

05/19/2022 09:55:39 AM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB3568

By: McBride of the House and Allen of the Senate

Title: Revenue and taxation; gross production tax.


















Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HB3568 CCR (B)
HOUSE CONFEREES

Baker, Rhonda		Bennett, Forrest	<hr/>
Blancett, Meloyde	<hr/>	Boatman, Jeff	
Dills, Sheila	<hr/>	Echols, Jon	
Fetgatter, Scott		Ford, Ross	
Goodwin, Regina	<hr/>	Hill, Brian	
Kannady, Chris	<hr/>	Lawson, Mark	
Lepak, Mark		Martinez, Ryan	
McBride, Mark		McDugle, Kevin	
McEntire, Marcus	<hr/>	Miller, Nicole	<hr/>
Mize, Garry		Munson, Cyndi	<hr/>
Newton, Carl		Nichols, Monroe	<hr/>
O'Donnell, Terry		Osburn, Mike	
Pfeiffer, John		Roberts, Dustin	<hr/>
Roberts, Sean	<hr/>	Russ, Todd	<hr/>
Sterling, Danny		Strom, Judd	<hr/>
Virgin, Emily	<hr/>	Walke, Collin	<hr/>

Wallace, Kevin

Handwritten signature of Kevin Wallace in cursive script.

West, Josh

Handwritten signature of Josh West in cursive script.

West, Tammy

Handwritten signature of Tammy West in cursive script.

HB3568 CCR B

SENATE CONFEREES: GCCA (must be signed out at a Senate GCCA meeting)

Brooks

Matthews

Dossett

[Signature]

Montgomery

[Signature]

Dugger

[Signature]

Newhouse

[Signature]

Floyd

Pederson

[Signature]

Hall

[Signature]

Pemberton

[Signature]

Haste

[Signature]

Rader

[Signature]

Howard

[Signature]

Rosino

Jech

[Signature]

Simpson

[Signature]

Kidd

[Signature]

Weaver

[Signature]

Kirt

Thompson

[Signature]

House Action _____ Date _____ Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE FOR
5 ENGROSSED HOUSE
6 BILL NO. 3568

By: McBride and Fetgatter of
the House

and

Allen of the Senate

7
8
9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; creating
12 the Oklahoma Emission Reduction Technology
13 Incentive Act; stating legislative findings;
14 defining term; creating the Oklahoma Emission
15 Reduction Technology Rebate Program; providing
16 rebate for certain documented expenditures;
17 requiring administration by the Department of
18 Environmental Quality and the Oklahoma Tax
19 Commission; providing for eligibility; requiring
20 the Department to approve or disapprove claims;
21 limiting amount of rebate payments; prescribing
22 procedures if certain limit or balance is
23 exceeded; creating the Oklahoma Emission
24 Reduction Technology Incentive Revolving Fund;
stating sources of fund; providing for
expenditures from fund; providing for transfer of
funds under certain circumstance; requiring the
promulgation of rules; providing sunset of rebate
program; amending 68 O.S. 2021, Section 1001,
which relates to gross production tax; creating
exemption for certain secondary recovery
projects; limiting exemption under certain
circumstances; defining terms; providing
procedure to qualify for exemption; creating
exemption for certain projects; allowing a refund
for certain projects; prescribing refund
procedure; limiting eligibility for exemptions;

1 amending 68 O.S. 2021, Section 1001.3a, which
2 relates to exemptions from gross production tax;
3 modifying definitions; modifying exemption
4 amounts; decreasing total amount of refunds;
5 clarifying refund procedure; providing for
6 codification; providing an effective date; and
7 declaring an emergency.

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

9 SECTION 1. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 55006 of Title 68, unless there
11 is created a duplication in numbering, reads as follows:

12 Sections 1 through 7 of this act shall be known and may be cited
13 as the "Oklahoma Emission Reduction Technology Incentive Act".

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 55007 of Title 68, unless there
16 is created a duplication in numbering, reads as follows:

17 The Legislature hereby finds that the reduction of emissions
18 from upstream and midstream oil and gas production, exploration,
19 completions, gatherings, storage, processing, and transmission
20 activities serves the interests of the citizens of Oklahoma and such
21 emission reduction activities with new and innovative technologies
22 should be encouraged and incentivized.

23 SECTION 3. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 55008 of Title 68, unless there
 is created a duplication in numbering, reads as follows:

1 As used in the Oklahoma Emission Reduction Technology Incentive
2 Act, "Emission Reduction Project" means and includes, but is not
3 limited to:

4 1. Existing and new technology projects that reduce emissions
5 of regulated pollutants from stationary sources; and

6 2. Existing and new technology projects that reduce emissions
7 from upstream and midstream oil and gas exploration, production,
8 completions, gathering, storage, processing, and transmission
9 activities through the following:

10 a. the replacement, repair, or retrofit of stationary
11 compressor engines,

12 b. the installation of systems and/or equipment to reduce
13 or eliminate the loss of gas, venting of gas, flaring
14 of gas, or burning of gas using other combustion
15 control devices, or

16 c. the installation of emissions monitoring equipment or
17 devices.

18 SECTION 4. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 55009 of Title 68, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Upon the effective date of this act, there is hereby created
22 the Oklahoma Emission Reduction Technology Rebate Program. There is
23 hereby created a rebate in the amount of up to twenty-five percent
24 (25%) of documented expenditures made in this state directly

1 attributable to the implementation of a qualified Emission Reduction
2 Project.

3 B. The rebate program shall be administered by the Department
4 of Environmental Quality and the Oklahoma Tax Commission, as
5 provided in the Oklahoma Emission Reduction Technology Incentive
6 Act.

7 C. To be eligible for a rebate payment:

8 1. The applicant responsible for the implementation of a
9 qualified Emission Reduction Project in this state shall submit
10 documentation to the Department of Environmental Quality no later
11 than six (6) months after the end of the fiscal year in which the
12 expenditures were made stating the amount of expenditures made in
13 this state directly related to the implementation of the qualified
14 Emission Reduction Project;

15 2. The applicant has filed all Oklahoma tax returns and tax
16 documents which are required by the laws of this state; and

17 3. The applicant shall provide evidence of a certificate of
18 general liability insurance with a minimum coverage of One Million
19 Dollars (\$1,000,000.00) and a workers' compensation policy pursuant
20 to the laws of this state which shall include coverage of employer's
21 liability.

22 D. The Department of Environmental Quality shall approve or
23 disapprove all claims for a rebate payment and shall notify the
24 Oklahoma Tax Commission. The Tax Commission shall, upon

1 notification of approval from the Department of Environmental
2 Quality, issue a rebate payment for all approved claims from funds
3 in the Oklahoma Emission Reduction Technology Incentive Revolving
4 Fund created in Section 5 of this act. Rebate payments from the
5 fund shall not exceed Ten Million Dollars (\$10,000,000.00) in any
6 fiscal year. If the amount of approved claims exceeds the amount
7 specified in this subsection in a fiscal year, payments shall be
8 made proportionately to all of the parties making a claim prior to
9 the deadline which is approved by the Department of Environmental
10 Quality with the amount to be paid to each approved party being
11 product of the individual claim amount times the percentage
12 resulting from Ten Million Dollars (\$10,000,000.00) divided by the
13 total amount of approved claims for the period. If an approved
14 claim is not paid in whole or in part, the unpaid claim or unpaid
15 portion shall be paid in the following fiscal years in the order in
16 which the claims are approved by the Department.

17 E. Approved claims for rebate that exceed the balance of the
18 Oklahoma Emission Reduction Technology Incentive Revolving Fund
19 created in Section 5 of this act may be paid in part and the unpaid
20 portion shall be paid upon the fund reaching a sufficient balance in
21 the order in which the claims are approved by the Department.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 55010 of Title 68, unless there
24 is created a duplication in numbering, reads as follows:

1 There is hereby created in the State Treasury a revolving fund
2 for the Oklahoma Tax Commission to be designated the "Oklahoma
3 Emission Reduction Technology Incentive Revolving Fund". The fund
4 shall be a continuing fund, not subject to fiscal year limitations,
5 and shall consist of all monies received by the Tax Commission from
6 any public or private donations, contributions, and gifts received
7 for the benefit of the fund and any amounts appropriated by the
8 Oklahoma Legislature designated for deposit in the fund. All monies
9 accruing to the credit of the fund are hereby appropriated and may
10 be budgeted and expended by the Tax Commission for the purpose of
11 paying rebates as provided in this act. Expenditures from the fund
12 shall be made upon warrants issued by the State Treasurer against
13 claims filed as prescribed by law with the Director of the Office of
14 Management and Enterprise Services for approval and payment. Any
15 remaining unencumbered balance upon the cessation of the Oklahoma
16 Emission Reduction Technology Rebate Program, as provided in Section
17 7 of this act, shall be transferred to the General Revenue Fund of
18 the State of Oklahoma.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 55011 of Title 68, unless there
21 is created a duplication in numbering, reads as follows:

22 The Department of Environmental Quality and the Oklahoma Tax
23 Commission shall promulgate rules necessary to implement the
24 provisions of this act.

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 55012 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 The Oklahoma Emission Reduction Technology Rebate Program shall
5 cease on July 1, 2027.

6 SECTION 8. AMENDATORY 68 O.S. 2021, Section 1001, is
7 amended to read as follows:

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

11 B. On or after the effective date of this act and except as
12 provided by paragraph 4 of this subsection, there shall be levied a
13 tax on the gross value of the production of oil and gas as follows:

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

19 2. Upon the production of gas a tax equal to seven percent (7%)
20 of the gross value of the production of gas;

21 3. Notwithstanding the levies in paragraphs 1 and 2 of this
22 subsection, the production of oil, gas, or oil and gas from wells
23 spudded prior to the effective date of this act, and on or after the
24 effective date of this act, shall be taxed at a rate of five percent

1 (5%) commencing with the month of first production for a period of
2 thirty-six (36) months. Thereafter, the production shall be taxed
3 as provided in paragraphs 1 and 2 of this subsection; and

4 4. If the provisions of Article XIII-C of the Oklahoma
5 Constitution are approved by the people pursuant to adoption of
6 State Question No. 795, the rate of gross production tax imposed by
7 paragraph 3 of this subsection shall be reduced to two percent (2%)
8 for the first thirty-six (36) months of production and thereafter
9 the rate of taxation shall be seven percent (7%).

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

13 D. 1. Except as otherwise provided in this section, for
14 secondary and tertiary recovery projects approved or having an
15 initial project start date on or after July 1, 2022, all production
16 which results from such secondary and tertiary recovery projects
17 shall be exempt from the gross production tax levied pursuant to
18 this section for a period not to exceed five (5) years from the
19 initial project start date or for a period ending upon the
20 termination of the secondary and tertiary recovery process,
21 whichever occurs first.

22 2. For purposes of this subsection, "project start date" means
23 the date on which the injection of liquids, gases, or other matter
24 begins on an enhanced recovery project.

1 3. For new secondary and tertiary recovery projects approved by
2 the Oklahoma Corporation Commission on or after July 1, 2022, such
3 approval shall constitute qualification for an exemption.

4 4. For all production exempted pursuant to this subsection, a
5 refund against gross production taxes shall be issued as provided in
6 subsection F of this section.

7 E. Except as otherwise provided by this section, the production
8 of oil, gas, or oil and gas from wells drilled but not completed as
9 of July 1, 2021, which are completed with the use of recycled water
10 on or after July 1, 2022, shall earn an exemption from the gross
11 production tax levied from the date of first sales for a period of
12 twenty-four (24) months. The exemption provided in this subsection
13 shall be proportional to the percentage of the total amount of water
14 used to complete the well that is recycled water. For all
15 production exempted pursuant to this subsection, a refund against
16 gross production taxes shall be issued as provided in subsection F
17 of this section. For purposes of this subsection, "recycled water"
18 means oil and gas produced water and waste that has been
19 reconditioned or treated by mechanical or chemical processes into a
20 reusable form.

21 F. On or after July 1, 2022, for all oil and gas production
22 exempt from gross production taxes pursuant to subsections D and E
23 of this section during a given fiscal year, a refund of gross
24 production taxes shall be issued to the well operator or a designee

1 in the amount of such exempted gross production taxes paid during
2 such period, subject to the following provisions:

3 1. A refund shall not be claimed until after the end of the
4 fiscal year. As used in this subsection, a fiscal year shall be
5 deemed to begin on July 1 of one calendar year and shall end on June
6 30 of the subsequent calendar year;

7 2. Unless otherwise specified, no claims for refunds pursuant
8 to the provisions of this subsection shall be filed more than
9 eighteen (18) months after the first day of the fiscal year in which
10 the refund is first available;

11 3. Any person claiming a refund pursuant to the exemption
12 provided in subsections D and E of this section shall file an
13 application with the Tax Commission which, upon determination of
14 qualification by the Corporation Commission, shall approve the
15 application for such exemption;

16 4. The Tax Commission may require any person claiming a refund
17 pursuant to the exemptions provided in subsections D and E of this
18 section to furnish information or records concerning the exemption
19 as is deemed necessary by the Tax Commission;

20 5. No claims for refunds pursuant to the provisions of this
21 subsection shall be filed by or on behalf of persons other than the
22 operator or a working interest owner of record at the time of
23 production;

1 6. No entity, including subsidiaries of the entity, shall be
2 authorized to receive refunds claimed pursuant to the exemption
3 provided in subsection D of this section that exceed twenty percent
4 (20%) of the limitation provided in paragraph 7 of this subsection;
5 and

6 7. The total amount of refunds authorized shall not exceed
7 Fifteen Million Dollars (\$15,000,000.00) pursuant to the exemption
8 provided in subsection D of this section and Ten Million Dollars
9 (\$10,000,000.00) pursuant to the exemption provided in subsection E
10 of this section for any fiscal year. If the amount of claims for
11 refunds exceed the limits provided in this paragraph, the Tax
12 Commission shall determine the percentage of the refund which
13 establishes the proportionate share of the refund which may be
14 claimed by any taxpayer so that the maximum amounts authorized by
15 this paragraph are not exceeded.

16 G. On or after July 1, 2022, all persons shall only be entitled
17 to either the exemption granted pursuant to subsection D or E of
18 this section for each oil, gas, or oil and gas well drilled or
19 recompleted in this state. However, any person who qualifies for
20 the exemption granted pursuant to subsection E of this section shall
21 not be prohibited from qualification for the exemption granted
22 pursuant to subsection D of this section if the exemption granted
23 pursuant to subsection E of this section has expired.

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

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

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

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

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

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

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

24

1 SECTION 9. AMENDATORY 68 O.S. 2021, Section 1001.3a, is
2 amended to read as follows:

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

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

8 2. On or after January 1, 2015, and before January 1, 2022,
9 "economically at-risk oil or gas lease" means any oil or gas lease
10 with one or more producing wells with an average production volume
11 per well of ten (10) barrels of oil or sixty (60) MCF of natural gas
12 per day or less operated at a net loss or at a net profit which is
13 less than the total gross production tax remitted for such lease
14 during the previous calendar year; ~~and~~

15 3. For calendar year 2022 and subsequent calendar years,
16 "economically at-risk oil or gas lease" means any oil or gas lease
17 with one or more producing wells with an average production volume
18 per well of ten (10) barrels of oil or sixty (60) MCF or less of
19 natural gas per day operated at a net loss or at a net profit which
20 is less than the total gross production tax remitted for such lease
21 during the previous calendar year, and any oil lease operating while
22 the gross value of the production of oil is less than Fifty Dollars
23 (\$50.00), on an average monthly basis, based on a per-barrel
24 measurement of forty-two (42) U.S. gallons of two hundred thirty-one

1 (231) cubic inches per gallon, computed at a temperature of sixty
2 (60) degrees Fahrenheit or gas lease operating while the gross value
3 of the production of gas is less than Three Dollars and fifty cents
4 (\$3.50), on an average monthly basis, based on a measurement of one
5 million (1,000,000) British thermal units (MMBtu); and

6 4. "Lease" shall be defined as in Section 1001.2 of this title.

7 B. When certified as such pursuant to the provisions of this
8 section, production from an economically at-risk oil or gas lease
9 shall be eligible for an exemption from the gross production tax
10 levied pursuant to subsection B of Section 1001 of this title for
11 production on such lease during the previous calendar year in the
12 following amounts:

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

17 2. If the gross production tax rate levied pursuant to
18 subsection B of Section 1001 of this title was ~~four percent (4%)~~
19 five percent (5%), then the exemption shall equal ~~three-fourths~~
20 ~~(3/4)~~ four-fifths (4/5) of the gross production tax levied; ~~and~~

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

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

13 D. For oil and natural gas produced from qualifying leases in
14 calendar years 2015 and 2016, the total amount of refunds authorized
15 in this section for each calendar year shall not exceed Twelve
16 Million Five Hundred Thousand Dollars (\$12,500,000.00) for all
17 products combined. For oil and natural gas produced from qualifying
18 leases in calendar year 2022 and subsequent calendar years, the
19 total amount of refunds authorized in this section for each calendar
20 year shall not exceed Ten Million Dollars (\$10,000,000.00) for all
21 products combined. If the amount of claims exceeds ~~Twelve Million~~
22 ~~Five Hundred Thousand Dollars (\$12,500,000.00)~~ the limits provided
23 in this subsection, the Tax Commission shall determine the
24 percentage of the refund which establishes the proportionate share

1 of the refund which may be claimed by any taxpayer so that the
2 maximum amount authorized by this subsection is not exceeded.

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

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

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

21 H. Except as provided in subsection I of this section, gross
22 production tax exemptions under the provisions of this section shall
23 be limited to production from calendar years ~~2005, 2006, 2007, 2008,~~
24 ~~2009, 2010, 2011, 2012 and 2013~~ 2005 through 2013 and 2022 and

1 subsequent calendar years; provided, no claims for refunds for
2 calendar years ~~provided in this subsection~~ 2013 and before shall be
3 paid on or after December 31, 2015.

4 I. Gross production tax exemptions claimed under the provisions
5 of this section shall be limited to production from calendar years
6 2014, 2015 and 2016; provided, no claims for refunds for the
7 calendar years 2014 and 2015 shall be claimed or paid more than
8 eighteen (18) months after the first day of the fiscal year during
9 which the refund is first available. For production in calendar
10 year 2016, no claim for refund filed on or after July 1, 2017, shall
11 be claimed or paid.

12 J. Claims for refunds pursuant to the provisions of this
13 section for production periods ending on or before December 31,
14 2016, shall be paid pursuant to the provisions of this subsection.
15 The claims for refunds referenced herein shall be paid in equal
16 payments over a period of thirty-six (36) months. The first payment
17 shall be made after July 1, 2018, but prior to August 1, 2018. The
18 Tax Commission shall provide, not later than June 30, 2018, to the
19 operator or designated interest owner, a schedule of rebates to be
20 paid out over the thirty-six-month period.

21 K. Claims for refunds pursuant to the provisions of this
22 section for production periods beginning and ending on or after
23 calendar year 2022 shall be paid in the form of a one-time payment.

24 SECTION 10. This act shall become effective July 1, 2022.

1 SECTION 11. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5

6 58-2-11603 AQH 05/18/22

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24