

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 that use  
3 carbon dioxide.

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 that does not use  
12 carbon dioxide and which has been certified as a qualified project by the  
13 industrial commission ~~subsequent to June 30, 1991,~~ is exempt from any taxes  
14 imposed under this chapter for a period of ten years from the date the  
15 incremental production begins. Incremental production from a tertiary  
16 recovery project that uses carbon dioxide and which has been certified as a  
17 qualified project by the industrial commission is exempt from any taxes  
18 imposed under this chapter from the date the incremental production begins.
- 19 c. For purposes of this subsection, incremental production is defined in the  
20 following manner:
- 21 (1) For purposes of determining the exemption provided for in subdivision a  
22 and with respect to a unit where there has not been a secondary  
23 recovery project, incremental production means the difference between  
24 the total amount of oil produced from the unit during the secondary

1 recovery project and the amount of primary production from the unit.  
2 For purposes of this paragraph, primary production means the amount  
3 of oil which would have been produced from the unit if the secondary  
4 recovery project had not been commenced. The industrial commission  
5 shall determine the amount of primary production in a manner which  
6 conforms to the practice and procedure used by the commission at the  
7 time the project is certified.

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

26 (3) For purposes of determining the exemption provided for in subdivision a  
27 and with respect to a unit where a secondary recovery project was in  
28 existence before July 1, 1991, and where the industrial commission can  
29 establish an accurate production decline curve, incremental production  
30 means the difference between the total amount of oil produced from the  
31 unit during the new secondary recovery project and the total amount of

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

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

23 (5) For purposes of determining the exemption provided for in subdivision b  
24 and with respect to a unit where there is or has been a secondary  
25 recovery project, incremental production means the difference between  
26 the total amount of oil produced during the tertiary recovery project and  
27 the amount of production which would be equivalent to the average  
28 monthly production from the unit during the most recent twelve months  
29 of normal production reduced by a production decline rate of ten  
30 percent for each year. The industrial commission shall determine the  
31 average monthly production from the unit during the most recent twelve

1 months of normal production and must upon request or upon its own  
2 motion hold a hearing to make this determination. For purposes of this  
3 paragraph, when determining the most recent twelve months of normal  
4 production the industrial commission is not required to use twelve  
5 consecutive months. In addition, the production decline rate of ten  
6 percent must be applied from the last month in the twelve-month period  
7 of time.

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

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