

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3654

By: Roberts (Sean)

4
5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; ordering a
8 legislative referendum pursuant to the Oklahoma
9 Constitution; amending 68 O.S. 2011, Section 1001, as
10 last amended by Section 1, Chapter 5, 1st
11 Extraordinary Session, O.S.L. 2017 (68 O.S. Supp.
12 2017, Section 1001), which relates to gross
13 production tax; limiting period where certain reduced
14 rate is applicable; implementing a new reduced rate
15 for certain production after a certain date;
16 providing ballot title; and directing filing.

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

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

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

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

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

11 2. 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 a tax equal to seven percent
14 (7%) of the gross value of the production of gas.

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

18 a. upon the production of oil a tax equal to seven
19 percent (7%) of the gross value of the production of
20 oil based on a per barrel measurement of forty-two
21 (42) U.S. gallons of two hundred thirty-one (231)
22 cubic inches per gallon, computed at a temperature of
23 sixty (60) degrees Fahrenheit,
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- 1 b. upon the production of gas a tax equal to seven
2 percent (7%) of the gross value of the production of
3 gas, ~~and~~
- 4 c. notwithstanding the levies in subparagraphs a and b of
5 this paragraph, the production of oil, gas, or oil and
6 gas from wells spudded on or after July 1, 2015, but
7 prior to the effective date of this act, shall be
8 taxed at a rate of two percent (2%) commencing with
9 the month of first production for a period of thirty-
10 six (36) months. Thereafter, the production shall be
11 taxed as provided in subparagraphs a and b of this
12 paragraph, and
- 13 d. 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 the effective date
16 of this act shall be taxed at a rate of four percent
17 (4%) commencing with the month of first production for
18 a period of thirty-six (36) months. Thereafter, the
19 production shall be taxed as provided in subparagraphs
20 a and b of this 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, 2017,
4 any incremental production attributable to the working interest
5 owners which results from such secondary recovery projects shall be
6 exempt from the gross production tax levied pursuant to this section
7 for a period not to exceed five (5) years from the initial project
8 beginning date or for a period ending upon the termination of the
9 secondary recovery process, whichever occurs first; provided
10 however, that the exemption provided by this paragraph shall not
11 apply to production occurring on or after July 1, 2017.

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

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

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

8 4. For purposes of this subsection:

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

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, 2017, such approval shall constitute
16 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.
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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; provided however, such production occurring on

1 or after July 1, 2017, for the remainder of such forty-eight-month
2 period shall be subject to a reduced rate of four percent (4%);
3 further provided, any reduced rate provided by this paragraph shall
4 not apply to production occurring during or after the first full
5 month following the effective date of this act. The taxes collected
6 from the production of oil shall be apportioned pursuant to the
7 provisions of paragraph 7 of subsection B of Section 1004 of this
8 title. The taxes collected from the production of gas shall be
9 apportioned pursuant to the provisions of paragraph 3 of subsection
10 B of Section 1004 of this title.

11 4. The production of oil, gas or oil and gas on or after July
12 1, 2011, and prior to July 1, 2015, from these qualifying wells
13 shall be taxed at a rate of one percent (1%) until the expiration of
14 forty-eight (48) months commencing with the month of initial
15 production.

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

22 F. 1. Except as otherwise provided by this section, the
23 severance or production of oil, gas or oil and gas from an inactive
24 well shall be exempt from the gross production tax levied pursuant

1 to subsection B of this section for a period of twenty-eight (28)
2 months from the date upon which production is reestablished;
3 provided however, that the exemption provided by this paragraph
4 shall not apply to production occurring on or after July 1, 2017.
5 This exemption shall take effect July 1, 1994, and shall apply to
6 wells for which work to reestablish or enhance production began on
7 or after July 1, 1994, and for which production is reestablished
8 prior to July 1, 2017. For all such production, a refund against
9 gross production taxes shall be issued as provided in subsection L
10 of this section.

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

1 similar event which causes cessation of production, shall also be
2 considered inactive wells.

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

16 2. As used in this subsection:

17 a. for production enhancement projects having a project
18 beginning date on or after July 1, 1997, and prior to
19 July 1, 2017, "production enhancement project" means
20 any workover as defined in this paragraph,
21 recompletion as defined in this paragraph, reentry of
22 plugged and abandoned wellbores, or addition of a well
23 or field compression,
24

1 b. "incremental production" means the amount of crude
2 oil, natural gas or other hydrocarbons which are
3 produced as a result of the production enhancement
4 project in excess of the base production,

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

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

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

- (1) acidizing,
- (2) reperforating,
- (3) fracture treating,
- (4) sand/paraffin/scale removal or other wellbore cleanouts,
- (5) casing repair,
- (6) squeeze cementing,

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

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

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

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

- a. the production of oil, gas or oil and gas from wells spudded between July 1, 1997, and July 1, 2005, and

1 drilled to a depth of twelve thousand five hundred
2 (12,500) feet or greater and wells spudded between
3 July 1, 2005, and July 1, 2015, and drilled to a depth
4 between twelve thousand five hundred (12,500) feet and
5 fourteen thousand nine hundred ninety-nine (14,999)
6 feet shall be exempt from the gross production tax
7 levied pursuant to subsection B of this section from
8 the date of first sales for a period of twenty-eight
9 (28) months; provided however, that the exemption
10 provided by this subparagraph shall not apply to
11 production occurring on or after July 1, 2017,

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

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

(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; provided, the reduced rate provided by this subparagraph shall not apply to production occurring during or after the first full month following the effective date of this act. The taxes collected from the production of oil shall be apportioned pursuant to the provisions of paragraph 7 of subsection 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 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

1 from wells spudded between July 1, 2011, and July 1,
2 2015, and drilled to a depth of seventeen thousand
3 five hundred (17,500) feet or greater shall be reduced
4 to a rate of four percent (4%) for a period of sixty
5 (60) months from the date of first sales; provided
6 however, the reduced rate provided by this
7 subparagraph shall not apply to production occurring
8 during or after the first full month following the
9 effective date of this act. The taxes collected from
10 the production of oil shall be apportioned pursuant to
11 the provisions of paragraph 7 of subsection B of
12 Section 1004 of this title. The taxes collected from
13 the production of gas shall be apportioned pursuant to
14 the provisions of paragraph 3 of subsection B of
15 Section 1004 of this title, and

- 16 f. the provisions of subparagraphs b and c of this
17 paragraph shall only apply to the production of wells
18 qualifying for the exemption provided under these
19 subparagraphs prior to July 1, 2011. The production
20 of oil, gas or oil and gas on or after July 1, 2011,
21 and before July 1, 2015, from wells qualifying under
22 subparagraph b of this paragraph shall be taxed at a
23 rate of four percent (4%) until the expiration of
24 forty-eight (48) months from the date of first sales

1 and the production of oil, gas or oil and gas on or
2 after July 1, 2011, and before July 1, 2015, from
3 wells qualifying under subparagraph c of this
4 paragraph shall be taxed at a rate of four percent
5 (4%) until the expiration of sixty (60) months from
6 the date of first sales.

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

10 I. Except as otherwise provided by this section, the production
11 of oil, gas or oil and gas from wells spudded or reentered between
12 July 1, 1995, and July 1, 2015, which qualify as a new discovery
13 pursuant to this subsection shall be exempt from the gross
14 production tax levied pursuant to subsection B of this section from
15 the date of first sales for a period of twenty-eight (28) months;
16 provided however, that the exemption provided by this subsection
17 shall not apply to production occurring on or after July 1, 2017.
18 For all such wells spudded or reentered, a refund against gross
19 production taxes shall be issued as provided in subsection L of this
20 section. As used in this subsection, "new discovery" means
21 production of oil, gas or oil and gas from:

22 1. For wells spudded or reentered on or after July 1, 1997, and
23 prior to July 1, 2015, a well that discovers crude oil in paying
24

1 quantities that is more than one (1) mile from the nearest oil well
2 producing from the same producing interval of the same formation;

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

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

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

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

1 1. If the three-dimensional seismic shoot is shot prior to July
2 1, 2000, for a period of eighteen (18) months; and

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

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

15 a. to the severance or production of oil, upon
16 determination by the Tax Commission that the average
17 annual index price of Oklahoma oil exceeds Thirty
18 Dollars (\$30.00) per barrel calculated on an annual
19 calendar year basis, as adjusted for inflation using
20 the Consumer Price Index-All Urban Consumers (CPI-U)
21 as published by the Bureau of Labor Statistics of the
22 U.S. Department of Labor or its successor agency.
23 Such adjustment shall be based on the most current
24 data available for the preceding twelve-month period

1 and shall be applied for the fiscal year which begins
2 on the July 1 date immediately following the release
3 of the CPI-U data by the Bureau of Statistics.

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

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

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

20 b. to the severance or production of oil or gas upon
21 which gross production taxes are paid at a rate of one
22 percent (1%) pursuant to the provisions of subsection
23 B of this section, and
24

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

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

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

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

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

20 a. fifty percent (50%) of the sum collected shall be
21 apportioned to the County Highway Fund as provided in
22 subparagraph b of paragraph 1 of subsection B of
23 Section 1004 of this title, and
24

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

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

8 L. 1. Prior to July 1, 2015, and except as provided in
9 subsection M of this section, for all oil and gas production exempt
10 from gross production taxes pursuant to subsections E, F, G, H, I
11 and J 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,

- 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 one
8 percent (1%) as specified in subsection B of this
9 section, and
- 10 e. no refund shall be paid unless the person making the
11 claim for refund demonstrates by affidavit or other
12 means prescribed by the Tax Commission that an amount
13 equal to or greater than the amount of the refund has
14 been invested in the exploration for or production of
15 crude oil or natural gas in this state by such person
16 not more than three (3) years prior to the date of the
17 claim. No amount of investment used to qualify for a
18 refund pursuant to the provisions of this subsection
19 may be used to qualify for another refund pursuant to
20 the provisions of this subsection.

21 If there are insufficient funds collected from the production of
22 oil to satisfy the refunds claimed for oil production pursuant to
23 subsection E, F, G, H, I or J of this section, the Tax Commission
24

1 shall pay the balance of the refund claims out of the gross
2 production taxes collected from the production of gas.

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

- 9 a. a refund shall not be claimed until after the end of
10 such fiscal year. As used in this subsection, a
11 fiscal year shall be deemed to begin on July 1 of one
12 calendar year and shall end on June 30 of the
13 subsequent calendar year,
- 14 b. unless otherwise specified, no claims for refunds
15 pursuant to the provisions of this subsection shall be
16 filed more than eighteen (18) months after the first
17 day of the fiscal year in which the refund is first
18 available, or September 30, 2017, whichever is sooner,
- 19 c. no claims for refunds pursuant to the provisions of
20 this subsection shall be filed by or on behalf of
21 persons other than the operator or a working interest
22 owner of record at the time of production,
- 23 d. no refunds shall be claimed or paid pursuant to the
24 provisions of this subsection for oil or gas

1 production upon which a tax is paid at a rate of two
2 percent (2%), and

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

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

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

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

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

15 N. 1. The Corporation Commission and the Tax Commission shall
16 promulgate joint rules for the qualification for the exemptions
17 provided for in this section and the rules shall contain provisions
18 for verification of any wells from which production may be qualified
19 for the exemptions. The Tax Commission shall adopt rules and
20 regulations which establish guidelines for production of oil or gas
21 after July 1, 2011, which is exempt from tax pursuant to the
22 provisions of paragraph 1 of subsection E and subparagraphs b and c
23 of paragraph 2 of subsection H of this section to remit tax at the
24 reduced rate provided in paragraph 2 of subsection E and

1 subparagraphs d and e of paragraph 2 of subsection H of this section
2 until the end of the qualifying exemption period.

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

7 3. Any person seeking an exemption shall:

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

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

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

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

1 directing the first purchaser to resume tax remittance on his or her
2 behalf.

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

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

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

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

1 and imprisonment; and each day of such refusal on the part of such
2 person shall constitute a separate and distinct offense.

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

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

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

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

24

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

6 SECTION 3. The Ballot Title for the proposed act shall be in
7 the following form:

8 BALLOT TITLE

9 Legislative Referendum No. _____ State Question No. _____

10 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

11 The measure modifies the gross production tax rate structure on
12 oil and gas produced from wells spudded after the effective date
13 of the measure. The measure institutes a 4% gross production
14 tax rate on production from such wells for the first 36 months
15 of production. The measure provides that wells spudded after
16 the effective date of the measure will not be eligible for the
17 existing 2% gross production tax rate.

18 SHALL THE PROPOSAL BE APPROVED?

19 FOR THE PROPOSAL — YES _____

20 AGAINST THE PROPOSAL — NO _____

21 SECTION 4. The Chief Clerk of the House of Representatives,
22 immediately after the passage of this act, shall prepare and file
23 one copy thereof, including the Ballot Title set forth in SECTION 3
24

1 hereof, with the Secretary of State and one copy with the Attorney
2 General.

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4 56-2-9580 JM 01/18/18

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