

OKLAHOMA HOUSE OF REPRESENTATIVES
COMMITTEE REPORT

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JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

HB2377

By: Osborn (Leslie) et al of the House

David et al of the Senate

Title: Revenue and taxation; Revenue and Taxation Targeted Reform
Act of 2017; effective date.

Coauthored By:

Recommendation: **DO PASS AS AMENDED BY CS**

Amendments:

1. Committee Substitute Attached



Chr.
Representative Leslie Osborn

YEAS: 25

Bennett (J), Biggs, Caldwell, Casey, Cockroft, Dunnington, Echols, Henke, Jordan, Kouplen, Loring, Murphey, O'Donnell, Ortega, Osborn (L), Ownbey, Pfeiffer, Proctor, Roberts (D), Russ, Sanders, Sears, Stone, Virgin, Wallace

NAYS: 1

Calvey

CONSTITUTIONAL PRIVILEGE: 0

**OKLAHOMA STATE SENATE
JOINT
COMMITTEE REPORT**

May 8, 2017

JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

HB 2377

By: Osborn (Leslie) of the House and David and Fields of the Senate

Title: Revenue and taxation; Revenue and Taxation Targeted Reform Act of 2017; effective date.

Recommendation: **DO PASS AS AMENDED**

Aye: Allen, Bergstrom, Bice, Boggs, Brecheen, Brown, Dahm, Daniels, Dossett, Dugger, Floyd, Fry, Griffin, Holt, Jech, Kidd, Leewright, Marlatt, Matthews, McCortney, Newberry, Newhouse, Paxton, Pederson, Pemberton, Pittman, Quinn, Rader, Scott, Sharp, Shaw, Silk, Simpson, Smalley, Sparks, Standridge, Thompson, Yen, Fields, David

Nay: Pugh, Sykes

Pass:

Senator Kim David, Chair

Committee Substitute, motion by Senator DAVID - Adopted (Request No: 7829)

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2377

By: Osborn (Leslie) and Wallace
of the House

and

David and Fields of the
Senate

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 1001, as last amended by Section 1, Chapter 346, O.S.L. 2014 (68 O.S. Supp. 2016, Section 1001), which relates to gross production taxes; limiting period where certain exemptions and rebates may be claimed; clarifying references; limiting period where claims may be submitted and accepted; providing delayed payment schedule for certain refunds; requiring provision of payment schedule to certain entities; amending 68 O.S. 2011, Section 1001.3a, as last amended by Section 1, Chapter 383, O.S.L. 2016 (68 O.S. Supp. 2016, Section 1001.3a), which relates to economically at-risk oil or gas leases; limiting period where exemption is applicable; modifying periods whereby claims may be submitted; prohibiting the acceptance or payment of claims after certain dates; providing delayed payment schedule for certain refunds; requiring provision of payment schedule to certain entities; providing an effective date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1001, as
2 last amended by Section 1, Chapter 346, O.S.L. 2014 (68 O.S. Supp.
3 2016, Section 1001), is amended to read as follows:

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

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

14 2. 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 a tax equal to seven percent
17 (7%) of the gross value of the production of gas.

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

21 a. upon the production of oil a tax equal to seven
22 percent (7%) of the gross value of the production of
23 oil based on a per barrel measurement of forty-two
24 (42) U.S. gallons of two hundred thirty-one (231)

1 cubic inches per gallon, computed at a temperature of
2 sixty (60) degrees Fahrenheit,

3 b. upon the production of gas a tax equal to seven
4 percent (7%) of the gross value of the production of
5 gas, and

6 c. notwithstanding the levies in subparagraphs a and b of
7 this paragraph, the production of oil, gas, or oil and
8 gas from wells spudded on or after July 1, 2015, shall
9 be taxed at a rate of two percent (2%) commencing with
10 the month of first production for a period of thirty-
11 six (36) months. Thereafter, the production shall be
12 taxed as provided in subparagraphs a and b of this
13 paragraph.

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

17 D. 1. Except as otherwise provided in this section, for
18 secondary recovery projects approved or having an initial project
19 beginning date on or after July 1, 2000, and before July 1, ~~2020~~
20 2017, any incremental production attributable to the working
21 interest owners which results from such secondary recovery projects
22 shall be exempt from the gross production tax levied pursuant to
23 this section for a period not to exceed five (5) years from the
24 initial project beginning date or for a period ending upon the

1 termination of the secondary recovery process, whichever occurs
2 first; provided however, that the exemption provided by this
3 paragraph shall not apply to production occurring on or after July
4 1, 2017.

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

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

1 4. For purposes of this subsection:

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

22 5. The Corporation Commission shall promulgate rules for the
23 qualification for this exemption which shall include, but not be
24 limited to, procedures for determining incremental production as

1 defined in subparagraph a of paragraph 4 of this subsection, and the
2 establishment of appropriate payback indicators as approved by the
3 Tax Commission for the determination of project payback for each of
4 the exemptions authorized by this subsection.

5 6. For new secondary recovery projects and tertiary recovery
6 projects approved by the Corporation Commission on or after July 1,
7 1993, and before July 1, ~~2020~~ 2017, such approval shall constitute
8 qualification for an exemption.

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

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

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

19 E. 1. Except as otherwise provided in this section, the
20 production of oil, gas or oil and gas from a horizontally drilled
21 well producing prior to July 1, 2011, which production commenced
22 after July 1, 2002, shall be exempt from the gross production tax
23 levied pursuant to subsection B of this section from the project
24 beginning date until project payback is achieved but not to exceed a

1 period of forty-eight (48) months commencing with the month of
2 initial production from the horizontally drilled well. For purposes
3 of subsection D of this section and this subsection, project payback
4 shall be determined as of the date of the completion of the well and
5 shall not include any expenses beyond the completion date of the
6 well, and subject to the approval of the Tax Commission.

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

10 3. For production commenced on or after July 1, 2011, and prior
11 to July 1, 2015, the tax levied pursuant to the provisions of this
12 section on the production of oil, gas or oil and gas from a
13 horizontally drilled well shall be reduced to a rate of one percent
14 (1%) for a period of forty-eight (48) months from the month of
15 initial production. The taxes collected from the production of oil
16 shall be apportioned pursuant to the provisions of paragraph 8 of
17 subsection ~~A~~ B of Section 1004 of this title. The taxes collected
18 from the production of gas shall be apportioned pursuant to the
19 provisions of paragraph 4 of subsection ~~A~~ B of Section 1004 of this
20 title.

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

1 forty-eight (48) months commencing with the month of initial
2 production.

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

9 F. 1. Except as otherwise provided by this section, the
10 severance or production of oil, gas or oil and gas from an inactive
11 well shall be exempt from the gross production tax levied pursuant
12 to subsection B of this section for a period of twenty-eight (28)
13 months from the date upon which production is reestablished;
14 provided however, that the exemption provided by this paragraph
15 shall not apply to production occurring on or after July 1, 2017.

16 This exemption shall take effect July 1, 1994, and shall apply to
17 wells for which work to reestablish or enhance production began on
18 or after July 1, 1994, and for which production is reestablished
19 prior to July 1, ~~2020~~ 2017. For all such production, a refund
20 against gross production taxes shall be issued as provided in
21 subsection L of this section.

22 2. As used in this subsection, for wells for which production
23 is reestablished prior to July 1, 1997, "inactive well" means any
24 well that has not produced oil, gas or oil and gas for a period of

1 not less than two (2) years as evidenced by the appropriate forms on
2 file with the Corporation Commission reflecting the well's status.
3 As used in this subsection, for wells for which production is
4 reestablished on or after July 1, 1997, and prior to July 1, ~~2020~~
5 2017, "inactive well" means any well that has not produced oil, gas
6 or oil and gas for a period of not less than one (1) year as
7 evidenced by the appropriate forms on file with the Corporation
8 Commission reflecting the well's status. Wells which experience
9 mechanical failure or loss of mechanical integrity, as defined by
10 the Corporation Commission, including but not limited to, casing
11 leaks, collapse of casing or loss of equipment in a wellbore, or any
12 similar event which causes cessation of production, shall also be
13 considered inactive wells.

14 G. 1. Except as otherwise provided by this section, any
15 incremental production which results from a production enhancement
16 project shall be exempt from the gross production tax levied
17 pursuant to subsection B of this section for a period of twenty-
18 eight (28) months from the date of first sale after project
19 completion of the production enhancement project; provided however,
20 that the exemption provided by this paragraph shall not apply to
21 production occurring on or after July 1, 2017. This exemption shall
22 take effect July 1, 1994, and shall apply to production enhancement
23 projects having a project beginning date on or after July 1, 1994,
24 and prior to July 1, ~~2020~~ 2017. For all such production, a refund

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

3 2. As used in this subsection:

- 4 a. for production enhancement projects having a project
5 beginning date on or after July 1, 1997, and prior to
6 July 1, ~~2020~~ 2017, "production enhancement project"
7 means any workover as defined in this paragraph,
8 recompletion as defined in this paragraph, reentry of
9 plugged and abandoned wellbores, or addition of a well
10 or field compression,
- 11 b. "incremental production" means the amount of crude
12 oil, natural gas or other hydrocarbons which are
13 produced as a result of the production enhancement
14 project in excess of the base production,
- 15 c. "base production" means the average monthly amount of
16 production for the twelve-month period immediately
17 prior to the commencement of the project or the
18 average monthly amount of production for the twelve-
19 month period immediately prior to the commencement of
20 the project less the monthly rate of production
21 decline for the project for each month beginning one
22 hundred eighty (180) days prior to the commencement of
23 the project. The monthly rate of production decline
24 shall be equal to the average extrapolated monthly

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

10 d. for production enhancement projects having a project
11 beginning date on or after July 1, 1997, and prior to
12 July 1, ~~2020~~ 2017, "recompletion" means any downhole
13 operation in an existing oil or gas well that is
14 conducted to establish production of oil or gas from
15 any geologic interval not currently completed or
16 producing in such existing oil or gas well within the
17 same or a different geologic formation, and

18 e. "workover" means any downhole operation in an existing
19 oil or gas well that is designed to sustain, restore
20 or increase the production rate or ultimate recovery
21 in a geologic interval currently completed or
22 producing in the existing oil or gas well. For
23 production enhancement projects having a project
24 beginning date on or after July 1, 1997, and prior to

July 1, ~~2020~~ 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

1 downhole equipment such as rods, pumps, tubing,
2 packers, or other mechanical devices.

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

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

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

21 b. the production of oil, gas or oil and gas from wells
22 spudded between July 1, 2002, and July 1, 2005, and
23 drilled to a depth of fifteen thousand (15,000) feet
24 or greater and wells spudded between July 1, 2005, and

1 July 1, 2011, and drilled to a depth between fifteen
2 thousand (15,000) feet and seventeen thousand four
3 hundred ninety-nine (17,499) feet shall be exempt from
4 the gross production tax levied pursuant to subsection
5 B of this section from the date of first sales for a
6 period of forty-eight (48) months,

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

14 d. the tax levied pursuant to the provisions of this
15 section on the production of oil, gas or oil and gas
16 from wells spudded between July 1, 2011, and July 1,
17 2015, and drilled to a depth between fifteen thousand
18 (15,000) feet and seventeen thousand four hundred
19 ninety-nine (17,499) feet shall be reduced to a rate
20 of four percent (4%) for a period of forty-eight (48)
21 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,
4 e. the tax levied pursuant to the provisions of this
5 section on the production of oil, gas or oil and gas
6 from wells spudded between July 1, 2011, and July 1,
7 2015, and drilled to a depth of seventeen thousand
8 five hundred (17,500) feet or greater shall be reduced
9 to a rate of four percent (4%) for a period of sixty
10 (60) months from the date of first sales. The taxes
11 collected from the production of oil shall be
12 apportioned pursuant to the provisions of paragraph 7
13 of subsection ~~A~~ B of Section 1004 of this title. The
14 taxes collected from the production of gas shall be
15 apportioned pursuant to the provisions of paragraph 3
16 of subsection ~~A~~ B of Section 1004 of this title, and
17 f. the provisions of subparagraphs b and c of this
18 paragraph shall only apply to the production of wells
19 qualifying for the exemption provided under these
20 subparagraphs prior to July 1, 2011. The production
21 of oil, gas or oil and gas on or after July 1, 2011,
22 and before July 1, 2015, from wells qualifying under
23 subparagraph b of this paragraph shall be taxed at a
24 rate of four percent (4%) until the expiration of

1 forty-eight (48) months from the date of first sales
2 and the production of oil, gas or oil and gas on or
3 after July 1, 2011, and before July 1, 2015, from
4 wells qualifying under subparagraph c of this
5 paragraph shall be taxed at a rate of four percent
6 (4%) until the expiration of sixty (60) months from
7 the date of first sales.

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

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

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

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

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

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

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

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

J. Except as otherwise provided by this section, the production of oil, gas or oil and gas from any well, drilling of which is commenced after July 1, 2000, and prior to July 1, 2015, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology, shall be exempt from the gross production tax levied pursuant to subsection B 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 A 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 A 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 filed for the exemptions provided in~~
6 ~~paragraph 1 of subsection E, and subparagraphs b and c of paragraph~~
7 ~~2 of subsection H of this section for the production periods~~
8 ~~beginning on or after July 1, 2009, and ending on or before June 30,~~
9 ~~2011 pursuant to the provisions of subsections F, G, I and J and~~
10 ~~subparagraph a of paragraph 2 of subsection H of this section for~~
11 ~~production periods ending on or before June 30, 2017, shall be paid~~
12 ~~pursuant to the provisions of this subsection. The claims for~~
13 ~~refunds referenced herein shall be paid in equal payments of over a~~
14 ~~period of thirty-six (36) months. The first payment shall be made~~
15 ~~after July 1, 2012 2018, but prior to August 1, 2012 2018. The Tax~~
16 ~~Commission shall provide, not later than June 30, 2012 2018, to the~~
17 ~~operator or designated interest owner, a schedule of rebates to be~~
18 ~~paid out over the thirty-six-month period. The payments required to~~
19 ~~be made pursuant to the provisions of this subsection shall be~~
20 ~~subject to a penalty rate of interest equal to nine percent (9%) per~~
21 ~~annum. The penalty rate of interest shall accrue for each day that~~
22 ~~a required payment is not made by the end of the month for which the~~
23 ~~payment is required to be made by the Tax Commission. For purposes~~
24 ~~of computing the per diem rate of interest pursuant to this~~

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

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

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

19 3. Any person seeking an exemption shall:

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

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

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

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

16 O. 1. Prior to July 1, 2015, persons shall only be entitled to
17 either the exemption granted pursuant to subsection D of this
18 section or the exemption granted pursuant to subsection E, F, G, H,
19 I or J of this section for each oil, gas or oil and gas well drilled
20 or recompleted in this state. However, any person who qualifies for
21 the exemption granted pursuant to subsection E, F, G, H, I or J of
22 this section shall not be prohibited from qualification for the
23 exemption granted pursuant to subsection D of this section, if the
24

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

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

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

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

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

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

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

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

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

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

21 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1001.3a, as
22 last amended by Section 1, Chapter 383, O.S.L. 2016 (68 O.S. Supp.
23 2016, Section 1001.3a), is amended to read as follows:

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

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

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

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

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

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

23 2. If the gross production tax rate levied pursuant to
24 subsection B of Section 1001 of this title was four percent (4%),

1 then the exemption shall equal three-fourths (3/4) of the gross
2 production tax levied; and

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

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

20 D. For oil and natural gas produced from qualifying leases in
21 calendar years 2015 ~~through 2020~~ and 2016, the total amount of
22 refunds authorized in this section for each calendar year shall not
23 exceed Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00)
24 for all products combined. If the amount of claims exceeds Twelve

1 Million Five Hundred Thousand Dollars (\$12,500,000.00), the Tax
2 Commission shall determine the percentage of the refund which
3 establishes the proportionate share of the refund which may be
4 claimed by any taxpayer so that the maximum amount authorized by
5 this subsection is not exceeded.

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

10 F. For the purposes of this section, determination of the
11 economically at-risk oil or gas lease status shall be made by
12 subtracting from the gross revenue of that lease for the previous
13 calendar year severance taxes, if any, royalty, operating expenses
14 of the lease to include expendable workover and recompletion costs
15 for the previous calendar year, and including overhead costs up to
16 the maximum overhead percentage allowed by the Council of Petroleum
17 Accountants Societies (COPAS) guidelines. For the purposes of this
18 calculation, depreciation, depletion or intangible drilling costs
19 shall not be included as lease operating expenses.

20 G. The Tax Commission shall have sole authority to determine if
21 an oil or gas lease qualifies for certification as an economically
22 at-risk oil or gas lease. The Tax Commission shall promulgate rules
23 governing the certification process.

1 H. Except as provided in subsection I of this section, gross
2 production tax exemptions under the provisions of this section shall
3 be limited to production from calendar years 2005, 2006, 2007, 2008,
4 2009, 2010, 2011, 2012 and 2013; provided, no claims for refunds for
5 calendar years provided in this subsection shall be paid on or after
6 December 31, 2015.

7 I. Gross production tax exemptions claimed under the provisions
8 of this section shall be limited to production from calendar years
9 2014 ~~through 2020~~, 2015 and 2016; provided, no claims for refunds
10 for the calendar years 2014 and 2015 shall be claimed or paid more
11 than eighteen (18) months after the first day of the fiscal year
12 during which the refund is first available. For production in
13 calendar ~~years~~ year 2016 ~~through 2020~~, no claim for refund filed on
14 or after July 1 ~~following the calendar year~~, 2017, shall be claimed
15 or paid.

16 J. Claims for refunds pursuant to the provisions of this
17 section for production periods ending on or before December 31,
18 2016, shall be paid pursuant to the provisions of this subsection.
19 The claims for refunds referenced herein shall be paid in equal
20 payments over a period of thirty-six (36) months. The first payment
21 shall be made after July 1, 2018, but prior to August 1, 2018. The
22 Tax Commission shall provide, not later than June 30, 2018, to the
23 operator or designated interest owner, a schedule of rebates to be
24 paid out over the thirty-six-month period.

1 SECTION 3. This act shall become effective July 1, 2017.

2 SECTION 4. It being immediately necessary for the preservation
3 of the public peace, health or safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

6
7 56-1-7869 MAH 05/08/17