

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3568

By: McBride

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2021, Section 1001, which relates to gross  
9 production tax; creating exemption for certain  
10 secondary recovery projects; limiting exemption under  
11 certain circumstances; defining terms; authorizing  
12 Corporation Commission to promulgate rules; providing  
13 procedure to qualify for exemption; creating  
14 exemption for certain production enhancement  
15 projects; allowing a refund for certain projects;  
16 defining terms; prescribing refund procedure;  
17 providing an effective date; and declaring an  
18 emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2021, 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.

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

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

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

11 3. Notwithstanding the levies in paragraphs 1 and 2 of this  
12 subsection, the production of oil, gas, or oil and gas from wells  
13 spudded prior to the effective date of this act, and on or after the  
14 effective date of this act, shall be taxed at a rate of five percent  
15 (5%) commencing with the month of first production for a period of  
16 thirty-six (36) months. Thereafter, the production shall be taxed  
17 as provided in paragraphs 1 and 2 of this subsection; and

18 4. If the provisions of Article XIII-C of the Oklahoma  
19 Constitution are approved by the people pursuant to adoption of  
20 State Question No. 795, the rate of gross production tax imposed by  
21 paragraph 3 of this subsection shall be reduced to two percent (2%)  
22 for the first thirty-six (36) months of production and thereafter  
23 the rate of taxation shall be seven percent (7%).  
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1 C. The taxes hereby levied shall also attach to, and are levied  
2 on, what is known as the royalty interest, and the amount of such  
3 tax shall be a lien on such interest.

4 D. 1. Except as otherwise provided in this section, for  
5 secondary recovery projects approved or having an initial project  
6 start date on or after July 1, 2022, any incremental production  
7 attributable to the working interest owners which results from such  
8 secondary recovery projects shall be exempt from the gross  
9 production tax levied pursuant to this section for a period not to  
10 exceed five (5) years from the initial project start date or for a  
11 period ending upon the termination of the secondary recovery  
12 process, whichever occurs first.

13 2. Except as otherwise provided in this section, for tertiary  
14 recovery projects approved and having a project start date on or  
15 after July 1, 2022, any incremental production attributable to the  
16 working interest owners which results from such tertiary recovery  
17 projects shall be exempt from the gross production tax levied  
18 pursuant to this section from the project start date until project  
19 payback is achieved, but not to exceed a period of ten (10) years.  
20 Project payback pursuant to this paragraph shall be determined by  
21 appropriate payback indicators which provide for the recovery of  
22 capital expenses and operating expenses, excluding administrative  
23 expenses, in determining project payback. The capital expenses of  
24 pipelines constructed to transport carbon dioxide to a tertiary

1 recovery project shall not be included in determining project  
2 payback pursuant to this paragraph.

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

6 4. For purposes of this subsection:

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

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

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

11           6. For new secondary recovery projects and tertiary recovery  
12           projects approved by the Corporation Commission on or after July 1,  
13           2022, such approval shall constitute qualification for an exemption.

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

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

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

1 E. 1. Except as otherwise provided by this section, any  
2 incremental production which results from a production enhancement  
3 project shall be exempt from the gross production tax levied  
4 pursuant to subsection B of this section for a period of twenty-  
5 eight (28) months from the date of first sale after project  
6 completion of the production enhancement project. This exemption  
7 shall take effect July 1, 2022, and shall apply to production  
8 enhancement projects having a project start date on or after July 1,  
9 2022. For all such production, a refund against gross production  
10 taxes shall be issued as provided in subsection F of this section.

11 2. As used in this subsection:

- 12 a. for production enhancement projects having a project  
13 start date on or after July 1, 2022, "production  
14 enhancement project" means any workover as defined in  
15 this paragraph, recompletion as defined in this  
16 paragraph, reentry of plugged and abandoned wellbores,  
17 or addition of a well or field compression,
- 18 b. "incremental production" means the amount of crude  
19 oil, natural gas, or other hydrocarbons which are  
20 produced as a result of the production enhancement  
21 project in excess of the base production,
- 22 c. "base production" means the average monthly amount of  
23 production for the twelve-month period immediately  
24 prior to the commencement of the project or the

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

17 d. for production enhancement projects having a project  
18 start date on or after July 1, 2022, "recompletion"  
19 means any downhole operation in an existing oil or gas  
20 well that is conducted to establish production of oil  
21 or gas from any geologic interval not currently  
22 completed or producing in such existing oil or gas  
23 well within the same or a different geologic  
24 formation, and

1        e. "workover" means any downhole operation in an existing  
2        oil or gas well that is designed to sustain, restore,  
3        or increase the production rate or ultimate recovery  
4        in a geologic interval currently completed or  
5        producing in the existing oil or gas well. For  
6        production enhancement projects having a project start  
7        date on or after July 1, 2022, workover includes, but  
8        is not limited to:

9        (1) acidizing,

10       (2) reperforating,

11       (3) fracture treating,

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

14       (5) casing repair,

15       (6) squeeze cementing,

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

21       (8) downsizing existing tubing to reduce well  
22       loading,

23       (9) downhole commingling,

24       (10) bacteria treatments,



- 1           (11) upgrading the size of pumping unit equipment,  
2           (12) setting bridge plugs to isolate water production  
3           zones, or  
4           (13) any combination thereof.

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

8       F. On or after July 1, 2022, for all oil and gas production  
9 exempt from gross production taxes pursuant to subsection E of this  
10 section during a given fiscal year, a refund of gross production  
11 taxes shall be issued to the well operator or a designee in the  
12 amount of such gross production taxes paid during such period,  
13 subject to the following provisions:

14       1. A refund shall not be claimed until after the end of such  
15 fiscal year. As used in this subsection, a fiscal year shall be  
16 deemed to begin on July 1 of one calendar year and shall end on June  
17 30 of the subsequent calendar year;

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

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

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

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

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

1 pursuant to subsection D of this section if the exemption granted  
2 pursuant to subsection E of this section has expired.

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

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

1 imprisonment in the jail of the county where such offense shall have  
2 been committed, for not more than one (1) year, or by both such fine  
3 and imprisonment; and each day of such refusal on the part of such  
4 person shall constitute a separate and distinct offense.

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

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

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

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

3 SECTION 2. This act shall become effective July 1, 2022.

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

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