STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1632 By: Inman

AS INTRODUCED

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; modifying tax schedule for the production of oil and natural gas; requiring certain monthly calculation by Tax Commission; requiring use of certain indices in calculation; allowing use of alternative indices in certain instance; requiring monthly posting of calculations by certain days; and providing an effective date.

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

SECTION 1. AMENDATORY 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), is amended to read as follows:

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

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

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

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

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

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

c. notwithstanding the levies in subparagraphs a and b of this paragraph, the production of oil, gas, or oil and gas from wells spudded on or after July 1, 2015, and prior to January 1, 2018, shall be taxed at a rate of two percent (2%) commencing with the month of first production for a period of thirty-six (36) months. Thereafter, the production shall be taxed as provided in subparagraphs a and b of this paragraph, and

d. notwithstanding the levies in subparagraphs a, b and c of this paragraph, the production of oil from wells spudded on or after January 1, 2018, shall be taxed at a rate of:

(1) two percent (2%) for oil produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per barrel for oil equal to or less than Fifty Dollars ($50.00),

(2) two and five tenths percent (2.5%) for oil produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per barrel for oil greater than Fifty Dollars ($50.00) but equal to or less than Fifty-five Dollars ($55.00),

(3) three percent (3%) for oil produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per barrel

for oil greater than Fifty-five Dollars ($55.00) but equal to or less than Sixty Dollars ($60.00),

(4) four percent (4%) for oil produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per barrel for oil greater than Sixty Dollars ($60.00) but equal to or less than Sixty-five Dollars ($65.00),

(5) five percent (5%) for oil produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per barrel for oil greater than Sixty-five Dollars ($65.00) but equal to or less than Seventy Dollars ($70.00),

(6) six percent (6%) for oil produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per barrel for oil greater than Seventy Dollars ($70.00) but equal to or less than Seventy-five Dollars ($75.00),

(7) seven percent (7%) for oil produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per barrel

for oil greater than Seventy-five Dollars ($75.00),

e. notwithstanding the levies in subparagraphs a, b and c of this paragraph, the production of gas from wells spudded on or after January 1, 2018, shall be taxed at a rate of:

(1) two percent (2%) for gas produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per million Btu for gas equal to or less than Three Dollars ($3.00),

(2) two and five tenths percent (2.5%) for gas produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per million Btu for gas greater than Three Dollars ($3.00) but equal to or less than Three Dollars and fifty cents ($3.50),

(3) three percent (3%) for gas produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per million Btu for gas greater than Three Dollars and fifty

cents ($3.50) but equal to or less than Four Dollars ($4.00),

(4) four percent (4%) for gas produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per million Btu for gas greater than Four Dollars ($4.00) but equal to or less than Four Dollars and fifty cents ($4.50),

(5) five percent (5%) for gas produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per million Btu for gas greater than Four Dollars and fifty cents ($4.50) but equal to or less than Five Dollars ($5.00),

(6) six percent (6%) for gas produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per million Btu for gas greater than Five Dollars ($5.00) but equal to or less than Five Dollars and fifty cents ($5.50),

(7) seven percent (7%) for gas produced during a month following a month where, pursuant to subsection V of this section, the Tax Commission calculated an applicable spot price per million

Btu for gas greater than Five Dollars and fifty cents ($5.50).

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

D. 1. Except as otherwise provided in this section, for secondary recovery projects approved or having an initial project beginning date on or after July 1, 2000, and before July 1, 2020, any incremental production attributable to the working interest owners which results from such secondary recovery projects shall be exempt from the gross production tax levied pursuant to this section for a period not to exceed five (5) years from the initial project beginning date or for a period ending upon the termination of the secondary recovery process, whichever occurs first.

2. Except as otherwise provided in this section, for tertiary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 2020, any incremental production attributable to the working interest owners which results from such tertiary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved, but not to exceed a period of ten (10) years. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and

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

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

4. For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

F. 1. Except as otherwise provided by this section, the severance or production of oil, gas or oil and gas from an inactive well shall be exempt from the gross production tax levied pursuant to subsection B of this section for a period of twenty-eight (28) months from the date upon which production is reestablished. This exemption shall take effect July 1, 1994, and shall apply to wells for which work to reestablish or enhance production began on or after July 1, 1994, and for which production is reestablished prior to July 1, 2020. For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

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

G. 1. Except as otherwise provided by this section, any incremental production which results from a production enhancement project shall be exempt from the gross production tax levied pursuant to subsection B of this section for a period of twenty-eight (28) months from the date of first sale after project completion of the production enhancement project. This exemption shall take effect July 1, 1994, and shall apply to production enhancement projects having a project beginning date on or after July 1, 1994, and prior to July 1, 2020. For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

2. As used in this subsection:

a. for production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2020, "production enhancement project" means any workover as defined in this paragraph, recompletion as defined in this paragraph, reentry of plugged and abandoned wellbores, or addition of a well or field compression,

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

c. "base production" means the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project or the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project less the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the commencement of the project. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the commencement of the project based on the production history of the well. If the well or wells covered in the application had production for less than the full twelve-month period prior to the filing of the application for the production enhancement project, the base production shall be the average monthly production for the months during that period 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, 2020, "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, 2020, "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 drilled to a depth of twelve thousand five hundred (12,500) feet or greater and wells spudded between July 1, 2005, and July 1, 2015, and drilled to a depth between twelve thousand five hundred (12,500) feet and fourteen thousand nine hundred ninety-nine (14,999) feet shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of twenty-eight (28) months,

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

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

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

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

f. the provisions of subparagraphs b and c of this paragraph shall only apply to the production of wells qualifying for the exemption provided under these subparagraphs prior to July 1, 2011. The production of oil, gas or oil and gas on or after July 1, 2011, and before July 1, 2015, from wells qualifying under subparagraph b of this paragraph shall be taxed at a rate of four percent (4%) until the expiration of forty-eight (48) months from the date of first sales and the production of oil, gas or oil and gas on or after July 1, 2011, and before July 1, 2015, from wells qualifying under subparagraph c of this paragraph shall be taxed at a rate of four percent (4%) until the expiration of sixty (60) months from the date of first sales.

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

I. Except as otherwise provided by this section, the production of oil, gas or oil and gas from wells spudded or reentered between July 1, 1995, and July 1, 2015, which qualify as a new discovery pursuant to this subsection 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 twenty-eight (28) months. For all such wells spudded or reentered, a refund against gross production taxes shall be issued as provided in subsection L of this section. As used in this subsection, "new discovery" means production of oil, gas or oil and gas from:

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

2. If the three-dimensional seismic shoot is shot on or after July 1, 2000, for a period of twenty-eight (28) months. For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

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

a. to the severance or production of oil, upon determination by the Tax Commission that the average annual index price of Oklahoma oil exceeds Thirty Dollars ($30.00) per barrel calculated on an annual calendar year basis, as adjusted for inflation using the Consumer Price Index-All Urban Consumers (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor or its successor agency. Such adjustment shall be based on the most current data available for the preceding twelve-month period and shall be applied for the fiscal year which begins on the July 1 date immediately following the release of the CPI-U data by the Bureau of Statistics.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

M. Claims for refunds filed for the exemptions provided in paragraph 1 of subsection E, and subparagraphs b and c of paragraph 2 of subsection H of this section for the production periods beginning on or after July 1, 2009, and ending on or before June 30, 2011, shall be paid pursuant to the provisions of this subsection. The claims for refunds referenced herein shall be paid in equal payments of a period of thirty-six (36) months. The first payment shall be made after July 1, 2012, but prior to August 1, 2012. The Tax Commission shall provide, not later than June 30, 2012, to the operator or designated interest owner, a schedule of rebates to be paid out over the thirty-six-month period. The payments required to be made pursuant to the provisions of this subsection shall be subject to a penalty rate of interest equal to nine percent (9%) per annum. The penalty rate of interest shall accrue for each day that a required payment is not made by the end of the month for which the payment is required to be made by the Tax Commission. For purposes of computing the per diem rate of interest pursuant to this subsection, a calendar year shall be deemed to consist of three hundred sixty (360) days.

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

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

3. Any person seeking an exemption shall:

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

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

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

5. Upon the expiration of an exemption granted pursuant to this section, the Tax Commission shall collect the gross production tax levied pursuant to this section. If a person who qualifies for the

exemption elects to remit his or her own gross production tax during the exemption period, the first purchaser shall not be liable to withhold or remit the tax until the first day of the month following the receipt of written notification from the person who is qualified for such exemption stating that such exemption has expired and directing the first purchaser to resume tax remittance on his or her behalf.

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

2. On or after July 1, 2015, all persons shall only be entitled to either the exemption granted pursuant to subsection D of this section or the exemption granted pursuant to subsection F or G of this section for each oil, gas, or oil and gas well drilled or recompleted in this state. However, any person who qualifies for the exemption granted pursuant to subsections F and G of this section shall not be prohibited from qualification for the exemption

granted pursuant to subsection D of this section if the exemption granted pursuant to subsection F or G of this section has expired. Further, the exemption granted pursuant to subsection D of this section shall not apply to any production upon which a tax is paid at a rate of two percent (2%).

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

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

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

S. The payment of the taxes herein levied shall be in full, and in lieu of all taxes by the state, counties, cities, towns, school districts and other municipalities upon any property rights attached to or inherent in the right to the minerals, upon producing leases for the mining of asphalt and ores bearing lead, zinc, jack or copper, or for oil, or for gas, upon the mineral rights and privileges for the minerals aforesaid belonging or appertaining to land, upon the machinery, appliances and equipment used in and around any well producing oil, or gas, or any mine producing asphalt or any of the mineral ores aforesaid and actually used in the operation of such well or mine. The payment of gross production tax shall also be in lieu of all taxes upon the oil, gas, asphalt or ores bearing minerals hereinbefore mentioned during the tax year in which the same is produced, and upon any investment in any of the leases, rights, privileges, minerals or other property described herein. Any interest in the land, other than that herein enumerated, and oil in storage, asphalt and ores bearing minerals hereinbefore named, mined, produced and on hand at the date as of which property is assessed for general and ad valorem taxation for any subsequent tax year, shall be assessed and taxed as other property within the taxing district in which such property is situated at the time.

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

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

<u>V. 1. Beginning December 2017, and continuing each month thereafter, on the fifth day of each month the Executive Director of the Tax Commission shall calculate:</u>

<u>a. the applicable spot price per barrel for oil. For purposes of making such calculation the Commission shall determine the trailing two-month average per-barrel spot price for crude oil, utilizing the WTI-Cushing, Oklahoma Index as it is published by the U.S. Energy Information Administration,</u>

<u>b. the applicable spot price per million Btu for gas. For purposes of making such calculation the Commission shall determine the trailing two-month average per million Btu spot price for natural gas, utilizing the Henry Hub Natural Gas Spot Price Index as it is</u>

published by the U.S. Energy Information Administration, and

c. in the event the U.S. Energy Information Administration discontinues publication of applicable price indices referenced in subparagraphs a and b of this paragraph, the Commission shall identify and utilize comparable indices in order to make the calculations required by this paragraph.

2. The Tax Commission shall post on the Oklahoma Tax Commission website no later than the tenth day of each month the results of the calculation required by paragraph 1 of this subsection.

SECTION 2. This act shall become effective November 1, 2017.

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