

Sixty-first
Legislative Assembly
of North Dakota

Introduced by

(At the request of the Department of Commerce)

1 A BILL for an Act to amend and reenact subsection 5 of section 57-51.1-03 of the North Dakota
2 Century Code, relating to exemption from oil extraction tax on tertiary recovery projects; and to
3 provide and effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 5 of section 57-51.1-03 of the North Dakota
6 Century Code is amended and reenacted as follows:

- 7 5. a. The incremental production from a secondary recovery project which has
8 been certified as a qualified project by the industrial commission after July 1,
9 1991, is exempt from any taxes imposed under this chapter for a period of five
10 years from the date the incremental production begins.
- 11 b. The incremental production from a tertiary recovery project which has been
12 certified as a qualified project by the industrial commission ~~subsequent to~~
13 ~~June 30, 1991,~~ is exempt from any taxes imposed under this chapter ~~for a~~
14 ~~period of ten years~~ from the date the incremental production begins.
- 15 c. For purposes of this subsection, incremental production is defined in the
16 following manner:
- 17 (1) For purposes of determining the exemption provided for in subdivision a
18 and with respect to a unit where there has not been a secondary
19 recovery project, incremental production means the difference between
20 the total amount of oil produced from the unit during the secondary
21 recovery project and the amount of primary production from the unit.
22 For purposes of this paragraph, primary production means the amount
23 of oil which would have been produced from the unit if the secondary
24 recovery project had not been commenced. The industrial commission

1 shall determine the amount of primary production in a manner which
2 conforms to the practice and procedure used by the commission at the
3 time the project is certified.

4 (2) For purposes of determining the exemption provided for in subdivision a
5 and with respect to a unit where a secondary recovery project was in
6 existence prior to July 1, 1991, and where the industrial commission
7 cannot establish an accurate production decline curve, incremental
8 production means the difference between the total amount of oil
9 produced from the unit during a new secondary recovery project and
10 the amount of production which would be equivalent to the average
11 monthly production from the unit during the most recent twelve months
12 of normal production reduced by a production decline rate of ten
13 percent for each year. The industrial commission shall determine the
14 average monthly production from the unit during the most recent twelve
15 months of normal production and must upon request or upon its own
16 motion hold a hearing to make this determination. For purposes of this
17 paragraph, when determining the most recent twelve months of normal
18 production the industrial commission is not required to use twelve
19 consecutive months. In addition, the production decline rate of ten
20 percent must be applied from the last month in the twelve-month period
21 of time.

22 (3) For purposes of determining the exemption provided for in subdivision a
23 and with respect to a unit where a secondary recovery project was in
24 existence before July 1, 1991, and where the industrial commission can
25 establish an accurate production decline curve, incremental production
26 means the difference between the total amount of oil produced from the
27 unit during the new secondary recovery project and the total amount of
28 oil that would have been produced from the unit if the new secondary
29 recovery project had not been commenced. For purposes of this
30 paragraph, the total amount of oil that would have been produced from
31 the unit if the new secondary recovery project had not been

commenced includes both primary production and production that occurred as a result of the secondary recovery project that was in existence before July 1, 1991. The industrial commission shall determine the amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the new secondary recovery project is certified.

(4) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the tertiary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.

(5) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project, incremental production means the difference between the total amount of oil produced during the tertiary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve

consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.

- (6) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced includes both primary production and production that occurred as a result of any secondary recovery project. The industrial commission shall determine the amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the tertiary recovery project is certified.

- d. The industrial commission shall adopt rules relating to this exemption that must include procedures for determining incremental production as defined in subdivision c.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after

June 30, 2009.