gross production taxes pursuant to subsections F and G
6 of this section during a given fiscal year, a refund of gross
7 production taxes shall be issued to the well operator or a designee
8 in the amount of such gross production taxes paid during such
9 period, subject to the following provisions:

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

15 b. unless otherwise specified, no claims for refunds
16 pursuant to the provisions of this subsection shall be
17 filed more than eighteen (18) months after the first
18 day of the fiscal year in which the refund is first
19 available, or September 30, 2017, whichever is sooner,

20 c. no claims for refunds pursuant to the provisions of
21 this subsection shall be filed by or on behalf of
22 persons other than the operator or a working interest
23 owner of record at the time of production,
24

1 d. no refunds shall be claimed or paid pursuant to the
2 provisions of this subsection for oil or gas
3 production upon which a tax is paid at a rate of two
4 percent (2%), and

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

16 If there are insufficient funds collected from the production of
17 oil or gas to satisfy the refunds claimed for oil or gas production
18 pursuant to subsection F or G of this section, the Tax Commission
19 shall pay the balance of the refund claims out of the gross
20 production taxes collected from either the production of oil or gas,
21 as necessary.

22 3. Notwithstanding any other provisions of law, after the
23 effective date of this act, no refund of gross production taxes
24 shall be claimed for oil and gas production exempt from gross

1 production taxes pursuant to subsections E, F, G, H, I and J of this
2 section for production occurring prior to July 1, 2003.

3 4. Notwithstanding any other provision of this section, no
4 claims for refunds pursuant to the provisions of subsections F, G, I
5 and J and subparagraph a of paragraph 2 of subsection H of this
6 section shall be filed or accepted on or after October 1, 2017.

7 M. Claims for refunds pursuant to the provisions of subsections
8 F, G, I and J and subparagraph a of paragraph 2 of subsection H of
9 this section for production periods ending on or before June 30,
10 2017, shall be paid pursuant to the provisions of this subsection.
11 The claims for refunds referenced herein shall be paid in equal
12 payments over a period of thirty-six (36) months. The first payment
13 shall be made after July 1, 2018, but prior to August 1, 2018. The
14 Tax Commission shall provide, not later than June 30, 2018, to the
15 operator or designated interest owner, a schedule of rebates to be
16 paid out over the thirty-six-month period.

17 N. 1. The Corporation Commission and the Tax Commission shall
18 promulgate joint rules for the qualification for the exemptions
19 provided for in this section and the rules shall contain provisions
20 for verification of any wells from which production may be qualified
21 for the exemptions. The Tax Commission shall adopt rules and
22 regulations which establish guidelines for production of oil or gas
23 after July 1, 2011, which is exempt from tax pursuant to the
24 provisions of paragraph 1 of subsection E and subparagraphs b and c

1 of paragraph 2 of subsection H of this section to remit tax at the
2 reduced rate provided in paragraph 2 of subsection E and
3 subparagraphs d and e of paragraph 2 of subsection H of this section
4 until the end of the qualifying exemption period.

5 2. Any person requesting any exemption shall file an
6 application for qualification for the exemption with the Corporation
7 Commission which, upon finding that the well meets the requirements
8 of this section, shall approve the application for qualification.

9 3. Any person seeking an exemption shall:

10 a. file an application for the exemption with the Tax
11 Commission which, upon determination of qualification
12 by the Corporation Commission, shall approve the
13 application for an exemption, and

14 b. provide a copy of the approved application to the
15 remitter of the gross production tax.

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

19 5. Upon the expiration of an exemption granted pursuant to this
20 section, the Tax Commission shall collect the gross production tax
21 levied pursuant to this section. If a person who qualifies for the
22 exemption elects to remit his or her own gross production tax during
23 the exemption period, the first purchaser shall not be liable to
24 withhold or remit the tax until the first day of the month following

1 the receipt of written notification from the person who is qualified
2 for such exemption stating that such exemption has expired and
3 directing the first purchaser to resume tax remittance on his or her
4 behalf.

5 O. 1. Prior to July 1, 2015, persons shall only be entitled to
6 either the exemption granted pursuant to subsection D of this
7 section or the exemption granted pursuant to subsection E, F, G, H,
8 I or J of this section for each oil, gas or oil and gas well drilled
9 or recompleted in this state. However, any person who qualifies for
10 the exemption granted pursuant to subsection E, F, G, H, I or J of
11 this section shall not be prohibited from qualification for the
12 exemption granted pursuant to subsection D of this section, if the
13 exemption granted pursuant to subsection E, F, G, H, I or J of this
14 section has expired.

15 2. On or after July 1, 2015, all persons shall only be entitled
16 to either the exemption granted pursuant to subsection D of this
17 section or the exemption granted pursuant to subsection F or G of
18 this section for each oil, gas, or oil and gas well drilled or
19 recompleted in this state. However, any person who qualifies for
20 the exemption granted pursuant to subsections F and G of this
21 section shall not be prohibited from qualification for the exemption
22 granted pursuant to subsection D of this section if the exemption
23 granted pursuant to subsection F or G of this section has expired.
24 Further, the exemption granted pursuant to subsection D of this

1 section shall not apply to any production upon which a tax is paid
2 at a rate of two percent (2%).

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

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

1 imprisonment in the jail of the county where such offense shall have
2 been committed, for not more than one (1) year, or by both such fine
3 and imprisonment; and each day of such refusal on the part of such
4 person shall constitute a separate and distinct offense.

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

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

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

13 T. No equipment, material or property shall be exempt from the
14 payment of ad valorem tax by reason of the payment of the gross
15 production tax except such equipment, machinery, tools, material or
16 property as is actually necessary and being used and in use in the
17 production of asphalt or of ores bearing lead, zinc, jack or copper
18 or of oil or gas. Provided, the exemption shall include the
19 wellbore and non-recoverable down-hole material, including casing,
20 actually used in the disposal of waste materials produced with such
21 oil or gas. It is expressly declared that no ice plants, hospitals,
22 office buildings, garages, residences, gasoline extraction or
23 absorption plants, water systems, fuel systems, rooming houses and
24

1 other buildings, nor any equipment or material used in connection
2 therewith, shall be exempt from ad valorem tax.

3 U. The exemption from ad valorem tax set forth in subsections S
4 and T of this section shall continue to apply to all property from
5 which production of oil, gas or oil and gas is exempt from gross
6 production tax pursuant to subsection D, E, F, G, H, I or J of this
7 section.

8 SECTION 3. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6201 of Title 68, unless there
10 is created a duplication in numbering, reads as follows:

11 Sections 3 through 10 of this act shall be known and may be
12 cited as the "Oklahoma Zero-Emission Facility Energy Tax Act of
13 2018".

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 6202 of Title 68, unless there
16 is created a duplication in numbering, reads as follows:

17 As required by Section 19 of Article X of the Oklahoma
18 Constitution, the purpose of the levy imposed pursuant to the
19 provisions of this act is to provide revenue for general government
20 functions.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 6203 of Title 68, unless there
23 is created a duplication in numbering, reads as follows:

24 As used in this act:

1 1. "Commercial wind turbine" means a device manufactured for
2 the purpose of producing electric power by means of wind energy and
3 which converts the energy from naturally occurring winds into
4 mechanical energy through the rotation of blades or rotors and the
5 production of an electric current and which has a nameplate capacity
6 of more than fifty kilowatts (50 kw); and

7 2. "Manufacturer nameplate capacity" means the maximum amount
8 of electric power capable of being produced by a commercial wind
9 turbine according to information affixed to a wind turbine or its
10 associated structures and which nameplate is installed or affixed by
11 the business entity which manufactured the wind turbine.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 6204 of Title 68, unless there
14 is created a duplication in numbering, reads as follows:

15 A. There is hereby levied upon the production of electricity by
16 each commercial wind turbine in this state which is a zero-emission
17 facility, and any other zero-emission facility as defined by Section
18 2357.32A of Title 68 of the Oklahoma Statutes, a tax of One Dollar
19 (\$1.00) for each megawatt hour, or portion thereof, which is
20 produced in this state from and after the effective date of this
21 section. The tax shall be paid by the person or entity producing
22 such electricity from a commercial wind turbine or other zero-
23 emission facility as defined by Section 2357.32A of Title 68 of the
24 Oklahoma Statutes.

1 B. The tax levied pursuant to this section is in addition to,
2 and is not in lieu of, any other taxes or fees currently levied or
3 assessed, or levied or assessed in the future, on each commercial
4 wind turbine in the state which is a zero-emission facility, or any
5 other zero-emission facility as defined by Section 2357.32A of Title
6 68 of the Oklahoma Statutes including, but not limited to, ad
7 valorem taxes.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6205 of Title 68, unless there
10 is created a duplication in numbering, reads as follows:

11 A. No wind turbine with a nameplate capacity of less than fifty
12 kilowatts (50 kw) shall be subject to the tax imposed pursuant to
13 the provisions of Section 6 of this act.

14 B. No wind turbine located on the private property of one or
15 more natural persons which is attached to a single-family
16 residential dwelling or located in close proximity to the single-
17 family residential dwelling and used, in whole or in part, to supply
18 electric power to the dwelling and its occupants shall be subject to
19 the tax imposed pursuant to Section 6 of this act if the wind
20 turbine has a manufacturer nameplate capacity of less than fifty
21 kilowatts (50 kw).

22 C. No wind turbine located on the property of a for-profit
23 business entity, other than a business entity engaged in the
24 production of electric power by wind and having the North American

1 Industry Classification Code (NAICS) 221115, which is attached to
2 improvements used by the business entity to conduct its primary
3 business activity or in close proximity to such improvements and the
4 electric power from which is used, in whole or in part, by the
5 business entity to conduct its for-profit business activity shall be
6 subject to the tax imposed pursuant to the provisions of Section 6
7 of this act if the wind turbine has a nameplate capacity of less
8 than fifty kilowatts (50 kw).

9 SECTION 8. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 6206 of Title 68, unless there
11 is created a duplication in numbering, reads as follows:

12 The tax imposed pursuant to the provisions of this act shall be
13 remitted by the owner of the commercial wind turbine or other zero-
14 emission facility as defined by Section 2357.32A of Title 68 of the
15 Oklahoma Statutes. The tax shall be remitted monthly and shall be
16 due not later than the twentieth day of the month following the
17 month during which electric power was produced. The tax shall be
18 remitted to the Oklahoma Tax Commission on such form as the Tax
19 Commission may prescribe for such purpose.

20 SECTION 9. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6207 of Title 68, unless there
22 is created a duplication in numbering, reads as follows:

23 If not paid by the delinquent date, there shall be imposed a
24 penalty equal to ten percent (10%) of the principal amount of tax

1 due and owing and interest computed as provided in Section 217 of
2 Title 68 of the Oklahoma Statutes until the accrued liability is
3 paid.

4 SECTION 10. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 6208 of Title 68, unless there
6 is created a duplication in numbering, reads as follows:

7 All revenues derived from the tax imposed pursuant to the
8 provisions of the Oklahoma Zero-Emission Facility Energy Tax Act of
9 2018 shall be apportioned to the General Revenue Fund of the State
10 Treasury.

11 SECTION 11. The Ballot Title for the proposed act shall be in
12 the following form:

13 BALLOT TITLE

14 Legislative Referendum No. _____ State Question No. _____

15 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

16 The measure modifies the gross production tax rate structure on
17 oil and gas produced from wells spudded after the effective date
18 of the measure. The measure institutes a 4% gross production
19 tax rate on production from such wells for the first 36 months
20 of production. The measure provides that wells spudded after
21 the effective date of the measure will not be eligible for the
22 existing 2% gross production tax rate. The measure levies an
23 additional tax of One Dollar (\$1.00) upon the production of
24 electricity by certain wind turbines.

1 SHALL THE PROPOSAL BE APPROVED?

2 FOR THE PROPOSAL — YES _____

3 AGAINST THE PROPOSAL — NO _____

4 SECTION 12. The Chief Clerk of the House of Representatives,
5 immediately after the passage of this act, shall prepare and file
6 one copy thereof, including the Ballot Title set forth in SECTION 11
7 hereof, with the Secretary of State and one copy with the Attorney
8 General.

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10 56-2-10048 JBH 02/28/18
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