

SENATE BILL NO. 2157

Introduced by

Senators Wardner, Lyson, O'Connell

Representatives Belter, Onstad, Wieland

1 A BILL for an Act to amend and reenact subsection 4 of section 38-08-04 and section
2 57-51.1-01 of the North Dakota Century Code, relating to determination of the average price of
3 oil for purposes of oil extraction tax exemptions and rate reductions; and to provide an effective
4 date.

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

6 **SECTION 1. AMENDMENT.** Subsection 4 of section 38-08-04 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 4. To classify wells as oil or gas wells for purposes material to the interpretation or
9 enforcement of this chapter, to classify and determine the status and depth of wells
10 that are stripper well property as defined in subsection 8 11 of section 57-51.1-01,
11 to certify to the tax commissioner which wells are stripper wells and the depth of
12 those wells, and to certify to the tax commissioner which wells involve secondary
13 or tertiary recovery operations under section 57-51.1-01, and the date of
14 qualification for the reduced rate of oil extraction tax for secondary and tertiary
15 recovery operations.

16 **SECTION 2. AMENDMENT.** Section 57-51.1-01 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **57-51.1-01. Definitions for oil extraction tax.** For the purposes of the oil extraction
19 tax law, the following words and terms shall have the meaning ascribed to them in this section:

20 1. "Average daily production" of a well means the qualified maximum total production
21 of oil from the well during a calendar month period divided by the number of
22 calendar days in that period, and "qualified maximum total production" of a well
23 means that the well must have been maintained at the maximum efficient rate of

- 1 production as defined and determined by rule adopted by the industrial commission
2 in furtherance of its authority under chapter 38-08.
- 3 2. "Average price" of a barrel of crude oil means the monthly average of the daily
4 closing price for a barrel of west Texas intermediate cushing crude oil, as those
5 prices appear in the Wall Street Journal, midwest edition, minus ~~two dollars and~~
6 ~~fifty cents~~ the North Dakota differential. When computing the monthly average
7 price, the most recent previous daily closing price must be considered the daily
8 closing price for the days on which the market is closed.
- 9 3. "Horizontal reentry well" means a well that was not initially drilled and completed as
10 a horizontal well, including any well initially plugged and abandoned as a dry hole,
11 which is reentered and recompleted as a horizontal well.
- 12 4. "Horizontal well" means a well with a horizontal displacement of the well bore
13 drilled at an angle of at least eighty degrees within the productive formation of at
14 least three hundred feet [91.44 meters].
- 15 5. "North Dakota differential" means the difference between the average daily closing
16 price for a barrel of west Texas intermediate cushing crude oil, as those prices
17 appear in the Wall Street Journal, midwest edition, and the volume weighted
18 average sales price reported to the commissioner, as determined by the
19 commissioner by February fifteenth of each year for the twelve months ending on
20 the immediately preceding December thirty-first.
- 21 ~~6.~~ 7. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid
22 hydrocarbons that are recovered from gas on the lease incidental to the production
23 of the gas.
- 24 ~~6- 7.~~ 8. "Property" means the right which arises from a lease or fee interest, as a whole or
25 any designated portion thereof, to produce oil. A producer shall treat as a separate
26 property each separate and distinct producing reservoir subject to the same right to
27 produce crude oil; provided, that such reservoir is recognized by the industrial
28 commission as a producing formation that is separate and distinct from, and not in
29 communication with, any other producing formation.
- 30 ~~7- 8.~~ 8. "Qualifying secondary recovery project" means a project employing water flooding.
31 To be eligible for the tax reduction provided under section 57-51.1-02, a secondary

1 recovery project must be certified as qualifying by the industrial commission and
2 the project operator must have achieved for six consecutive months an average
3 production level of at least twenty-five percent above the level that would have
4 been recovered under normal recovery operations. To be eligible for the tax
5 exemption provided under section 57-51.1-03 and subsequent thereto the rate
6 reduction provided under section 57-51.1-02, a secondary recovery project must
7 be certified as qualifying by the industrial commission and the project operator
8 must have obtained incremental production as defined in subsection 5 of section
9 57-51.1-03.

10 ~~8.~~ 9. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil
11 which meets the requirements of section 4993(c), Internal Revenue Code of 1954,
12 as amended through December 31, 1986, and includes the following methods for
13 recovery:

- 14 a. Miscible fluid displacement.
- 15 b. Steam drive injection.
- 16 c. Microemulsion.
- 17 d. In situ combustion.
- 18 e. Polymer augmented water flooding.
- 19 f. Cyclic steam injection.
- 20 g. Alkaline flooding.
- 21 h. Carbonated water flooding.
- 22 i. Immiscible carbon dioxide displacement.
- 23 j. New tertiary recovery methods certified by the industrial commission.

24 It does not include water flooding, unless the water flooding is used as an element
25 of one of the qualifying tertiary recovery techniques described in this subsection, or
26 immiscible natural gas injection. To be eligible for the tax reduction provided under
27 section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the
28 industrial commission, the project operator must continue to operate the unit as a
29 qualifying tertiary recovery project, and the project operator must have achieved for
30 at least one month a production level of at least fifteen percent above the level that
31 would have been recovered under normal recovery operations. To be eligible for

1 the tax exemption provided under section 57-51.1-03 and subsequent thereto the
2 rate reduction provided under section 57-51.1-02, a tertiary recovery project must
3 be certified as qualifying by the industrial commission, the project operator must
4 continue to operate the unit as a qualifying tertiary recovery project, and the project
5 operator must have obtained incremental production as defined in subsection 5 of
6 section 57-51.1-03.

7 ~~9.~~ 10. "Royalty owner" means an owner of what is commonly known as the royalty
8 interest and shall not include the owner of any overriding royalty or other payment
9 carved out of the working interest.

10 ~~40.~~ 11. "Stripper well property" means a "property" whose average daily production of oil,
11 excluding condensate recovered in nonassociated production, per well did not
12 exceed ten barrels per day for wells of a depth of six thousand feet [1828.80
13 meters] or less, fifteen barrels per day for wells of a depth of more than six
14 thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters],
15 and thirty barrels per day for wells of a depth of more than ten thousand feet [3048
16 meters] during any preceding consecutive twelve-month period. Wells which did
17 not actually yield or produce oil during the qualifying twelve-month period, including
18 disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for
19 the purpose of determining whether the stripper well property exemption applies.

20 ~~44.~~ 12. "Trigger price" means thirty-five dollars and fifty cents, as indexed for inflation. By
21 December thirty-first of each year, the tax commissioner shall compute an indexed
22 trigger price by applying to the current trigger price the rate of change of the
23 producer price index for industrial commodities as calculated and published by the
24 United States department of labor, bureau of labor statistics, for the twelve months
25 ending June thirtieth of that year and the indexed trigger price so determined is the
26 trigger price for the following calendar year.

27 ~~42.~~ 13. "Two-year inactive well" means any well certified by the industrial commission that
28 did not produce oil in more than one month in any consecutive twenty-four-month
29 period before being recompleted or otherwise returned to production after July 31,
30 1995. A well that has never produced oil, a dry hole, and a plugged and
31 abandoned well are eligible for status as a two-year inactive well.

1 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
2 June 30, 2007.