

<DateSubmitted>

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. By adopting the following conference committee amendment to restore the title to read as follows:

An Act relating to revenue and taxation; 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; authorizing Corporation Commission to promulgate rules; providing procedure to qualify for exemption; creating exemption for certain production enhancement projects; allowing a refund for certain projects; defining terms; and prescribing refund procedure.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

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

Brooks _____

Dossett _____

Dugger _____

Floyd _____

Hall _____

Haste _____

Howard _____

Jech _____

Kidd _____

Kirt _____

Matthews _____

Montgomery _____

Newhouse _____

Pederson _____

Pemberton _____

Rader _____

Rosino _____

Simpson _____

Weaver _____

Thompson _____

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 3568

By: McBride and Fetgatter of
the House

and

Allen of the Senate

[revenue and taxation - gross production tax -
creating exemption for certain secondary recovery
projects]

AMENDMENT NO. 1. Page 1, strike the enacting clause

Passed the Senate the 28th day of April, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2022.

Presiding Officer of the House
of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 3568

By: McBride and Fetgatter of
the House

3 and

4 Allen of the Senate

5
6
7 [revenue and taxation - gross production tax -
8 creating exemption for certain secondary recovery
9 projects]
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11

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

13 SECTION 1. AMENDATORY 68 O.S. 2021, Section 1001, is
14 amended to read as follows:

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

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

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

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

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

5 3. Notwithstanding the levies in paragraphs 1 and 2 of this
6 subsection, the production of oil, gas, or oil and gas from wells
7 spudded prior to the effective date of this act, and on or after the
8 effective date of this act, shall be taxed at a rate of five percent
9 (5%) commencing with the month of first production for a period of
10 thirty-six (36) months. Thereafter, the production shall be taxed
11 as provided in paragraphs 1 and 2 of this subsection; and

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

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

21 D. 1. Except as otherwise provided in this section, for
22 secondary recovery projects approved or having an initial project
23 start date on or after July 1, 2022, any incremental production
24 attributable to the working interest owners which results from such

1 secondary recovery projects shall be exempt from the gross
2 production tax levied pursuant to this section for a period not to
3 exceed five (5) years from the initial project start date or for a
4 period ending upon the termination of the secondary recovery
5 process, whichever occurs first.

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

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

23 4. For purposes of this subsection:
24

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

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

21 5. The Corporation Commission shall promulgate rules for the
22 qualification for this exemption which shall include, but not be
23 limited to, procedures for determining incremental production as
24 defined in subparagraph a of paragraph 4 of this subsection, and the

1 establishment of appropriate payback indicators as approved by the
2 Oklahoma Tax Commission for the determination of project payback for
3 each of the exemptions authorized by this subsection.

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

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

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

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

17 E. 1. Except as otherwise provided by this section, any
18 incremental production which results from a production enhancement
19 project shall be exempt from the gross production tax levied
20 pursuant to subsection B of this section for a period of twenty-
21 eight (28) months from the date of first sale after project
22 completion of the production enhancement project. This exemption
23 shall take effect July 1, 2022, and shall apply to production
24 enhancement projects having a project start date on or after July 1,

1 2022. For all such production, a refund against gross production
2 taxes shall be issued as provided in subsection F of this section.

3 2. As used in this subsection:

4 a. for production enhancement projects having a project
5 start date on or after July 1, 2022, "production
6 enhancement project" means any workover as defined in
7 this paragraph, recompletion as defined in this
8 paragraph, reentry of plugged and abandoned wellbores,
9 or addition of a well or field compression,

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

14 c. "base production" means the average monthly amount of
15 production for the twelve-month period immediately
16 prior to the commencement of the project or the
17 average monthly amount of production for the twelve-
18 month period immediately prior to the commencement of
19 the project less the monthly rate of production
20 decline for the project for each month beginning one
21 hundred eighty (180) days prior to the commencement of
22 the project. The monthly rate of production decline
23 shall be equal to the average extrapolated monthly
24 decline rate for the twelve-month period immediately

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

9 d. for production enhancement projects having a project
10 start date on or after July 1, 2022, "recompletion"
11 means any downhole operation in an existing oil or gas
12 well that is conducted to establish production of oil
13 or gas from any geologic interval not currently
14 completed or producing in such existing oil or gas
15 well within the same or a different geologic
16 formation, and

17 e. "workover" means any downhole operation in an existing
18 oil or gas well that is designed to sustain, restore,
19 or increase the production rate or ultimate recovery
20 in a geologic interval currently completed or
21 producing in the existing oil or gas well. For
22 production enhancement projects having a project start
23 date on or after July 1, 2022, workover includes, but
24 is not limited to:

- 1 (1) acidizing,
- 2 (2) reperforating,
- 3 (3) fracture treating,
- 4 (4) sand, paraffin, or scale removal or other
5 wellbore cleanouts,
- 6 (5) casing repair,
- 7 (6) squeeze cementing,
- 8 (7) installation of compression on a well or group of
9 wells or initial installation of artificial lifts
10 on gas wells, including plunger lifts, rod pumps,
11 submersible pumps, and coiled tubing velocity
12 strings,
- 13 (8) downsizing existing tubing to reduce well
14 loading,
- 15 (9) downhole commingling,
- 16 (10) bacteria treatments,
- 17 (11) upgrading the size of pumping unit equipment,
- 18 (12) setting bridge plugs to isolate water production
19 zones, or
- 20 (13) any combination thereof.

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

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

7 1. A refund shall not be claimed until after the end of such
8 fiscal year. As used in this subsection, a fiscal year shall be
9 deemed to begin on July 1 of one calendar year and shall end on June
10 30 of the subsequent calendar year;

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

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

19 4. No refund shall be paid unless the person making the claim
20 for refund demonstrates by affidavit or other means prescribed by
21 the Tax Commission that an amount equal to or greater than the
22 amount of the refund has been invested in the exploration for or
23 production of crude oil or natural gas in this state by such person
24 not more than three (3) years prior to the date of the claim. No

1 amount of investment used to qualify for a refund pursuant to the
2 provisions of this paragraph may be used to qualify for another
3 refund pursuant to the provisions of this paragraph.

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

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

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

1 attendance of witnesses, and the production of books, records and
2 papers of any person.

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

20 ~~F.~~ J. The Tax Commission shall have the power and authority to
21 ascertain and determine whether or not any report herein required to
22 be filed with it is a true and correct report of the gross products,
23 and of the value thereof, of such person engaged in the mining or
24 production or purchase of asphalt and ores bearing minerals

1 aforesaid and of oil and gas. If any person has made an untrue or
2 incorrect report of the gross production or value or volume thereof,
3 or shall have failed or refused to make such report, the Tax
4 Commission shall, under the rules prescribed by it, ascertain the
5 correct amount of either, and compute the tax.

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

1 any subsequent tax year, shall be assessed and taxed as other
2 property within the taxing district in which such property is
3 situated at the time.

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

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1 Passed the House of Representatives the 22nd day of March, 2022.

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3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2022.

6
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8 _____
9 Presiding Officer of the Senate