

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 56th Legislature (2017)

4   COMMITTEE SUBSTITUTE  
5   FOR  
6   HOUSE BILL NO. 2365

By: Osborn (Leslie) and Wallace  
of the House

and

David and Fields of the  
Senate

11                               COMMITTEE SUBSTITUTE

12       An Act relating to revenue and taxation; stating  
13       purpose; imposing additional tax levy upon  
14       cigarettes; specifying amount of additional levy;  
15       providing for apportionment of revenues to certain  
16       funds; exempting levy from inclusion in determination  
17       of certain amounts; requiring certain collections and  
18       administration of levy; creating the Health Care  
19       Authority Enhancement Fund, the Mental Health and  
20       Substance Abuse Services Enhancement Fund, the Human  
21       Services Enhancement Fund, the University Hospitals  
22       Enhancement Fund, the Oklahoma State University  
23       Medical Authority Enhancement Fund, the Health  
24       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,

1 which relates to exemption from motor fuels tax;  
2 extending exemptions to additional tax levy; amending  
3 68 O.S. 2011, Section 1001, as last amended by  
4 Section 1, Chapter 346, O.S.L. 2014 (68 O.S. Supp.  
5 2016, Section 1001), which relates to gross  
6 production taxes; limiting period where certain  
7 exemptions and rebates may be claimed; clarifying  
8 references; limiting period where claims may be  
9 submitted and accepted; amending 68 O.S. 2011,  
10 Section 1001.3a, as last amended by Section 1,  
11 Chapter 383, O.S.L. 2016 (68 O.S. Supp. 2016, Section  
12 1001.3a), which relates to economically at-risk oil  
13 or gas leases; limiting period where exemption is  
14 applicable; modifying periods whereby claims may be  
15 submitted; prohibiting the acceptance or payment of  
16 claims after certain dates; modifying maximum amount  
17 of refunds allowed for certain period; providing for  
18 codification; and providing for noncodification.  
19  
20  
21  
22  
23  
24

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

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

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

1       B. 1. Except as provided in paragraph 2 of this subsection,  
2 the revenue resulting from the additional tax levied in subsection A  
3 of this section shall be apportioned as provided in paragraphs 3 and  
4 4 of this subsection.

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

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

17           a. fifty percent (50%) to the credit of the Health Care  
18 Authority Enhancement Fund, created in Section 2 of  
19 this act,

20           b. twenty-three percent (23%) to the credit of the Mental  
21 Health and Substance Abuse Services Enhancement Fund,  
22 created in Section 3 of this act,  
23  
24

- 1           c.   thirteen and five-tenths percent (13.5%) to the credit  
2           of the Human Services Enhancement Fund, created in  
3           Section 4 of this act,
- 4           d.   five and four-tenths percent (5.4%) to the credit of  
5           the University Hospitals Enhancement Fund, created in  
6           Section 5 of this act,
- 7           e.   five and four-tenths percent (5.4%) to the credit of  
8           the Oklahoma State University Medical Authority  
9           Enhancement Fund, created in Section 6 of this act,  
10          and
- 11          f.   two and seven-tenths percent (2.7%) to the credit of  
12          the Health Department Enhancement Fund, created in  
13          Section 7 of this act.

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

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

22          1.   The State of Oklahoma Building Bonds of 1961 Sinking Fund  
23   pursuant to the provisions of Sections 57.31 through 57.43 of Title  
24   62 of the Oklahoma Statutes;

1        2. The State of Oklahoma Institutional Building Bonds of 1965  
2 Sinking Fund pursuant to the provisions of Sections 57.61 through  
3 57.73 of Title 62 of the Oklahoma Statutes;

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

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

10       5. The Oklahoma Building Bonds of 1992 Sinking Fund pursuant to  
11 the provisions of Sections 57.300 through 57.313 of Title 62 of the  
12 Oklahoma Statutes.

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

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

21       There is hereby created in the State Treasury a fund for the  
22 Oklahoma Health Care Authority to be designated the "Health Care  
23 Authority Enhancement Fund". The fund shall be a continuing fund,  
24 not subject to fiscal year limitations, and shall consist of monies

1 received pursuant to Section 1 of this act and any monies designated  
2 to the fund by law. All monies accruing to the credit of the fund  
3 are hereby appropriated and may be budgeted and expended by the  
4 Oklahoma Health Care Authority as authorized by the Oklahoma  
5 Legislature. Expenditures from the fund shall be made upon warrants  
6 issued by the State Treasurer against claims filed as prescribed by  
7 law with the Director of the Office of Management and Enterprise  
8 Services for approval and payment.

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

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

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

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

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

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

1 are hereby appropriated and may be budgeted and expended by the  
2 University Hospitals Authority as authorized by the Oklahoma  
3 Legislature. Expenditures from the fund shall be made upon warrants  
4 issued by the State Treasurer against claims filed as prescribed by  
5 law with the Director of the Office of Management and Enterprise  
6 Services for approval and payment.

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

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

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

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

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

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

1 credit of the fund shall be appropriated at the discretion of the  
2 Legislature for the purpose of enhancing the health of Oklahomans.

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

5 The Oklahoma Tax Commission shall not sell cigarette excise tax  
6 stamps to any wholesaler in excess of the amount of the monthly  
7 average amount of such excise tax stamps sold to such wholesaler  
8 during the preceding calendar year prior to the effective date of  
9 Sections 1 and 2 of this act. Provided, the wholesaler may purchase  
10 in excess of the monthly average purchased during the preceding  
11 calendar year upon documentation, to the Tax Commission's  
12 satisfaction, of probable sales greater than the wholesaler's sales  
13 in the preceding calendar year.

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

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

- 21 1. Gasoline used or consumed in this state; and
- 22 2. Diesel fuel used or consumed in this state.

23 B. All remaining revenue from the tax imposed by subsection A  
24 of this section, and penalties and interest thereon collected by the

1 Oklahoma Tax Commission, after the requirements of Section 500.63 of  
2 this title have been fulfilled, shall be deposited in the State  
3 Treasury to the credit of the Rebuilding Oklahoma Access and Driver  
4 Safety Fund created in Section 1521 of Title 69 of the Oklahoma  
5 Statutes.

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

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

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

15 a. exported by a supplier who is licensed in the  
16 destination state, or

17 b. sold by a supplier to a licensed exporter for  
18 immediate export;

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

1        3. Motor fuel exported out of a bulk plant in this state in a  
2 tank wagon if the destination of that vehicle does not exceed  
3 twenty-five (25) miles from the border of this state and as to which  
4 the tax imposed by Section 500.4 of this title has previously been  
5 paid or accrued, subject to gallonage limits and other conditions  
6 established by the Oklahoma Tax Commission;

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

14        5. Motor fuel sold to the United States or any agency or  
15 instrumentality thereof;

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

23        7. Motor fuel used solely and exclusively as fuel to propel  
24 motor vehicles on the public roads and highways of this state, when

1 leased or owned and being operated for the sole benefit of a county,  
2 city, town, a volunteer fire department with a state certification  
3 and rating, rural electric cooperatives, rural water and sewer  
4 districts, rural irrigation districts organized under the Oklahoma  
5 Irrigation District Act, conservancy districts and master  
6 conservancy districts organized under the Conservancy Act of  
7 Oklahoma, rural ambulance service districts, or federally recognized  
8 Indian tribes;

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

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

19       10. Motor fuel sold within an Indian reservation or within  
20 Indian country by a federally recognized Indian tribe to a member of  
21 that tribe and used in motor vehicles owned by that member of the  
22 tribe. This exemption does not apply to sales within an Indian  
23 reservation or within Indian country by a federally recognized  
24

1 Indian tribe to non-Indian consumers or to Indian consumers who are  
2 not members of the tribe selling the motor fuel;

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

5 a. used to operate equipment attached to a motor vehicle,  
6 if the diesel fuel was placed into the fuel supply  
7 tank of a motor vehicle that has a common fuel  
8 reservoir for travel on a highway and for the  
9 operation of equipment, or

10 b. consumed by the vehicle while the vehicle is parked  
11 off the highways of this state;

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

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

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

21 15. Taxable diesel which had been accidentally contaminated by  
22 dye so as to be unsaleable as highway fuel as proved by proper  
23 documentation;

24 16. Dyed diesel fuel;

1        17. Motor fuel sold to the Oklahoma Space Industry Development  
2 Authority or any spaceport user as defined in the Oklahoma Space  
3 Industry Development Act; and

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

8        SECTION 12.        AMENDATORY        68 O.S. 2011, Section 1001, as  
9 last amended by Section 1, Chapter 346, O.S.L. 2014 (68 O.S. Supp.  
10 2016, Section 1001), is amended to read as follows:

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

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

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

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, shall  
16 be taxed at a rate of two percent (2%) commencing with  
17 the month of first production for a period of thirty-  
18 six (36) months. Thereafter, the production shall be  
19 taxed as provided in subparagraphs a and b of this  
20 paragraph.

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

1 D. 1. Except as otherwise provided in this section, for  
2 secondary recovery projects approved or having an initial project  
3 beginning date on or after July 1, 2000, and before ~~July 1, 2020~~  
4 September 1, 2017, any incremental production attributable to the  
5 working interest owners which results from such secondary recovery  
6 projects shall be exempt from the gross production tax levied  
7 pursuant to this section for a period not to exceed five (5) years  
8 from the initial project beginning date or for a period ending upon  
9 the termination of the secondary recovery process, whichever occurs  
10 first; provided however, that the exemption provided by this  
11 paragraph shall not apply to production occurring on or after  
12 September 1, 2017.

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

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

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

9 4. For purposes of this subsection:

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

1 production history of the field, its current status,  
2 and sound reservoir engineering principles, and

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

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

13 6. For new secondary recovery projects and tertiary recovery  
14 projects approved by the Corporation Commission on or after July 1,  
15 1993, and before ~~July 1, 2020~~ September 1, 2017, such approval shall  
16 constitute qualification for an exemption.

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

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

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

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

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

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

1 shall be apportioned pursuant to the provisions of paragraph 8 of  
2 subsection A B of Section 1004 of this title. The taxes collected  
3 from the production of gas shall be apportioned pursuant to the  
4 provisions of paragraph 4 of subsection A B of Section 1004 of this  
5 title.

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

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

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

1 apply to wells for which work to reestablish or enhance production  
2 began on or after July 1, 1994, and for which production is  
3 reestablished prior to ~~July 1, 2020~~ September 1, 2017. For all such  
4 production, a refund against gross production taxes shall be issued  
5 as provided in subsection L of this section.

6 2. As used in this subsection, for wells for which production  
7 is reestablished prior to July 1, 1997, "inactive well" means any  
8 well that has not produced oil, gas or oil and gas for a period of  
9 not less than two (2) years as evidenced by the appropriate forms on  
10 file with the Corporation Commission reflecting the well's status.  
11 As used in this subsection, for wells for which production is  
12 reestablished on or after July 1, 1997, and prior to ~~July 1, 2020~~  
13 September 1, 2017, "inactive well" means any well that has not  
14 produced oil, gas or oil and gas for a period of not less than one  
15 (1) year as evidenced by the appropriate forms on file with the  
16 Corporation Commission reflecting the well's status. Wells which  
17 experience mechanical failure or loss of mechanical integrity, as  
18 defined by the Corporation Commission, including but not limited to,  
19 casing leaks, collapse of casing or loss of equipment in a wellbore,  
20 or any similar event which causes cessation of production, shall  
21 also be considered inactive wells.

22 G. 1. Except as otherwise provided by this section, any  
23 incremental production which results from a production enhancement  
24 project shall be exempt from the gross production tax levied

1 pursuant to subsection B of this section for a period of twenty-  
2 eight (28) months from the date of first sale after project  
3 completion of the production enhancement project; provided however,  
4 that the exemption provided by this paragraph shall not apply to  
5 production occurring on or after September 1, 2017. This exemption  
6 shall take effect July 1, 1994, and shall apply to production  
7 enhancement projects having a project beginning date on or after  
8 July 1, 1994, and prior to ~~July 1, 2020~~ September 1, 2017. For all  
9 such production, a refund against gross production taxes shall be  
10 issued as provided in subsection L of this section.

11 2. As used in this subsection:

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

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

- 18 d. for production enhancement projects having a project  
19 beginning date on or after July 1, 1997, and prior to  
20 ~~July 1, 2020~~ September 1, 2017, "recompletion" means  
21 any downhole operation in an existing oil or gas well  
22 that is conducted to establish production of oil or  
23 gas from any geologic interval not currently completed  
24

1 or producing in such existing oil or gas well within  
2 the same or a different geologic formation, and  
3 e. "workover" means any downhole operation in an existing  
4 oil or gas well that is designed to sustain, restore  
5 or increase the production rate or ultimate recovery  
6 in a geologic interval currently completed or  
7 producing in the existing oil or gas well. For  
8 production enhancement projects having a project  
9 beginning date on or after July 1, 1997, and prior to  
10 ~~July 1, 2020~~ September 1, 2017, "workover" includes,  
11 but is not limited to:  
12 (1) acidizing,  
13 (2) reperforating,  
14 (3) fracture treating,  
15 (4) sand/paraffin/scale removal or other wellbore  
16 cleanouts,  
17 (5) casing repair,  
18 (6) squeeze cementing,  
19 (7) installation of compression on a well or group of  
20 wells or initial installation of artificial lifts  
21 on gas wells, including plunger lifts, rod pumps,  
22 submersible pumps and coiled tubing velocity  
23 strings,  
24

- 1 (8) downsizing existing tubing to reduce well  
2 loading,  
3 (9) downhole commingling,  
4 (10) bacteria treatments,  
5 (11) upgrading the size of pumping unit equipment,  
6 (12) setting bridge plugs to isolate water production  
7 zones, or  
8 (13) any combination thereof.

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

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

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

- 18 a. the production of oil, gas or oil and gas from wells  
19 spudded between July 1, 1997, and July 1, 2005, and  
20 drilled to a depth of twelve thousand five hundred  
21 (12,500) feet or greater and wells spudded between  
22 July 1, 2005, and July 1, 2015, and drilled to a depth  
23 between twelve thousand five hundred (12,500) feet and  
24 fourteen thousand nine hundred ninety-nine (14,999)

1 feet shall be exempt from the gross production tax  
2 levied pursuant to subsection B of this section from  
3 the date of first sales for a period of twenty-eight  
4 (28) months; provided however, that the exemption  
5 provided by this subparagraph shall not apply to  
6 production occurring on or after September 1, 2017,

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

17 c. the production of oil, gas or oil and gas from wells  
18 spudded between July 1, 2002, and July 1, 2011, and  
19 drilled to a depth of seventeen thousand five hundred  
20 (17,500) feet or greater shall be exempt from the  
21 gross production tax levied pursuant to subsection B  
22 of this section from the date of first sales for a  
23 period of sixty (60) months,  
24

1           d.    the tax levied pursuant to the provisions of this  
2                    section on the production of oil, gas or oil and gas  
3                    from wells spudded between July 1, 2011, and July 1,  
4                    2015, and drilled to a depth between fifteen thousand  
5                    (15,000) feet and seventeen thousand four hundred  
6                    ninety-nine (17,499) feet shall be reduced to a rate  
7                    of four percent (4%) for a period of forty-eight (48)  
8                    months from the date of first sales. The taxes  
9                    collected from the production of oil shall be  
10                  apportioned pursuant to the provisions of paragraph 7  
11                  of subsection ~~A~~ B of Section 1004 of this title. The  
12                  taxes collected from the production of gas shall be  
13                  apportioned pursuant to the provisions of paragraph 3  
14                  of subsection ~~A~~ B of Section 1004 of this title,

15           e.    the tax levied pursuant to the provisions of this  
16                    section on the production of oil, gas or oil and gas  
17                    from wells spudded between July 1, 2011, and July 1,  
18                    2015, and drilled to a depth of seventeen thousand  
19                    five hundred (17,500) feet or greater shall be reduced  
20                    to a rate of four percent (4%) for a period of sixty  
21                    (60) months from the date of first sales. The taxes  
22                    collected from the production of oil shall be  
23                    apportioned pursuant to the provisions of paragraph 7  
24                  of subsection ~~A~~ B of Section 1004 of this title. The

1 taxes collected from the production of gas shall be  
2 apportioned pursuant to the provisions of paragraph 3  
3 of subsection ~~A~~ B of Section 1004 of this title, and  
4 f. the provisions of subparagraphs b and c of this  
5 paragraph shall only apply to the production of wells  
6 qualifying for the exemption provided under these  
7 subparagraphs prior to July 1, 2011. The production  
8 of oil, gas or oil and gas on or after July 1, 2011,  
9 and before July 1, 2015, from wells qualifying under  
10 subparagraph b of this paragraph shall be taxed at a  
11 rate of four percent (4%) until the expiration of  
12 forty-eight (48) months from the date of first sales  
13 and the production of oil, gas or oil and gas on or  
14 after July 1, 2011, and before July 1, 2015, from  
15 wells qualifying under subparagraph c of this  
16 paragraph shall be taxed at a rate of four percent  
17 (4%) until the expiration of sixty (60) months from  
18 the date of first sales.

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

22 I. Except as otherwise provided by this section, the production  
23 of oil, gas or oil and gas from wells spudded or reentered between  
24 July 1, 1995, and July 1, 2015, which qualify as a new discovery

1 pursuant to this subsection shall be exempt from the gross  
2 production tax levied pursuant to subsection B of this section from  
3 the date of first sales for a period of twenty-eight (28) months;  
4 provided however, that the exemption provided by this subsection  
5 shall not apply to production occurring on or after September 1,  
6 2017. For all such wells spudded or reentered, a refund against  
7 gross production taxes shall be issued as provided in subsection L  
8 of this section. As used in this subsection, "new discovery" means  
9 production of oil, gas or oil and gas from:

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

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

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

23 4. For wells spudded or reentered on and after July 1, 1997,  
24 and prior to July 1, 2015, a well that discovers natural gas in

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

4 J. Except as otherwise provided by this section, the production  
5 of oil, gas or oil and gas from any well, drilling of which is  
6 commenced after July 1, 2000, and prior to July 1, 2015, located  
7 within the boundaries of a three-dimensional seismic shoot and  
8 drilled based on three-dimensional seismic technology, shall be  
9 exempt from the gross production tax levied pursuant to subsection B  
10 of this section from the date of first sales as follows:

11 1. If the three-dimensional seismic shoot is shot prior to July  
12 1, 2000, for a period of eighteen (18) months; and

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

19 K. 1. The exemptions provided for in subsections F, G, I and J  
20 of this section, the exemption provided for in subparagraph a of  
21 paragraph 2 of subsection H of this section, and the exemptions  
22 provided for in subparagraphs b and c of paragraph 2 of subsection H  
23 of this section for production from wells spudded before July 1,  
24 2005, shall not apply:

1           a.    to the severance or production of oil, upon  
2                   determination by the Tax Commission that the average  
3                   annual index price of Oklahoma oil exceeds Thirty  
4                   Dollars (\$30.00) per barrel calculated on an annual  
5                   calendar year basis, as adjusted for inflation using  
6                   the Consumer Price Index-All Urban Consumers (CPI-U)  
7                   as published by the Bureau of Labor Statistics of the  
8                   U.S. Department of Labor or its successor agency.

9                   Such adjustment shall be based on the most current  
10                  data available for the preceding twelve-month period  
11                  and shall be applied for the fiscal year which begins  
12                  on the July 1 date immediately following the release  
13                  of the CPI-U data by the Bureau of Statistics.

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

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

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

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

10 c. to the severance or production of gas, upon  
11 determination by the Tax Commission that the average  
12 annual index price of Oklahoma gas exceeds Five  
13 Dollars (\$5.00) per thousand cubic feet (mcf)  
14 calculated on an annual calendar year basis as  
15 adjusted for inflation using the Consumer Price Index-  
16 All Urban Consumers (CPI-U) as published by the Bureau  
17 of Labor Statistics of the U.S. Department of Labor or  
18 its successor agency. Such adjustment shall be based  
19 on the most current data available for the preceding  
20 twelve-month period and shall be applied for the  
21 fiscal year which begins on the July 1 date  
22 immediately following the release of the CPI-U data by  
23 the Bureau of Statistics.  
24

- 1           (1) The "average annual index price" will be  
2           calculated by multiplying the Henry Hub 3-Day  
3           Average Close price by the "index price ratio".  
4           The index price ratio is defined as the immediate  
5           preceding three-year historical average ratio of  
6           the actual weighted average wellhead price to the  
7           Henry Hub 3-Day Average Close price published on  
8           the last business day of each month.
- 9           (2) The average annual index price will be updated  
10          annually by the Oklahoma Tax Commission no later  
11          than March 31 of each year.
- 12          (3) If the Henry Hub 3-Day Average Close price is  
13          unavailable for any reason, an industry benchmark  
14          price may be substituted and used for the  
15          calculation of the index price as determined by  
16          the Tax Commission.

17        2. Notwithstanding the exemptions granted pursuant to  
18        subsections F, G, I, J, paragraph 1 of subsection E, and  
19        subparagraph a of paragraph 2 of subsection H of this section, there  
20        shall continue to be levied upon the production of petroleum or  
21        other crude or mineral oil or natural gas or casinghead gas, as  
22        provided in subsection B of this section, from any wells provided  
23        for in subsections F, G, I, J, paragraph 1 of subsection E, and  
24        subparagraph a of paragraph 2 of subsection H of this section, a tax

1 equal to one percent (1%) of the gross value of the production of  
2 petroleum or other crude or mineral oil or natural gas or casinghead  
3 gas. The tax hereby levied shall be apportioned as follows:

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

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

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

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

22       a.   a refund shall not be claimed until after the end of  
23            such fiscal year. As used in this subsection, a  
24            fiscal year shall be deemed to begin on July 1 of one

1           calendar year and shall end on June 30 of the  
2           subsequent calendar year,

3           b.   unless otherwise specified, no claims for refunds  
4           pursuant to the provisions of this subsection shall be  
5           filed more than eighteen (18) months after the first  
6           day of the fiscal year in which the refund is first  
7           available,

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

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

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

1 refund pursuant to the provisions of this subsection  
2 may be used to qualify for another refund pursuant to  
3 the provisions of this subsection.

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

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

15 a. a refund shall not be claimed until after the end of  
16 such fiscal year. As used in this subsection, a  
17 fiscal year shall be deemed to begin on July 1 of one  
18 calendar year and shall end on June 30 of the  
19 subsequent calendar year,

20 b. unless otherwise specified, no claims for refunds  
21 pursuant to the provisions of this subsection shall be  
22 filed more than eighteen (18) months after the first  
23 day of the fiscal year in which the refund is first  
24 available, or November 30, 2017, whichever is sooner,

- 1           c.    no claims for refunds pursuant to the provisions of  
2               this subsection shall be filed by or on behalf of  
3               persons other than the operator or a working interest  
4               owner of record at the time of production,
- 5           d.    no refunds shall be claimed or paid pursuant to the  
6               provisions of this subsection for oil or gas  
7               production upon which a tax is paid at a rate of two  
8               percent (2%), and
- 9           e.    no refund shall be paid unless the person making the  
10              claim for refund demonstrates by affidavit or other  
11              means prescribed by the Tax Commission that an amount  
12              equal to or greater than the amount of the refund has  
13              been invested in the exploration for or production of  
14              crude oil or natural gas in this state by such person  
15              not more than three (3) years prior to the date of the  
16              claim. No amount of investment used to qualify for a  
17              refund pursuant to the provisions of this paragraph  
18              may be used to qualify for another refund pursuant to  
19              the provisions of this paragraph.

20           If there are insufficient funds collected from the production of  
21 oil or gas to satisfy the refunds claimed for oil or gas production  
22 pursuant to subsection F or G of this section, the Tax Commission  
23 shall pay the balance of the refund claims out of the gross  
24

1 production taxes collected from either the production of oil or gas,  
2 as necessary.

3 3. Notwithstanding any other provisions of law, after the  
4 effective date of this act, no refund of gross production taxes  
5 shall be claimed for oil and gas production exempt from gross  
6 production taxes pursuant to subsections E, F, G, H, I and J of this  
7 section for production occurring prior to July 1, 2003.

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

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

1 annum. The penalty rate of interest shall accrue for each day that  
2 a required payment is not made by the end of the month for which the  
3 payment is required to be made by the Tax Commission. For purposes  
4 of computing the per diem rate of interest pursuant to this  
5 subsection, a calendar year shall be deemed to consist of three  
6 hundred sixty (360) days.

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

19 2. Any person requesting any exemption shall file an  
20 application for qualification for the exemption with the Corporation  
21 Commission which, upon finding that the well meets the requirements  
22 of this section, shall approve the application for qualification.

23 3. Any person seeking an exemption shall:  
24

- 1           a.     file an application for the exemption with the Tax  
2                   Commission which, upon determination of qualification  
3                   by the Corporation Commission, shall approve the  
4                   application for an exemption, and  
5           b.     provide a copy of the approved application to the  
6                   remitter of the gross production tax.

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

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

20          O.    1.   Prior to July 1, 2015, persons shall only be entitled to  
21 either the exemption granted pursuant to subsection D of this  
22 section or the exemption granted pursuant to subsection E, F, G, H,  
23 I or J of this section for each oil, gas or oil and gas well drilled  
24 or recompleted in this state. However, any person who qualifies for

1 the exemption granted pursuant to subsection E, F, G, H, I or J of  
2 this section shall not be prohibited from qualification for the  
3 exemption granted pursuant to subsection D of this section, if the  
4 exemption granted pursuant to subsection E, F, G, H, I or J of this  
5 section has expired.

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

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

1 attendance of witnesses, and the production of books, records and  
2 papers of any person.

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

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

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

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

1 any subsequent tax year, shall be assessed and taxed as other  
2 property within the taxing district in which such property is  
3 situated at the time.

4 T. No equipment, material or property shall be exempt from the  
5 payment of ad valorem tax by reason of the payment of the gross  
6 production tax except such equipment, machinery, tools, material or  
7 property as is actually necessary and being used and in use in the  
8 production of asphalt or of ores bearing lead, zinc, jack or copper  
9 or of oil or gas. Provided, the exemption shall include the  
10 wellbore and non-recoverable down-hole material, including casing,  
11 actually used in the disposal of waste materials produced with such  
12 oil or gas. It is expressly declared that no ice plants, hospitals,  
13 office buildings, garages, residences, gasoline extraction or  
14 absorption plants, water systems, fuel systems, rooming houses and  
15 other buildings, nor any equipment or material used in connection  
16 therewith, shall be exempt from ad valorem tax.

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

22 SECTION 13. AMENDATORY 68 O.S. 2011, Section 1001.3a, as  
23 last amended by Section 1, Chapter 383, O.S.L. 2016 (68 O.S. Supp.  
24 2016, Section 1001.3a), is amended to read as follows:

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

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

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

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

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

21       1.   If the gross production tax rate levied pursuant to  
22 subsection B of Section 1001 of this title was seven percent (7%),  
23 then the exemption shall equal six-sevenths (6/7) of the gross  
24 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.

6  
7 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS  
8 AND BUDGET, dated 05/01/2017 - DO PASS, As Amended.  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24