Mr./Madame President:

I move to amend House Bill No. 1033, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Schulz

Schulz-JCR-FS-Req#38XX
3/12/2018 10:32 PM
STATE OF OKLAHOMA

2nd Extraordinary Session of the 56th Legislature (2017)

FLOOR SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1033

By: Wallace and Casey of the House

and

David and Fields of the House

FLOOR SUBSTITUTE

An Act relating to revenue and taxation; stating purpose pursuant to the authority provided in Section 57 of Article V of the Oklahoma Constitution; amending 68 O.S. 2011, Section 1354, as amended by Section 2, Chapter 323, O.S.L. 2012 (68 O.S. Supp. 2017, Section 1354), which relates to sales tax; modifying amount of tax levy; amending 68 O.S. 2011, Section 1402, as amended by Section 4, Chapter 356, O.S.L. 2017 (68 O.S. Supp. 2017, Section 1402), which relates to use tax; modifying amount of tax levy; amending 68 O.S. 2011, Section 1001, as last amended by Section 1, Chapter 5, 1st Extraordinary Session O.S.L. 2017 (68 O.S. Supp. 2017, Section 1001), which relates to gross production tax; limiting time period during which certain rate is applicable; providing for rate applicable to specified production during certain time period; and providing for noncodification.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

The provisions of this measure are enacted pursuant to the
authority provided in Section 57 of Article V of the Oklahoma
Constitution for a general revenue bill.

SECTION 2. AMENDATORY 68 O.S. 2011, Section 1354, as
amended by Section 2, Chapter 323, O.S.L. 2012 (68 O.S. Supp. 2017,
Section 1354), is amended to read as follows:

Section 1354. A. There is hereby levied upon all sales, not
otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of
four and one-half percent (4.5%) five and one-half percent (5.5%) of
the gross receipts or gross proceeds of each sale of the following:

1. Tangible personal property, except newspapers and
periodicals;

2. Natural or artificial gas, electricity, ice, steam, or any
other utility or public service, except water, sewage and refuse.

Provided, the rate of four and one-half percent (4.5%) five and one-
half percent (5.5%) shall not apply to sales subject to the
provisions of paragraph 6 of Section 1357 of this title;

3. Transportation for hire to persons by common carriers,
including railroads both steam and electric, motor transportation
companies, pullman car companies, airlines, and other means of
transportation for hire, excluding:
a. transportation services provided by a tourism service broker which are incidental to the rendition of tourism brokerage services by such broker to a customer regardless of whether or not such transportation services are actually owned and operated by the tourism service broker. For purposes of this subsection, "tourism service broker" means any person, firm, association or corporation or any employee of such person, firm, association or corporation which, for a fee, commission or other valuable consideration, arranges or offers to arrange trips, tours or other vacation or recreational travel plans for a customer, and

b. transportation services provided by a funeral establishment to family members and other persons for purposes of conducting a funeral in this state;

4. Intrastate, interstate and international telecommunications services sourced to this state in accordance with Section 1354.30 of this title and ancillary services. Provided:

a. the term "telecommunications services" shall mean the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term "telecommunications services" includes such
transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such service is referred to as voice-over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. "Telecommunications services" do not include:

1. data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information,
2. installation or maintenance of wiring or equipment on a customer's premises,
3. tangible personal property,
4. advertising, including but not limited to directory advertising,
5. billing and collection services provided to third parties,
6. Internet access services,
7. radio and television audio and video programming services, regardless of the medium, including the
furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

(8) ancillary services, or

(9) digital products delivered electronically, including but not limited to, software, music, video, reading materials or ring tones,

b. the term "interstate" means a "telecommunications service" that originates in one United States state, or a United States territory or possession, and terminates in a different United States state or a United States territory or possession,

c. the term "intrastate" means a telecommunications service that originates in one United States state or a United States territory or possession, and terminates in the same United States state or a United States territory or possession,

d. the term "ancillary services" means services that are associated with or incidental to the provision of
telecommunications services, including but not limited to "detailed telecommunications billing", "directory assistance", "vertical service", and "voice mail services",

e. in the case of a bundled transaction that includes telecommunication service, ancillary service, internet access or audio or video programming service:

(1) if the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products may be subject to tax unless the provider can identify by reasonable and verifiable standards such portion for its books and records kept in the regular course of business for other purposes, including, but not limited to, nontax purposes, and

(2) the provisions of this paragraph shall apply unless otherwise provided by federal law, and

f. a sale of prepaid calling service or prepaid wireless calling service shall be taxable at the time of sale to the customer;

5. Telecommunications nonrecurring charges, which means an amount billed for the installation, connection, change or initiation of telecommunications services received by a customer;
6. Printing or printed matter of all types, kinds, or character and, except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects, any service of printing or overprinting, including the copying of information by mimeograph, multigraph, or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information from magnetic tapes or other media furnished by customers;

7. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camp;

8. Service of furnishing storage or parking privileges by auto hotels or parking lots;

9. Computer hardware, software, coding sheets, cards, magnetic tapes or other media on which prewritten programs have been coded, punched, or otherwise recorded, including the gross receipts from the licensing of software programs;

10. Foods, confections, and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

11. Advertising of all kinds, types, and characters, including any and all devices used for advertising purposes except those
specifically exempt pursuant to the provisions of Section 1357 of this title;

12. Dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

13. Tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities, including free or complimentary admissions which have a value equivalent to the charge that would have otherwise been made;

14. Charges made for the privilege of entering or engaging in any kind of activity, such as tennis, racquetball, or handball, when spectators are charged no admission fee;

15. Charges made for the privilege of using items for amusement, sports, entertainment, or recreational activity, such as trampolines or golf carts;

16. The rental of equipment for amusement, sports, entertainment, or other recreational activities, such as bowling shoes, skates, golf carts, or other sports or athletic equipment;

17. The gross receipts from sales from any vending machine without any deduction for rental to locate the vending machine on
the premises of a person who is not the owner or any other
deductions therefrom;

18. The gross receipts or gross proceeds from the rental or
lease of tangible personal property, including rental or lease of
personal property when the rental or lease agreement requires the
vendor to launder, clean, repair, or otherwise service the rented or
leased property on a regular basis, without any deduction for the
cost of the service rendered. If the rental or lease charge is
based on the retail value of the property at the time of making the
rental or lease agreement and the expected life of the property, and
the rental or lease charge is separately stated from the service
cost in the statement, bill, or invoice delivered to the consumer,
the cost of services rendered shall be deducted from the gross
receipts or gross proceeds;

19. Flowers, plants, shrubs, trees, and other floral items,
whether or not produced by the vendor, sold by persons engaged in
florist or nursery business in this state, including all orders
taken by an Oklahoma business for delivery in another state. All
orders taken outside this state for delivery within this state shall
not be subject to the taxes levied in this section;

20. Tangible personal property sold to persons, peddlers,
solicitors, or other salesmen, for resale when there is likelihood
that this state will lose tax revenue due to the difficulty of
enforcing the provisions of the Oklahoma Sales Tax Code because of:
a. the operation of the business,

b. the nature of the business,

c. the turnover of independent contractors,

d. the lack of place of business in which to display a permit or keep records,

e. lack of adequate records,

f. the fact that the persons are minors or transients,

g. the fact that the persons are engaged in service businesses, or

h. any other reasonable reason;

21. Any taxable services and tangible personal property including materials, supplies, and equipment sold to contractors for the purpose of developing and improving real estate even though said real estate is intended for resale as real property, hereby declared to be sales to consumers or users, however, taxable materials, supplies and equipment sold to contractors as provided by this subsection which are purchased as a result of and subsequent to the date of a contract entered into either prior to the effective date of any law increasing the rate of sales tax imposed by this article, or entered into prior to the effective date of an ordinance or other measure increasing the sales tax levy of a political subdivision shall be subject to the rate of sales tax applicable, as of the date such contract was entered into, to sales of such materials, supplies and equipment if such purchases are required in order to complete
the contract. Such rate shall be applicable to purchases made pursuant to the contract or any change order under the contract until the contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order or until two (2) years from the date on which the contract was entered into whichever occurs first. The increased sales tax rate shall be applicable to all such purchases at the time of sale and the contractor shall file a claim for refund before the expiration of three (3) years after the date of contract completion or five (5) years after the contract was entered into, whichever occurs earlier. However, the Oklahoma Tax Commission shall prescribe rules and regulations and shall provide procedures for the refund to a contractor of sales taxes collected on purchases eligible for the lower sales tax rate authorized by this subsection;

22. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, hereby declared to be sales to consumers or users; and

23. Canoes and paddleboats as defined in Section 4002 of Title 63 of the Oklahoma Statutes.

B. All solicitations or advertisements in print or electronic media by Group Three vendors, for the sale of tangible property to be delivered within this state, shall contain a notice that the sale
is subject to Oklahoma sales tax, unless the sale is exempt from such taxation.

SECTION 3. AMENDATORY 68 O.S. 2011, Section 1402, as amended by Section 4, Chapter 356, O.S.L. 2017 (68 O.S. Supp. 2017, Section 1402), is amended to read as follows:

Section 1402. There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this state, tangible personal property purchased or brought into this state, an excise tax on the storage, use, or other consumption in this state of such property at the rate of four and one-half percent (4.5%) five and one-half percent (5.5%) of the purchase price of such property. Said tax shall not be levied on tangible personal property intended solely for use in other states, but which is stored in Oklahoma pending shipment to such other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service. The tax in such instances shall be paid at the time of importation or storage of the property within the state and a subsequent credit shall be taken by the taxpayer for the amount so paid upon removal of the property from the state. Such tax is hereby levied and shall be paid in an amount equal to four and one-half percent (4.5%) five and one-half percent (5.5%) of the purchase price of such tangible personal property. Notwithstanding the provisions of this section, the tax associated with a motor vehicle shall be paid by the
consumer in the same manner and time as the motor vehicle excise tax for said motor vehicle is due.

SECTION 4. AMENDATORY 68 O.S. 2011, Section 1001, as last amended by Section 1, Chapter 5, 1st Extraordinary Session O.S.L. 2017 (68 O.S. Supp. 2017, Section 1001), is amended to read as follows:

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 the effective date, 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; provided however, such production occurring on or after the effective date of this act for the remainder of such thirty-six-month period shall be taxed at a rate of four percent (4%). Thereafter, the production shall be taxed as provided in subparagraphs a and b of this paragraph, and

d. 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 the effective date
of this act shall be taxed at a rate of four percent (4%) 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.

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, 2017, 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; provided however, that the exemption provided by this paragraph shall not apply to production occurring on or after July 1, 2017.

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

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; provided however, that the exemption provided by this paragraph shall not apply to production occurring on or after July 1, 2017. 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, 2017. 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, 2017, "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; provided however, that the exemption provided by this paragraph shall not apply to production occurring on or after July 1, 2017. 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, 2017. 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, 2017, "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, 2017, "recompletion" means any downhole operation in an existing oil or gas well that is conducted to establish production of oil or gas from any geologic interval not currently completed or producing in such existing oil or gas well within the same or a different geologic formation, and

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

(2) reperforating,

(3) fracture treating,

(4) sand/paraffin/scale removal or other wellbore cleanouts,

(5) casing repair,

(6) squeeze cementing,

(7) installation of compression on a well or group of wells or initial installation of artificial lifts on gas wells, including plunger lifts, rod pumps, submersible pumps and coiled tubing velocity strings,

(8) downsizing existing tubing to reduce well loading,

(9) downhole commingling,

(10) bacteria treatments,

(11) upgrading the size of pumping unit equipment,

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

(13) any combination thereof.

"Workover" shall not mean the routine maintenance, routine repair, or like for like replacement of downhole equipment such as rods, pumps, tubing, packers, or other mechanical devices.
H. 1. For purposes of this subsection, "depth" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing.

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

   a. the production of oil, gas or oil and gas from wells spudded between July 1, 1997, and July 1, 2005, and 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; provided however, that the exemption provided by this subparagraph shall not apply to production occurring on or after July 1, 2017,

   b. the production of oil, gas or oil and gas from wells spudded between July 1, 2002, and July 1, 2005, and drilled to a depth of fifteen thousand (15,000) feet or greater and wells spudded between July 1, 2005, and July 1, 2011, and drilled to a depth between fifteen thousand (15,000) feet and seventeen thousand four
hundred ninety-nine (17,499) feet shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of forty-eight (48) months,
c. the production of oil, gas or oil and gas from wells spudded between July 1, 2002, and July 1, 2011, and drilled to a depth of seventeen thousand five hundred (17,500) feet or greater shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of sixty (60) months,
d. the tax levied pursuant to the provisions of this section on the production of oil, gas or oil and gas from wells spudded between July 1, 2011, and July 1, 2015, and drilled to a depth between fifteen thousand (15,000) feet and seventeen thousand four hundred ninety-nine (17,499) feet shall be reduced to a rate of four percent (4%) for a period of forty-eight (48) months from the date of first sales; provided, the reduced rate provided by this subparagraph shall not apply to production occurring during or after the first full month following the effective date of this act. The taxes collected from the production of oil shall be apportioned pursuant to the provisions of
paragraph 7 of subsection B of Section 1004 of this title. The taxes collected from the production of gas shall be apportioned pursuant to the provisions of paragraph 3 of subsection B of Section 1004 of this title,
e. the tax levied pursuant to the provisions of this section on the production of oil, gas or oil and gas 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; provided however, the reduced rate provided by this subparagraph shall not apply to production occurring during or after the first full month following the effective date of this act. The taxes collected from the production of oil shall be apportioned pursuant to the provisions of paragraph 7 of subsection B of Section 1004 of this title. The taxes collected from the production of gas shall be apportioned pursuant to the provisions of paragraph 3 of subsection B of Section 1004 of this title, 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; provided however, that the exemption provided by this subsection shall not apply to production occurring on or after July 1, 2017.
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; provided
   however, that the exemption provided by this subsection shall not
   apply to production occurring on or after July 1, 2017. 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 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 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, or September 30, 2017, whichever is sooner,

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.

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

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

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.