

Introduced by

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 an 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

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

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

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

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

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

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

23 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
24 June 30, 2009.