

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2365

By: Osborn (Leslie) and Wallace
of the House

and

David and Fields of the
Senate

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; stating purpose; imposing additional tax levy upon cigarettes; specifying amount of additional levy; providing for apportionment of revenues to certain funds; exempting levy from inclusion in determination of certain amounts; requiring certain collections and administration of levy; creating the Health Care Authority Enhancement Fund, the Mental Health and Substance Abuse Services Enhancement Fund, the Human Services Enhancement Fund, the University Hospitals Enhancement Fund, the Oklahoma State University Medical Authority Enhancement Fund, the Health Department Enhancement Fund, and the Health Care Enhancement Fund; exempting funds from fiscal year limitations; identifying funding source; declaring funds appropriated; authorizing appropriation from certain fund; requiring legislative authorization for budgeting and expenditure; requiring certain budgeting procedures; prohibiting sale of cigarette excise tax stamps to wholesalers in excess of certain amount; providing exception; stating purpose; imposing tax on gasoline and diesel fuel; establishing amount of tax per gallon; requiring deposit of certain revenue, penalties and interest in certain fund; amending 68 O.S. 2011, Section 500.10, which relates to exemption from motor fuels tax; extending exemptions to additional tax levy; amending

1 68 O.S. 2011, Section 1001, as last amended by
2 Section 1, Chapter 346, O.S.L. 2014 (68 O.S. Supp.
3 2016, Section 1001), which relates to gross
4 production taxes; limiting period where certain
5 exemptions and rebates may be claimed; clarifying
6 references; limiting period where claims may be
7 submitted and accepted; amending 68 O.S. 2011,
8 Section 1001.3a, as last amended by Section 1,
9 Chapter 383, O.S.L. 2016 (68 O.S. Supp. 2016, Section
10 1001.3a), which relates to economically at-risk oil
11 or gas leases; limiting period where exemption is
12 applicable; modifying periods whereby claims may be
13 submitted; prohibiting the acceptance or payment of
14 claims after certain dates; modifying maximum amount
15 of refunds allowed for certain period; providing for
16 codification; and providing for noncodification.

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

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 302-7 of Title 68, unless there
20 is created a duplication in numbering, reads as follows:

21 A. For the purpose of providing revenue for the support of the
22 functions of state government, in addition to the tax levied in
23 Sections 302, 302-1, 302-2, 302-3, 302-4 and 302-5 of Title 68 of
24 the Oklahoma Statutes, there is hereby levied upon the sale, use,
25 gift, possession or consumption of cigarettes, as defined in
26 Sections 301 through 325 of Title 68 of the Oklahoma Statutes,
27 within this state, a tax at the rate of seventy-five (75) mills per
28 cigarette.

29 B. 1. Except as provided in paragraph 2 of this subsection,
30 the revenue resulting from the additional tax levied in subsection A

1 of this section shall be apportioned as provided in paragraphs 3 and
2 4 of this subsection.

3 2. The net amount of any revenue resulting from a payment in
4 lieu of excise taxes on cigarettes levied by this section, which net
5 amount shall be calculated after deductions for rebates owed
6 pursuant to a compact with a federally recognized Indian tribe or
7 nation, shall be apportioned as provided in paragraphs 3 and 4 of
8 this subsection.

9 3. For the period beginning September 1, 2017, and ending June
10 30, 2018, the resulting revenues as described by paragraphs 1 and 2
11 of this subsection shall be apportioned by the Oklahoma Tax
12 Commission and transmitted to the State Treasurer, who shall deposit
13 the same in the State Treasury to the credit of the following funds
14 in the following percentages:

- 15 a. fifty percent (50%) to the credit of the Health Care
16 Authority Enhancement Fund, created in Section 2 of
17 this act,
- 18 b. twenty-three percent (23%) to the credit of the Mental
19 Health and Substance Abuse Services Enhancement Fund,
20 created in Section 3 of this act,
- 21 c. thirteen and five-tenths percent (13.5%) to the credit
22 of the Human Services Enhancement Fund, created in
23 Section 4 of this act,

d. five and four-tenths percent (5.4%) to the credit of the University Hospitals Enhancement Fund, created in Section 5 of this act,

e. five and four-tenths percent (5.4%) to the credit of the Oklahoma State University Medical Authority Enhancement Fund, created in Section 6 of this act, and

f. two and seven-tenths percent (2.7%) to the credit of the Health Department Enhancement Fund, created in Section 7 of this act.

4. Beginning July 1, 2018, all resulting revenues as described by paragraphs 1 and 2 of this subsection shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer, who shall deposit the same in the State Treasury to the credit of the Health Care Enhancement Fund, created in Section 8 of this act.

C. No part of the revenues resulting from the additional taxes levied in this section shall be used in determining the amount of cigarette tax collections to be paid into:

1. The State of Oklahoma Building Bonds of 1961 Sinking Fund pursuant to the provisions of Sections 57.31 through 57.43 of Title 62 of the Oklahoma Statutes;

2. The State of Oklahoma Institutional Building Bonds of 1965 Sinking Fund pursuant to the provisions of Sections 57.61 through 57.73 of Title 62 of the Oklahoma Statutes;

1 3. The State of Oklahoma Institutional Building Bonds of 1965
2 Sinking Fund Series C and Series D pursuant to the provisions of
3 Sections 57.81 through 57.112 of Title 62 of the Oklahoma Statutes;

4 4. The State of Oklahoma Building Bonds of 1968 Sinking Fund
5 pursuant to the provisions of Sections 57.121 through 57.193 of
6 Title 62 of the Oklahoma Statutes; or

7 5. The Oklahoma Building Bonds of 1992 Sinking Fund pursuant to
8 the provisions of Sections 57.300 through 57.313 of Title 62 of the
9 Oklahoma Statutes.

10 D. The cigarette taxes levied in this section shall be
11 collected and administered as provided by law for other cigarette
12 taxes now levied, collected and administered pursuant to the
13 provisions of Sections 301 through 325 of Title 68 of the Oklahoma
14 Statutes.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 302-7a of Title 68, unless there
17 is created a duplication in numbering, reads as follows:

18 There is hereby created in the State Treasury a fund for the
19 Oklahoma Health Care Authority to be designated the "Health Care
20 Authority Enhancement Fund". The fund shall be a continuing fund,
21 not subject to fiscal year limitations, and shall consist of monies
22 received pursuant to Section 1 of this act and any monies designated
23 to the fund by law. All monies accruing to the credit of the fund
24 are hereby appropriated and may be budgeted and expended by the

1 Oklahoma Health Care Authority as authorized by the Oklahoma
2 Legislature. Expenditures from the fund shall be made upon warrants
3 issued by the State Treasurer against claims filed as prescribed by
4 law with the Director of the Office of Management and Enterprise
5 Services for approval and payment.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 302-7b of Title 68, unless there
8 is created a duplication in numbering, reads as follows:

9 There is hereby created in the State Treasury a fund for the
10 Department of Mental Health and Substance Abuse Services to be
11 designated the "Mental Health and Substance Abuse Services
12 Enhancement Fund". The fund shall be a continuing fund, not subject
13 to fiscal year limitations, and shall consist of monies received
14 pursuant to Section 1 of this act and any monies designated to the
15 fund by law. All monies accruing to the credit of the fund are
16 hereby appropriated and may be budgeted and expended by the
17 Department of Mental Health and Substance Abuse Services as
18 authorized by the Oklahoma Legislature. Expenditures from the fund
19 shall be made upon warrants issued by the State Treasurer against
20 claims filed as prescribed by law with the Director of the Office of
21 Management and Enterprise Services for approval and payment.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 302-7c of Title 68, unless there
24 is created a duplication in numbering, reads as follows:

1 There is hereby created in the State Treasury a fund for the
2 Department of Human Services to be designated the "Human Services
3 Enhancement Fund". The fund shall be a continuing fund, not subject
4 to fiscal year limitations, and shall consist of monies received
5 pursuant to Section 1 of this act and any monies designated to the
6 fund by law. All monies accruing to the credit of the fund are
7 hereby appropriated and may be budgeted and expended by the
8 Department of Human Services as authorized by the Oklahoma
9 Legislature. Expenditures from the fund shall be made upon warrants
10 issued by the State Treasurer against claims filed as prescribed by
11 law with the Director of the Office of Management and Enterprise
12 Services for approval and payment.

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 302-7d of Title 68, unless there
15 is created a duplication in numbering, reads as follows:

16 There is hereby created in the State Treasury a fund for the
17 University Hospitals Authority to be designated the "University
18 Hospitals Enhancement Fund". The fund shall be a continuing fund,
19 not subject to fiscal year limitations, and shall consist of monies
20 received pursuant to Section 1 of this act and any monies designated
21 to the fund by law. All monies accruing to the credit of the fund
22 are hereby appropriated and may be budgeted and expended by the
23 University Hospitals Authority as authorized by the Oklahoma
24 Legislature. Expenditures from the fund shall be made upon warrants

1 issued by the State Treasurer against claims filed as prescribed by
2 law with the Director of the Office of Management and Enterprise
3 Services for approval and payment.

4 SECTION 6. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 302-7e of Title 68, unless there
6 is created a duplication in numbering, reads as follows:

7 There is hereby created in the State Treasury a fund for the
8 Oklahoma State University Medical Authority to be designated the
9 "Oklahoma State University Medical Authority Enhancement Fund". The
10 fund shall be a continuing fund, not subject to fiscal year
11 limitations, and shall consist of monies received pursuant to
12 Section 1 of this act and any monies designated to the fund by law.
13 All monies accruing to the credit of the fund are hereby
14 appropriated and may be budgeted and expended by the Oklahoma State
15 University Medical Authority as authorized by the Oklahoma
16 Legislature. Expenditures from the fund shall be made upon warrants
17 issued by the State Treasurer against claims filed as prescribed by
18 law with the Director of the Office of Management and Enterprise
19 Services for approval and payment.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 302-7f of Title 68, unless there
22 is created a duplication in numbering, reads as follows:

23 There is hereby created in the State Treasury a fund for the
24 State Department of Health to be designated the "Health Department

1 Enhancement Fund". The fund shall be a continuing fund, not subject
2 to fiscal year limitations, and shall consist of monies received
3 pursuant to Section 1 of this act and any monies designated to the
4 fund by law. All monies accruing to the credit of the fund are
5 hereby appropriated and may be budgeted and expended by the State
6 Department of Health as authorized by the Oklahoma Legislature.
7 Expenditures from the fund shall be made upon warrants issued by the
8 State Treasurer against claims filed as prescribed by law with the
9 Director of the Office of Management and Enterprise Services for
10 approval and payment.

11 SECTION 8. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 302-7g of Title 68, unless there
13 is created a duplication in numbering, reads as follows:

14 There is hereby created in the State Treasury a fund to be
15 designated the "Health Care Enhancement Fund". The fund shall be a
16 continuing fund, not subject to fiscal year limitations, and shall
17 consist of monies received pursuant to Section 1 of this act and any
18 monies designated to the fund by law. All monies accruing to the
19 credit of the fund shall be appropriated at the discretion of the
20 Legislature for the purpose of enhancing the health of Oklahomans.

21 SECTION 9. NEW LAW A new section of law not to be
22 codified in the Oklahoma Statutes reads as follows:

23 The Oklahoma Tax Commission shall not sell cigarette excise tax
24 stamps to any wholesaler in excess of the amount of the monthly

1 average amount of such excise tax stamps sold to such wholesaler
2 during the preceding calendar year prior to the effective date of
3 Sections 1 and 2 of this act. Provided, the wholesaler may purchase
4 in excess of the monthly average purchased during the preceding
5 calendar year upon documentation, to the Tax Commission's
6 satisfaction, of probable sales greater than the wholesaler's sales
7 in the preceding calendar year.

8 SECTION 10. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 500.4B of Title 68, unless there
10 is created a duplication in numbering, reads as follows:

11 A. For the purpose of providing revenue for the support of the
12 functions of state government, in addition to the tax imposed by
13 Section 500.4 of Title 68 of the Oklahoma Statutes there is hereby
14 imposed a tax of six cents (\$0.06) per gallon on all:

- 15 1. Gasoline used or consumed in this state; and
- 16 2. Diesel fuel used or consumed in this state.

17 B. All remaining revenue from the tax imposed by subsection A
18 of this section, and penalties and interest thereon collected by the
19 Oklahoma Tax Commission, after the requirements of Section 500.63 of
20 this title have been fulfilled, shall be deposited in the State
21 Treasury to the credit of the Rebuilding Oklahoma Access and Driver
22 Safety Fund created in Section 1521 of Title 69 of the Oklahoma
23 Statutes.

1 SECTION 11. AMENDATORY 68 O.S. 2011, Section 500.10, is
2 amended to read as follows:

3 Section 500.10 Subject to the procedural requirements and
4 conditions set out in this section and Sections 500.11 through
5 500.17 of this title, the following are exempt from the ~~tax~~ taxes on
6 motor fuel imposed by Section 500.4 of this title ~~on motor fuel and~~
7 Section 10 of this act:

8 1. Motor fuel for which proof of export is available in the
9 form of a terminal-issued destination state shipping paper:

- 10 a. exported by a supplier who is licensed in the
11 destination state, or
12 b. sold by a supplier to a licensed exporter for
13 immediate export;

14 2. Motor fuel which was acquired by an unlicensed exporter and
15 as to which the tax imposed by Section 500.4 of this title has
16 previously been paid or accrued and was subsequently exported by
17 transport truck by or on behalf of the licensed exporter in a
18 diversion across state boundaries properly reported in conformity
19 with Section 500.46 of this title;

20 3. Motor fuel exported out of a bulk plant in this state in a
21 tank wagon if the destination of that vehicle does not exceed
22 twenty-five (25) miles from the border of this state and as to which
23 the tax imposed by Section 500.4 of this title has previously been
24

1 paid or accrued, subject to gallonage limits and other conditions
2 established by the Oklahoma Tax Commission;

3 4. K-1 kerosene sold at retail through dispensers which have
4 been designed and constructed to prevent delivery directly from the
5 dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at
6 retail through nonbarricaded dispensers in quantities of not more
7 than twenty-one (21) gallons for use other than for highway
8 purposes, under such rules as the Tax Commission shall reasonably
9 require;

10 5. Motor fuel sold to the United States or any agency or
11 instrumentality thereof;

12 6. Motor fuel used solely and exclusively in district-owned
13 public school vehicles or FFA and 4-H Club trucks for the purpose of
14 legally transporting public school children, and motor fuel
15 purchased by any school district for use exclusively in school buses
16 leased or hired for the purpose of legally transporting public
17 school children, or in the operation of vehicles used in driver
18 training;

19 7. Motor fuel used solely and exclusively as fuel to propel
20 motor vehicles on the public roads and highways of this state, when
21 leased or owned and being operated for the sole benefit of a county,
22 city, town, a volunteer fire department with a state certification
23 and rating, rural electric cooperatives, rural water and sewer
24 districts, rural irrigation districts organized under the Oklahoma

1 Irrigation District Act, conservancy districts and master
2 conservancy districts organized under the Conservancy Act of
3 Oklahoma, rural ambulance service districts, or federally recognized
4 Indian tribes;

5 8. Motor fuel used as fuel for farm tractors or stationary
6 engines owned or leased and operated by any person and used
7 exclusively for agricultural purposes, except as to two and eight
8 one-hundredths cents (\$0.0208) per gallon of gasoline as provided in
9 subsection C of Section 500.4 of this title;

10 9. Gasoline, diesel fuel and kerosene sold for use as fuel to
11 generate power in aircraft engines, whether in aircraft or for
12 training, testing or research purposes of aircraft engines, except
13 as to eight one-hundredths of one cent (\$0.0008) per gallon as
14 provided in subsection B of Section 500.4 of this title;

15 10. Motor fuel sold within an Indian reservation or within
16 Indian country by a federally recognized Indian tribe to a member of
17 that tribe and used in motor vehicles owned by that member of the
18 tribe. This exemption does not apply to sales within an Indian
19 reservation or within Indian country by a federally recognized
20 Indian tribe to non-Indian consumers or to Indian consumers who are
21 not members of the tribe selling the motor fuel;

22 11. Subject to determination by the Tax Commission, that
23 portion of diesel fuel:

24

- 1 a. used to operate equipment attached to a motor vehicle,
2 if the diesel fuel was placed into the fuel supply
3 tank of a motor vehicle that has a common fuel
4 reservoir for travel on a highway and for the
5 operation of equipment, or
6 b. consumed by the vehicle while the vehicle is parked
7 off the highways of this state;

8 12. Motor fuel acquired by a consumer out of state and carried
9 into this state, retained within and consumed from the same vehicle
10 fuel supply tank within which it was imported;

11 13. Diesel fuel used as heating oil, or in railroad locomotives
12 or any other motorized flanged-wheel rail equipment, or used for
13 other nonhighway purposes other than as expressly exempted under
14 another provision;

15 14. Motor fuel which was lost or destroyed as a direct result
16 of a sudden and unexpected casualty;

17 15. Taxable diesel which had been accidentally contaminated by
18 dye so as to be unsaleable as highway fuel as proved by proper
19 documentation;

20 16. Dyed diesel fuel;

21 17. Motor fuel sold to the Oklahoma Space Industry Development
22 Authority or any spaceport user as defined in the Oklahoma Space
23 Industry Development Act; and
24

1 18. Biofuels or biodiesel produced by an individual with crops
2 grown on property owned by the same individual and used in a vehicle
3 owned by the same individual on the public roads and highways of
4 this state.

5 SECTION 12. AMENDATORY 68 O.S. 2011, Section 1001, as
6 last amended by Section 1, Chapter 346, O.S.L. 2014 (68 O.S. Supp.
7 2016, Section 1001), is amended to read as follows:

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

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

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

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

- 1 a. upon the production of oil a tax equal to seven
2 percent (7%) of the gross value of the production of
3 oil based on a per barrel measurement of forty-two
4 (42) U.S. gallons of two hundred thirty-one (231)
5 cubic inches per gallon, computed at a temperature of
6 sixty (60) degrees Fahrenheit,
- 7 b. upon the production of gas a tax equal to seven
8 percent (7%) of the gross value of the production of
9 gas, and
- 10 c. notwithstanding the levies in subparagraphs a and b of
11 this paragraph, the production of oil, gas, or oil and
12 gas from wells spudded on or after July 1, 2015, shall
13 be taxed at a rate of two percent (2%) commencing with
14 the month of first production for a period of thirty-
15 six (36) months. Thereafter, the production shall be
16 taxed as provided in subparagraphs a and b of this
17 paragraph.

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

21 D. 1. Except as otherwise provided in this section, for
22 secondary recovery projects approved or having an initial project
23 beginning date on or after July 1, 2000, and before ~~July 1, 2020~~
24 September 1, 2017, any incremental production attributable to the

1 working interest owners which results from such secondary recovery
2 projects shall be exempt from the gross production tax levied
3 pursuant to this section for a period not to exceed five (5) years
4 from the initial project beginning date or for a period ending upon
5 the termination of the secondary recovery process, whichever occurs
6 first; provided however, that the exemption provided by this
7 paragraph shall not apply to production occurring on or after
8 September 1, 2017.

9 2. Except as otherwise provided in this section, for tertiary
10 recovery projects approved and having a project beginning date on or
11 after July 1, 1993, and before ~~July 1, 2020~~ September 1, 2017, any
12 incremental production attributable to the working interest owners
13 which results from such tertiary recovery projects shall be exempt
14 from the gross production tax levied pursuant to this section from
15 the project beginning date until project payback is achieved, but
16 not to exceed a period of ten (10) years; provided however, that the
17 exemption provided by this paragraph shall not apply to production
18 occurring on or after September 1, 2017. Project payback pursuant
19 to this paragraph shall be determined by appropriate payback
20 indicators which will provide for the recovery of capital expenses
21 and operating expenses, excluding administrative expenses, in
22 determining project payback. The capital expenses of pipelines
23 constructed to transport carbon dioxide to a tertiary recovery
24

1 project shall not be included in determining project payback
2 pursuant to this paragraph.

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

6 4. For purposes of this subsection:

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

1 b. "project beginning date" means the date on which the
2 injection of liquids, gases, or other matter begins on
3 an enhanced recovery project.

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

11 6. For new secondary recovery projects and tertiary recovery
12 projects approved by the Corporation Commission on or after July 1,
13 1993, and before ~~July 1, 2020~~ September 1, 2017, such approval shall
14 constitute qualification for an exemption.

15 7. Any person seeking an exemption shall file an application
16 for such exemption with the Tax Commission which, upon determination
17 of qualification by the Corporation Commission, shall approve the
18 application for such exemption.

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

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

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

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

16 3. For production commenced on or after July 1, 2011, and prior
17 to July 1, 2015, the tax levied pursuant to the provisions of this
18 section on the production of oil, gas or oil and gas from a
19 horizontally drilled well shall be reduced to a rate of one percent
20 (1%) for a period of forty-eight (48) months from the month of
21 initial production. The taxes collected from the production of oil
22 shall be apportioned pursuant to the provisions of paragraph 8 of
23 subsection ~~A~~ B of Section 1004 of this title. The taxes collected
24 from the production of gas shall be apportioned pursuant to the

1 provisions of paragraph 4 of subsection ~~A~~ B of Section 1004 of this
2 title.

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

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

14 F. 1. Except as otherwise provided by this section, the
15 severance or production of oil, gas or oil and gas from an inactive
16 well shall be exempt from the gross production tax levied pursuant
17 to subsection B of this section for a period of twenty-eight (28)
18 months from the date upon which production is reestablished;
19 provided however, that the exemption provided by this paragraph
20 shall not apply to production occurring on or after September 1,
21 2017. This exemption shall take effect July 1, 1994, and shall
22 apply to wells for which work to reestablish or enhance production
23 began on or after July 1, 1994, and for which production is
24 reestablished prior to ~~July 1, 2020~~ September 1, 2017. For all such

1 production, a refund against gross production taxes shall be issued
2 as provided in subsection L of this section.

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

8 As used in this subsection, for wells for which production is
9 reestablished on or after July 1, 1997, and prior to ~~July 1, 2020~~

10 September 1, 2017, "inactive well" means any well that has not
11 produced oil, gas or oil and gas for a period of not less than one
12 (1) year as evidenced by the appropriate forms on file with the
13 Corporation Commission reflecting the well's status. Wells which
14 experience mechanical failure or loss of mechanical integrity, as
15 defined by the Corporation Commission, including but not limited to,
16 casing leaks, collapse of casing or loss of equipment in a wellbore,
17 or any similar event which causes cessation of production, shall
18 also be considered inactive wells.

19 G. 1. Except as otherwise provided by this section, any
20 incremental production which results from a production enhancement
21 project shall be exempt from the gross production tax levied
22 pursuant to subsection B of this section for a period of twenty-
23 eight (28) months from the date of first sale after project
24 completion of the production enhancement project; provided however,

1 that the exemption provided by this paragraph shall not apply to
2 production occurring on or after September 1, 2017. This exemption
3 shall take effect July 1, 1994, and shall apply to production
4 enhancement projects having a project beginning date on or after
5 July 1, 1994, and prior to ~~July 1, 2020~~ September 1, 2017. For all
6 such production, a refund against gross production taxes shall be
7 issued as provided in subsection L of this section.

8 2. As used in this subsection:

- 9 a. for production enhancement projects having a project
10 beginning date on or after July 1, 1997, and prior to
11 ~~July 1, 2020~~ September 1, 2017, "production
12 enhancement project" means any workover as defined in
13 this paragraph, recompletion as defined in this
14 paragraph, reentry of plugged and abandoned wellbores,
15 or addition of a well or field compression,
- 16 b. "incremental production" means the amount of crude
17 oil, natural gas or other hydrocarbons which are
18 produced as a result of the production enhancement
19 project in excess of the base production,
- 20 c. "base production" means the average monthly amount of
21 production for the twelve-month period immediately
22 prior to the commencement of the project or the
23 average monthly amount of production for the twelve-
24 month period immediately prior to the commencement of

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

- 15 d. for production enhancement projects having a project
16 beginning date on or after July 1, 1997, and prior to
17 ~~July 1, 2020~~ September 1, 2017, "recompletion" means
18 any downhole operation in an existing oil or gas well
19 that is conducted to establish production of oil or
20 gas from any geologic interval not currently completed
21 or producing in such existing oil or gas well within
22 the same or a different geologic formation, and
- 23 e. "workover" means any downhole operation in an existing
24 oil or gas well that is designed to sustain, restore

1 or increase the production rate or ultimate recovery
2 in a geologic interval currently completed or
3 producing in the existing oil or gas well. For
4 production enhancement projects having a project
5 beginning date on or after July 1, 1997, and prior to
6 ~~July 1, 2020~~ September 1, 2017, "workover" includes,
7 but is not limited to:

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

1 (12) setting bridge plugs to isolate water production
2 zones, or

3 (13) any combination thereof.

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

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

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

13 a. the production of oil, gas or oil and gas from wells
14 spudded between July 1, 1997, and July 1, 2005, and
15 drilled to a depth of twelve thousand five hundred
16 (12,500) feet or greater and wells spudded between
17 July 1, 2005, and July 1, 2015, and drilled to a depth
18 between twelve thousand five hundred (12,500) feet and
19 fourteen thousand nine hundred ninety-nine (14,999)
20 feet shall be exempt from the gross production tax
21 levied pursuant to subsection B of this section from
22 the date of first sales for a period of twenty-eight
23 (28) months; provided however, that the exemption
24

provided by this subparagraph shall not apply to
production occurring on or after September 1, 2017,

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

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

d. the tax levied pursuant to the provisions of this
section on the production of oil, gas or oil and gas
from wells spudded between July 1, 2011, and July 1,
2015, and drilled to a depth between fifteen thousand
(15,000) feet and seventeen thousand four hundred

ninety-nine (17,499) feet shall be reduced to a rate of four percent (4%) for a period of forty-eight (48) months from the date of first sales. The taxes collected from the production of oil shall be apportioned pursuant to the provisions of paragraph 7 of subsection A B of Section 1004 of this title. The taxes collected from the production of gas shall be apportioned pursuant to the provisions of paragraph 3 of subsection A B of Section 1004 of this title,

e. the tax levied pursuant to the provisions of this section on the production of oil, gas or oil and gas from wells spudded between July 1, 2011, and July 1, 2015, and drilled to a depth of seventeen thousand five hundred (17,500) feet or greater shall be reduced to a rate of four percent (4%) for a period of sixty (60) months from the date of first sales. The taxes collected from the production of oil shall be apportioned pursuant to the provisions of paragraph 7 of subsection A B of Section 1004 of this title. The taxes collected from the production of gas shall be apportioned pursuant to the provisions of paragraph 3 of subsection A B of Section 1004 of this title, and

f. the provisions of subparagraphs b and c of this 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 September 1,

1 2017. For all such wells spudded or reentered, a refund against
2 gross production taxes shall be issued as provided in subsection L
3 of this 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 September 1, 2017. For
12 all such production, a refund against gross production taxes shall
13 be 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 A 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 A 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 November 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 December 1, 2017.

7 M. Claims for refunds filed for the exemptions provided in
8 paragraph 1 of subsection E, and subparagraphs b and c of paragraph
9 2 of subsection H of this section for the production periods
10 beginning on or after July 1, 2009, and ending on or before June 30,
11 2011, shall be paid pursuant to the provisions of this subsection.
12 The claims for refunds referenced herein shall be paid in equal
13 payments of a period of thirty-six (36) months. The first payment
14 shall be made after July 1, 2012, but prior to August 1, 2012. The
15 Tax Commission shall provide, not later than June 30, 2012, to the
16 operator or designated interest owner, a schedule of rebates to be
17 paid out over the thirty-six-month period. The payments required to
18 be made pursuant to the provisions of this subsection shall be
19 subject to a penalty rate of interest equal to nine percent (9%) per
20 annum. The penalty rate of interest shall accrue for each day that
21 a required payment is not made by the end of the month for which the
22 payment is required to be made by the Tax Commission. For purposes
23 of computing the per diem rate of interest pursuant to this
24

1 subsection, a calendar year shall be deemed to consist of three
2 hundred sixty (360) days.

3 N. 1. The Corporation Commission and the Tax Commission shall
4 promulgate joint rules for the qualification for the exemptions
5 provided for in this section and the rules shall contain provisions
6 for verification of any wells from which production may be qualified
7 for the exemptions. The Tax Commission shall adopt rules and
8 regulations which establish guidelines for production of oil or gas
9 after July 1, 2011, which is exempt from tax pursuant to the
10 provisions of paragraph 1 of subsection E and subparagraphs b and c
11 of paragraph 2 of subsection H of this section to remit tax at the
12 reduced rate provided in paragraph 2 of subsection E and
13 subparagraphs d and e of paragraph 2 of subsection H of this section
14 until the end of the qualifying exemption period.

15 2. Any person requesting any exemption shall file an
16 application for qualification for the exemption with the Corporation
17 Commission which, upon finding that the well meets the requirements
18 of this section, shall approve the application for qualification.

19 3. Any person seeking an exemption shall:

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

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

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

5. Upon the expiration of an exemption granted pursuant to this section, the Tax Commission shall collect the gross production tax levied pursuant to this section. If a person who qualifies for the exemption elects to remit his or her own gross production tax during the exemption period, the first purchaser shall not be liable to withhold or remit the tax until the first day of the month following the receipt of written notification from the person who is qualified for such exemption stating that such exemption has expired and directing the first purchaser to resume tax remittance on his or her behalf.

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

1 exemption granted pursuant to subsection E, F, G, H, I or J of this
2 section has expired.

3 2. On or after July 1, 2015, all persons shall only be entitled
4 to either the exemption granted pursuant to subsection D of this
5 section or the exemption granted pursuant to subsection F or G of
6 this section for each oil, gas, or oil and gas well drilled or
7 recompleted in this state. However, any person who qualifies for
8 the exemption granted pursuant to subsections F and G of this
9 section shall not be prohibited from qualification for the exemption
10 granted pursuant to subsection D of this section if the exemption
11 granted pursuant to subsection F or G of this section has expired.
12 Further, the exemption granted pursuant to subsection D of this
13 section shall not apply to any production upon which a tax is paid
14 at a rate of two percent (2%).

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

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

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

1 or shall have failed or refused to make such report, the Tax
2 Commission shall, under the rules prescribed by it, ascertain the
3 correct amount of either, and compute the tax.

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

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

3 T. 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 or copper
8 or of oil or gas. Provided, the exemption shall include the
9 wellbore and non-recoverable down-hole material, including casing,
10 actually used in the disposal of waste materials produced with such
11 oil or gas. It is expressly declared that no ice plants, hospitals,
12 office buildings, garages, residences, gasoline extraction or
13 absorption plants, water systems, fuel systems, rooming houses and
14 other buildings, nor any equipment or material used in connection
15 therewith, shall be exempt from ad valorem tax.

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

21 SECTION 13. AMENDATORY 68 O.S. 2011, Section 1001.3a, as
22 last amended by Section 1, Chapter 383, O.S.L. 2016 (68 O.S. Supp.
23 2016, Section 1001.3a), is amended to read as follows:

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

1 1. Prior to January 1, 2015, "economically at-risk oil or gas
2 lease" means any oil or gas lease operated at a net loss or at a net
3 profit which is less than the total gross production tax remitted
4 for such lease during the previous calendar year;

5 2. On or after January 1, 2015, "economically at-risk oil or
6 gas lease" means any oil or gas lease with one or more producing
7 wells with an average production volume per well of ten (10) barrels
8 of oil or sixty (60) MCF of natural gas per day or less operated at
9 a net loss or at a net profit which is less than the total gross
10 production tax remitted for such lease during the previous calendar
11 year or during the allowable period in calendar year 2017; and

12 3. "Lease" shall be defined as in Section 1001.2 of this title.

13 B. When certified as such pursuant to the provisions of this
14 section, production from an economically at-risk oil or gas lease
15 shall be eligible for an exemption from the gross production tax
16 levied pursuant to subsection B of Section 1001 of this title for
17 production on such lease during the previous calendar year or during
18 the allowable period in calendar year 2017, in the following
19 amounts:

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

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

5 3. If the gross production tax rate levied pursuant to
6 subsection B of Section 1001 of this title was one percent (1%) or
7 two percent (2%), no exemption shall apply.

8 C. For all production exempt from gross production taxes
9 pursuant to this section, a refund of gross production taxes paid
10 for production in the previous calendar year or for production in
11 the allowable period in calendar year 2017, in the amounts specified
12 in subsection B of this section, subject to the limitations
13 specified in subsection D of this section, shall be issued to the
14 well operator or a designee. For production in calendar years
15 ending on or before December 31, 2015, the refund shall not be
16 claimed until after July 1 of the year following the year of
17 production. For production in the calendar year ending December 31,
18 2016, ~~and each year thereafter,~~ the refund shall be claimed before
19 July 1 ~~of the year following the year of production,~~ 2017. For
20 production during the period in calendar year 2017 prior to
21 September 1, 2017, the refund shall be claimed before December 1,
22 2017. The Tax Commission shall not accept or pay any claim for
23 refund filed on or after ~~July 1 of each year following the year of~~
24 ~~production~~ the applicable deadlines provided under this subsection.

1 D. For oil and natural gas produced from qualifying leases in
2 calendar years 2015 ~~through 2020~~ and 2016, the total amount of
3 refunds authorized in this section for each calendar year shall not
4 exceed Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00)
5 for all products combined. For oil and natural gas produced from
6 qualifying leases during the period in calendar year 2017 prior to
7 September 1, 2017, the total amount of refunds authorized in this
8 section for each calendar year shall not exceed Eight Million Three
9 Hundred Thirty-three Thousand Dollars (\$8,333,000.00). If the
10 amount of claims exceeds ~~Twelve Million Five Hundred Thousand~~
11 ~~Dollars (\$12,500,000.00)~~ the maximum amount in an applicable
12 calendar year or period, the Tax Commission shall determine the
13 percentage of the refund which establishes the proportionate share
14 of the refund which may be claimed by any taxpayer so that the
15 maximum amount authorized by this subsection is not exceeded.

16 E. Any operator making application for an economically at-risk
17 oil or gas lease status under the provisions of this section shall
18 submit documentation to the Tax Commission, as determined by the Tax
19 Commission to be appropriate and necessary.

20 F. For the purposes of this section, determination of the
21 economically at-risk oil or gas lease status shall be made by
22 subtracting from the gross revenue of that lease for the previous
23 calendar year or allowable period in calendar year 2017, severance
24 taxes, if any, royalty, operating expenses of the lease to include

1 expendable workover and recompletion costs for the previous calendar
2 year or allowable period in calendar year 2017, and including
3 overhead costs up to the maximum overhead percentage allowed by the
4 Council of Petroleum Accountants Societies (COPAS) guidelines. For
5 the purposes of this calculation, depreciation, depletion or
6 intangible drilling costs shall not be included as lease operating
7 expenses.

8 G. The Tax Commission shall have sole authority to determine if
9 an oil or gas lease qualifies for certification as an economically
10 at-risk oil or gas lease. The Tax Commission shall promulgate rules
11 governing the certification process.

12 H. Except as provided in subsection I of this section, gross
13 production tax exemptions under the provisions of this section shall
14 be limited to production from calendar years 2005, 2006, 2007, 2008,
15 2009, 2010, 2011, 2012 and 2013; provided, no claims for refunds for
16 calendar years provided in this subsection shall be paid on or after
17 December 31, 2015.

18 I. Gross production tax exemptions claimed under the provisions
19 of this section shall be limited to production from calendar years
20 2014 ~~through 2020~~, 2015 and 2016, and the period in calendar year
21 2017 prior to September 1, 2017; provided, no claims for refunds for
22 the calendar years 2014 and 2015 shall be claimed or paid more than
23 eighteen (18) months after the first day of the fiscal year during
24 which the refund is first available. For production in calendar

1 ~~years~~ year 2016 ~~through 2020~~, no claim for refund filed on or after
2 July 1 ~~following the calendar year~~, 2017, shall be claimed or paid.
3 For production during the period in calendar year 2017 prior to
4 September 1, 2017, no claim for refund filed on or after December 1,
5 2017, shall be claimed or paid.

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