

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1234

Introduced by

Representatives Streytle, Owens, Thoreson

Senator Armstrong

1 A BILL for an Act to amend and reenact section 15-05-10, subsection 4 of section 38-08-04, and
2 sections 57-51.1-01, 57-51.1-02, 57-51.1-03, and 57-51.1-03.1 of the North Dakota Century
3 Code, relating to oil extraction tax rates and exemptions; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 15-05-10 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **15-05-10. Royalties from oil leases - Rents from other leases - Rules.**

8 Oil leases must be made by the board of university and school lands at such annual
9 minimum payments as are determined by the board, but the royalty shall be not less than
10 twelve and one-half percent of the gross output of oil from the lands leased. Oil leases made by
11 the board may authorize a royalty of less than twelve and one-half percent for production from
12 stripper well properties or individual stripper wells and qualifying secondary recovery and
13 qualifying tertiary recovery projects as defined in section 57-51.1-01. Leases for gas, coal,
14 cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical
15 substances, metallic ores, or colloidal or other clays must be made by the board in such annual
16 payments as are determined by the board. The board may adopt rules regarding annual
17 payments and royalties under this section.

18 **SECTION 2. AMENDMENT.** Subsection 4 of section 38-08-04 of the North Dakota Century
19 Code is amended and reenacted as follows:

20 4. To classify wells as oil or gas wells for purposes material to the interpretation or
21 enforcement of this chapter, to classify and determine the status and depth of wells
22 that are stripper well property or individual stripper wells as defined in ~~subsection 8 of~~
23 section 57-51.1-01, to certify to the tax commissioner which wells are stripper wells
24 and the depth of those wells, and to certify to the tax commissioner which wells involve

1 secondary or tertiary recovery operations under section 57-51.1-01, and the date of
2 qualification for the reduced rate of oil extraction tax for secondary and tertiary
3 recovery operations.

4 **SECTION 3. AMENDMENT.** Section 57-51.1-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-51.1-01. Definitions for oil extraction tax.**

7 For the purposes of the oil extraction tax law, the following words and terms shall have the
8 meaning ascribed to them in this section this chapter:

- 9 1. "Average daily production" of a well means the qualified maximum total production of
10 barrels of oil from the well during a calendar month period divided by the number of
11 calendar days in that period, month and "qualified maximum total production" of a well
12 means that the well must have been maintained at the maximum efficient rate of
13 production as defined and determined by rule adopted by the industrial commission in
14 furtherance of its authority under chapter 38-08.
- 15 2. "Average price" of a barrel of crude oil means the monthly average of the daily closing
16 price for a barrel of west Texas intermediate cushing crude oil, as those prices appear
17 in the Wall Street Journal, midwest edition, minus two dollars and fifty cents. When
18 computing the monthly average price, the most recent previous daily closing price
19 must be considered the daily closing price for the days on which the market is
20 closed statewide production" means the number of barrels of oil produced from wells
21 within this state during a calendar month divided by the number of calendar days in
22 that month, as determined by the industrial commission.
- 23 3. "Horizontal reentry well" means a well that was not initially drilled and completed as a
24 horizontal well, including any well initially plugged and abandoned as a dry hole, which
25 is reentered and recompleted as a horizontal well.
- 26 4. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at
27 an angle of at least eighty degrees within the productive formation of at least three
28 hundred feet [91.44 meters].
- 29 5. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid
30 hydrocarbons that are recovered from gas on the lease incidental to the production of
31 the gas.

1 ~~6.4.~~ "Property" means the right which arises from a lease or fee interest, as a whole or any
2 designated portion thereof, to produce oil. A producer shall treat as a separate
3 property each separate and distinct producing reservoir subject to the same right to
4 produce crude oil; ~~provided, that such~~ if the reservoir is recognized by the industrial
5 commission as a producing formation that is separate and distinct from, and not in
6 communication with, any other producing formation.

7 ~~7.5.~~ "Qualifying secondary recovery project" means a project employing water flooding. ~~To~~
8 ~~be eligible for the tax reduction provided under section 57-51.1-02, a secondary~~
9 ~~recovery project must be certified as qualifying by the industrial commission and the~~
10 ~~project operator must have achieved for six consecutive months an average~~
11 ~~production level of at least twenty-five percent above the level that would have been~~
12 ~~recovered under normal recovery operations. To be eligible for the tax exemption~~
13 ~~provided under section 57-51.1-03 and subsequent thereto the rate reduction provided~~
14 ~~under section 57-51.1-02, a secondary recovery project must be, certified as qualifying~~
15 ~~by the industrial commission, and~~ from which the project operator ~~must have~~ has
16 ~~obtained incremental production as defined in subsection 5 of section 57-51.1-03~~ rules
17 of the industrial commission.

18 ~~8.6.~~ "Qualifying tertiary recovery project" means a project for enhancing recovery of oil
19 which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as
20 amended through December 31, 1986, and includes the following methods for
21 recovery:
22 a. Miscible fluid displacement.
23 b. Steam drive injection.
24 c. Microemulsion.
25 d. In situ combustion.
26 e. Polymer augmented water flooding.
27 f. Cyclic steam injection.
28 g. Alkaline flooding.
29 h. Carbonated water flooding.
30 i. Immiscible carbon dioxide displacement.
31 j. New tertiary recovery methods certified by the industrial commission.

1 It does not include water flooding, unless the water flooding is used as an element of
2 one of the qualifying tertiary recovery techniques described in this subsection, or
3 immiscible natural gas injection. ~~To be eligible for the tax reduction provided under~~
4 ~~section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the~~
5 ~~industrial commission, the project operator must continue to operate the unit as a~~
6 ~~qualifying tertiary recovery project, and the project operator must have achieved for at~~
7 ~~least one month a production level of at least fifteen percent above the level that would~~
8 ~~have been recovered under normal recovery operations. To be eligible for the tax~~
9 ~~exemption provided under section 57-51.1-03 and subsequent thereto the rate~~
10 ~~reduction provided under section 57-51.1-02, a tertiary recovery project must be~~
11 ~~certified as qualifying by the industrial commission, the project operator must continue~~
12 ~~to operate the unit as a qualifying tertiary recovery project, and the project operator~~
13 ~~must have obtained incremental production as defined in subsection 5 of section~~
14 ~~57-51.1-03~~ rules of the industrial commission.

15 9-7. "Royalty owner" means an owner of what is commonly known as the royalty interest
16 and shall not include the owner of any overriding royalty or other payment carved out
17 of the working interest.

18 10-8. "Stripper well" means a well inside the Bakken or Three Forks formations whose
19 average daily production of oil, excluding condensate recovered in nonassociated
20 production, per well did not exceed ten barrels per day for wells of a depth of six
21 thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of
22 more than six thousand feet [1828.80 meters] but not more than ten thousand feet
23 [3048 meters], and fifty barrels per day for wells of a depth of more than ten thousand
24 feet [3048 meters] during any preceding consecutive twelve-month period. "Stripper
25 well" also includes a well inside the Bakken or Three Forks formations which was
26 drilled and completed before July 1, 2013, and was considered part of a stripper well
27 property for purposes of this chapter on June 30, 2013.

28 9. "Stripper well property" means a "property" outside the Bakken and Three Forks
29 formations whose average daily production of oil, excluding condensate recovered in
30 nonassociated production, per well did not exceed ten barrels per day for wells of a
31 depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of

1 a depth of more than six thousand feet [1828.80 meters] but not more than ten
2 thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more
3 than ten thousand feet [3048 meters] during any preceding consecutive twelve-month
4 period. Wells which did not actually yield or produce oil during the qualifying
5 twelve-month period, including disposal wells, dry wells, spent wells, and shut-in wells,
6 are not production wells for the purpose of determining whether the stripper well
7 property exemption applies.

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

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

20 **SECTION 4. AMENDMENT.** Section 57-51.1-02 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **57-51.1-02. Imposition of oil extraction tax rate.**

23 There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the
24 activity in this state of extracting oil from the earth, and every owner, including any royalty
25 owner, of any part of the oil extracted is deemed for the purposes of this chapter to be engaged
26 in the activity of extracting that oil.

27 The rate of tax is six and one-half percent of the gross value at the well of the oil extracted,
28 except that the rate of tax is four percent of the gross value at the well of the oil extracted in the
29 following situations:

30 1. ~~For oil produced from wells drilled and completed after April 27, 1987, commonly~~
31 ~~referred to as new wells, and not otherwise exempt under section 57-51.1-03;~~

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- 1 2. ~~For oil produced from a secondary or tertiary recovery project that was certified as~~
2 ~~qualifying by the industrial commission before July 1, 1991;~~
 - 3 3. ~~For oil that does not qualify as incremental oil but is produced from a secondary or~~
4 ~~tertiary recovery project that is certified as qualifying by the industrial commission after~~
5 ~~June 30, 1991;~~
 - 6 4. ~~For incremental oil produced from a secondary or tertiary recovery project that is~~
7 ~~certified as qualifying by the industrial commission after June 30, 1991, and which~~
8 ~~production is not otherwise exempt under section 57-51.1-03; or~~
 - 9 5. ~~For oil produced from a well that receives an exemption pursuant to subsection 4 of~~
10 ~~section 57-51.1-03 after June 30, 1993, and which production is not otherwise exempt~~
11 ~~under section 57-51.1-03.~~
- 12 However, if the average price of a barrel of crude oil exceeds the trigger price for each month in
13 any consecutive five-month period, then the rate of tax on oil extracted from all taxable wells is
14 six and one-half percent of the gross value at the well of the oil extracted until the average price
15 of a barrel of crude oil is less than the trigger price for each month in any consecutive
16 five-month period, in which case the rate of tax reverts to four percent of the gross value at the
17 well of the oil extracted for any wells subject to a reduced rate under subsections 1 through 5.
- 18 1. Six percent for production from wells drilled and completed on or after the first day of
19 the third calendar month following a period of three consecutive calendar months in
20 which average statewide daily production exceeds eight hundred thousand barrels per
21 day.
 - 22 2. Five and one-half percent for production from wells drilled and completed on or after
23 the first day of the third calendar month following a period of three consecutive
24 calendar months in which average statewide daily production exceeds nine hundred
25 thousand barrels per day.
 - 26 3. Five percent for production from wells drilled and completed on or after the first day of
27 the third calendar month following a period of three consecutive calendar months in
28 which average statewide daily production exceeds one million barrels per day, or for
29 production from wells drilled and completed on or after the first day of July 2015,
30 whichever event occurs first.

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

3 **57-51.1-03. (~~Effective through June 30, 2013~~) Exemptions from oil extraction tax.**

4 The following activities are specifically exempted from the oil extraction tax:

- 5 1. The activity of extracting from the earth any oil that is exempt from the gross
6 production tax imposed by chapter 57-51.
- 7 2. The activity of extracting from the earth any oil from a stripper well property or
8 individual stripper well. A well in the Bakken or Three Forks formation which was
9 certified as a stripper well or as part of a stripper well property at the time it is
10 reentered or reworked retains its stripper well or stripper well property exempt status
11 for the first twelve months of production from that well after completion of the reentry
12 or reworking project. After that period, the stripper well or stripper well property exempt
13 status is lost after the average daily production of the well exceeds one hundred
14 barrels per day for a calendar month and the well is then subject to a reduced tax rate
15 of two percent under this chapter until production from that well individually meets the
16 requirements of the definition of stripper well under section 57-51.1-01.
- 17 3. ~~For a well drilled and completed as a vertical well, the initial production of oil from the~~
18 ~~well is exempt from any taxes imposed under this chapter for a period of fifteen-~~
19 ~~months, except that oil produced from any well drilled and completed as a horizontal-~~
20 ~~well is exempt from any taxes imposed under this chapter for a period of twenty-four-~~
21 ~~months. Oil recovered during testing prior to well completion is exempt from the oil-~~
22 ~~extraction tax. The exemption under this subsection becomes ineffective if the average-~~
23 ~~price of a barrel of crude oil exceeds the trigger price for each month in any-~~
24 ~~consecutive five-month period. However, the exemption is reinstated if, after the-~~
25 ~~trigger provision becomes effective, the average price of a barrel of crude oil is less-~~
26 ~~than the trigger price for each month in any consecutive five-month period.~~
- 27 4. ~~The production of oil from a qualifying well that was worked over is exempt from any~~
28 ~~taxes imposed under this chapter for a period of twelve months, beginning with the~~
29 ~~first day of the third calendar month after the completion of the work-over project. The~~
30 ~~exemption provided by this subsection is only effective if the well operator establishes~~
31 ~~to the satisfaction of the industrial commission upon completion of the project that the~~

1 ~~cost of the project exceeded sixty-five thousand dollars or production is increased at~~
2 ~~least fifty percent during the first two months after completion of the project. A~~
3 ~~qualifying well under this subsection is a well with an average daily production of no~~
4 ~~more than fifty barrels of oil during the latest six calendar months of continuous~~
5 ~~production. A work-over project under this subsection means the continuous~~
6 ~~employment of a work-over rig, including recompletions and reentries. The exemption~~
7 ~~provided by this subsection becomes ineffective if the average price of a barrel of~~
8 ~~crude oil exceeds the trigger price for each month in any consecutive five-month~~
9 ~~period. However, the exemption is reinstated if, after the trigger provision becomes~~
10 ~~effective, the average price of a barrel of crude oil is less than the trigger price for~~
11 ~~each month in any consecutive five-month period.~~

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

1 been produced from the unit if the secondary recovery project had not been
2 commenced. The industrial commission shall determine the amount of
3 primary production in a manner which conforms to the practice and
4 procedure used by the commission at the time the project is certified.

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

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

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

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

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

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

16 ~~d.~~ The industrial commission shall adopt rules relating to ~~this~~the exemption
17 ~~that~~under this subsection which must include procedures for determining
18 ~~incremental production as defined in subdivision e.~~

19 6. ~~The production of oil from a two-year inactive well, as determined by the industrial~~
20 ~~commission and certified to the state tax commissioner, for a period of ten years after~~
21 ~~the date of receipt of the certification. The exemption under this subsection becomes~~
22 ~~ineffective if the average price of a barrel of crude oil exceeds the trigger price for~~
23 ~~each month in any consecutive five-month period. However, the exemption is~~
24 ~~reinstated if, after the trigger provision becomes effective, the average price of a barrel~~
25 ~~of crude oil is less than the trigger price for each month in any consecutive five-month~~
26 ~~period.~~

27 7. ~~The production of oil from a horizontal reentry well, as determined by the industrial~~
28 ~~commission and certified to the state tax commissioner, for a period of nine months~~
29 ~~after the date the well is completed as a horizontal well. The exemption under this~~
30 ~~subsection becomes ineffective if the average price of a barrel of crude oil exceeds the~~
31 ~~trigger price for each month in any consecutive five-month period. However, the~~

1 exemption is reinstated if, after the trigger provision becomes effective, the average
2 price of a barrel of crude oil is less than the trigger price for each month in any
3 consecutive five-month period.

4 8.4. The initial production of oil from a well is exempt from any taxes imposed under this
5 chapter for a period of sixty months if:

- 6 a. The well is located within the boundaries of an Indian reservation;
- 7 b. The well is drilled and completed on lands held in trust by the United States for
8 an Indian tribe or individual Indian; or
- 9 c. The well is drilled and completed on lands held by an Indian tribe if the interest is
10 in existence on August 1, 1997.

11 9. ~~The first seventy-five thousand barrels or the first four million five hundred thousand~~
12 ~~dollars of gross value at the well, whichever is less, of oil produced during the first~~
13 ~~eighteen months after completion, from a horizontal well drilled and completed after~~
14 ~~April 30, 2009, is subject to a reduced tax rate of two percent of the gross value at the~~
15 ~~well of the oil extracted under this chapter. A well eligible for a reduced tax rate under~~
16 ~~this subsection is eligible for the exemption for horizontal wells under subsection 3, if~~
17 ~~the exemption under subsection 3 is effective during all or part of the first twenty-four~~
18 ~~months after completion. The rate reduction under this subsection becomes effective~~
19 ~~on the first day of the month following a month for which the average price of a barrel~~
20 ~~of crude oil is less than fifty-five dollars. The rate reduction under this subsection~~
21 ~~becomes ineffective on the first day of the month following a month in which the~~
22 ~~average price of a barrel of crude oil exceeds seventy dollars. If the rate reduction~~
23 ~~under this subsection is effective on the date of completion of a well, the rate reduction~~
24 ~~applies to production from that well for up to eighteen months after completion, subject~~
25 ~~to the other limitations of this subsection. If the rate reduction under this subsection is~~
26 ~~ineffective on the date of completion of a well, the rate reduction under this subsection~~
27 ~~does not apply to production from that well at any time.~~

28 **(Effective after June 30, 2013) Exemptions from oil extraction tax.** The following
29 activities are specifically exempted from the oil extraction tax:

- 30 1. The activity of extracting from the earth any oil that is exempt from the gross
31 production tax imposed by chapter 57-51.

- 1 2. ~~The activity of extracting from the earth any oil from a stripper well property.~~
- 2 3. ~~For a well drilled and completed as a vertical well, the initial production of oil from the~~
3 ~~well is exempt from any taxes imposed under this chapter for a period of fifteen-~~
4 ~~months, except that oil produced from any well drilled and completed as a horizontal~~
5 ~~well is exempt from any taxes imposed under this chapter for a period of twenty-four~~
6 ~~months. Oil recovered during testing prior to well completion is exempt from the oil~~
7 ~~extraction tax. The exemption under this subsection becomes ineffective if the average~~
8 ~~price of a barrel of crude oil exceeds the trigger price for each month in any~~
9 ~~consecutive five-month period. However, the exemption is reinstated if, after the~~
10 ~~trigger provision becomes effective, the average price of a barrel of crude oil is less~~
11 ~~than the trigger price for each month in any consecutive five-month period.~~
- 12 4. ~~The production of oil from a qualifying well that was worked over is exempt from any~~
13 ~~taxes imposed under this chapter for a period of twelve months, beginning with the~~
14 ~~first day of the third calendar month after the completion of the work-over project. The~~
15 ~~exemption provided by this subsection is only effective if the well operator establishes~~
16 ~~to the satisfaction of the industrial commission upon completion of the project that the~~
17 ~~cost of the project exceeded sixty-five thousand dollars or production is increased at~~
18 ~~least fifty percent during the first two months after completion of the project. A~~
19 ~~qualifying well under this subsection is a well with an average daily production of no~~
20 ~~more than fifty barrels of oil during the latest six calendar months of continuous~~
21 ~~production. A work-over project under this subsection means the continuous~~
22 ~~employment of a work-over rig, including recompletions and reentries. The exemption~~
23 ~~provided by this subsection becomes ineffective if the average price of a barrel of~~
24 ~~crude oil exceeds the trigger price for each month in any consecutive five-month~~
25 ~~period. However, the exemption is reinstated if, after the trigger provision becomes~~
26 ~~effective, the average price of a barrel of crude oil is less than the trigger price for~~
27 ~~each month in any consecutive five-month period.~~
- 28 5. a. ~~The incremental production from a secondary recovery project which has been~~
29 ~~certified as a qualified project by the industrial commission after July 1, 1991, is~~
30 ~~exempt from any taxes imposed under this chapter for a period of five years from~~
31 ~~the date the incremental production begins.~~

- 1 b. ~~The incremental production from a tertiary recovery project that does not use~~
2 ~~carbon dioxide and which has been certified as a qualified project by the~~
3 ~~industrial commission is exempt from any taxes imposed under this chapter for a~~
4 ~~period of ten years from the date the incremental production begins. Incremental~~
5 ~~production from a tertiary recovery project that uses carbon dioxide and which~~
6 ~~has been certified as a qualified project by the industrial commission is exempt~~
7 ~~from any taxes imposed under this chapter from the date the incremental~~
8 ~~production begins.~~
- 9 e. ~~For purposes of this subsection, incremental production is defined in the following~~
10 ~~manner:~~
- 11 (1) ~~For purposes of determining the exemption provided for in subdivision a and~~
12 ~~with respect to a unit where there has not been a secondary recovery~~
13 ~~project, incremental production means the difference between the total~~
14 ~~amount of oil produced from the unit during the secondary recovery project~~
15 ~~and the amount of primary production from the unit. For purposes of this~~
16 ~~paragraph, primary production means the amount of oil which would have~~
17 ~~been produced from the unit if the secondary recovery project had not been~~
18 ~~commenced. The industrial commission shall determine the amount of~~
19 ~~primary production in a manner which conforms to the practice and~~
20 ~~procedure used by the commission at the time the project is certified.~~
- 21 (2) ~~For purposes of determining the exemption provided for in subdivision a and~~
22 ~~with respect to a unit where a secondary recovery project was in existence~~
23 ~~prior to July 1, 1991, and where the industrial commission cannot establish~~
24 ~~an accurate production decline curve, incremental production means the~~
25 ~~difference between the total amount of oil produced from the unit during a~~
26 ~~new secondary recovery project and the amount of production which would~~
27 ~~be equivalent to the average monthly production from the unit during the~~
28 ~~most recent twelve months of normal production reduced by a production~~
29 ~~decline rate of ten percent for each year. The industrial commission shall~~
30 ~~determine the average monthly production from the unit during the most~~
31 ~~recent twelve months of normal production and must upon request or upon~~

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

6 (3) For purposes of determining the exemption provided for in subdivision a and
7 with respect to a unit where a secondary recovery project was in existence
8 before July 1, 1991, and where the industrial commission can establish an
9 accurate production decline curve, incremental production means the
10 difference between the total amount of oil produced from the unit during the
11 new secondary recovery project and the total amount of oil that would have
12 been produced from the unit if the new secondary recovery project had not
13 been commenced. For purposes of this paragraph, the total amount of oil
14 that would have been produced from the unit if the new secondary recovery
15 project had not been commenced includes both primary production and
16 production that occurred as a result of the secondary recovery project that
17 was in existence before July 1, 1991. The industrial commission shall
18 determine the amount of oil that would have been produced from the unit if
19 the new secondary recovery project had not been commenced in a manner
20 that conforms to the practice and procedure used by the commission at the
21 time the new secondary recovery project is certified.

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

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

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

- 1 d. ~~The industrial commission shall adopt rules relating to this exemption that must~~
2 ~~include procedures for determining incremental production as defined in~~
3 ~~subdivision c.~~
- 4 6. ~~The production of oil from a two-year inactive well, as determined by the industrial~~
5 ~~commission and certified to the state tax commissioner, for a period of ten years after~~
6 ~~the date of receipt of the certification. The exemption under this subsection becomes~~
7 ~~ineffective if the average price of a barrel of crude oil exceeds the trigger price for~~
8 ~~each month in any consecutive five-month period. However, the exemption is~~
9 ~~reinstated if, after the trigger provision becomes effective, the average price of a barrel~~
10 ~~of crude oil is less than the trigger price for each month in any consecutive five-month~~
11 ~~period.~~
- 12 7. ~~The production of oil from a horizontal reentry well, as determined by the industrial~~
13 ~~commission and certified to the state tax commissioner, for a period of nine months~~
14 ~~after the date the well is completed as a horizontal well. The exemption under this~~
15 ~~subsection becomes ineffective if the average price of a barrel of crude oil exceeds the~~
16 ~~trigger price for each month in any consecutive five-month period. However, the~~
17 ~~exemption is reinstated if, after the trigger provision becomes effective, the average~~
18 ~~price of a barrel of crude oil is less than the trigger price for each month in any~~
19 ~~consecutive five-month period.~~
- 20 8. ~~The initial production of oil from a well is exempt from any taxes imposed under this~~
21 ~~chapter for a period of sixty months if:~~
- 22 a. ~~The well is located within the boundaries of an Indian reservation;~~
23 b. ~~The well is drilled and completed on lands held in trust by the United States for~~
24 ~~an Indian tribe or individual Indian; or~~
- 25 c. ~~The well is drilled and completed on lands held by an Indian tribe if the interest is~~
26 ~~in existence on August 1, 1997.~~
- 27 9. ~~The first seventy-five thousand barrels of oil produced during the first eighteen months~~
28 ~~after completion, from a horizontal well drilled and completed in the Bakken formation~~
29 ~~after June 30, 2007, and before July 1, 2008, is subject to a reduced tax rate of two~~
30 ~~percent of the gross value at the well of the oil extracted under this chapter. A well~~
31 ~~eligible for a reduced tax rate under this subsection is eligible for the exemption for~~

1 horizontal wells under subsection 3, if the exemption under subsection 3 is effective
2 during all or part of the first twenty-four months after completion.

3 **SECTION 6. AMENDMENT.** Section 57-51.1-03.1 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **57-51.1-03.1. Stripper well, ~~new well, work-over, and secondary or tertiary project~~**
6 **certification for tax exemption or rate reduction - Filing requirement.**

7 To receive the benefits of a tax exemption or tax rate reduction, a certification of qualifying
8 well status prepared by the industrial commission must be submitted to the tax commissioner as
9 follows:

- 10 1. To receive, from the first day of eligibility, a tax exemption or rate reduction on
11 production from a stripper well property or individual stripper well under subsection 2
12 of section 57-51.1-03, the industrial commission's certification must be submitted to
13 the tax commissioner within eighteen months after the end of the stripper well
14 property's or individual stripper well's qualification period.
- 15 2. ~~To receive, from the first day of eligibility, a tax exemption under subsection 3 of~~
16 ~~section 57-51.1-03 and a rate reduction on production from a new well under section~~
17 ~~57-51.1-02, the industrial commission's certification must be submitted to the tax~~
18 ~~commissioner within eighteen months after a new well is completed.~~
- 19 3. ~~To receive, from the first day of eligibility, a tax exemption under subsection 4 of~~
20 ~~section 57-51.1-03 and a rate reduction for a work-over well under section 57-51.1-02,~~
21 ~~the industrial commission's certification must be submitted to the tax commissioner~~
22 ~~within eighteen months after the work-over project is completed.~~
- 23 4. To receive, from the first day of eligibility, a tax exemption under subsection 5 of
24 section 57-51.1-03 and a tax rate reduction under section 57-51.1-02 on production
25 from a secondary or tertiary project, the industrial commission's certification must be
26 submitted to the tax commissioner within the following time periods:
 - 27 a. ~~For a tax exemption, within~~ eighteen months after the month in which the first
28 incremental oil was produced.
 - 29 b. ~~For a tax rate reduction, within~~ eighteen months after the end of the period
30 qualifying the project for the rate reduction.

1 5. ~~To receive, from the first day of eligibility, a tax exemption or the reduction on-~~
2 ~~production for which any other tax exemption or rate reduction may apply, the~~
3 ~~industrial commission's certification must be submitted to the tax commissioner within~~
4 ~~eighteen months of the completion, recompletion, or other qualifying date.~~

5 6. ~~To receive, from the first day of eligibility, a tax exemption under subsection 6 of~~
6 ~~section 57-51.1-03 on production from a two-year inactive well, the industrial~~
7 ~~commission's certification must be submitted to the tax commissioner within eighteen~~
8 ~~months after the end of the two-year inactive well's qualification period.~~

9 ~~If the industrial commission's certification is not submitted to the tax commissioner within the~~
10 ~~eighteen-month period provided in this section, then the exemption or rate reduction does not~~
11 ~~apply for the production periods in which the certification is not on file with the tax~~
12 ~~commissioner. When the industrial commission's certification is submitted to the tax~~
13 ~~commissioner after the eighteen-month period, the tax exemption or rate reduction applies to~~
14 ~~prospective production periods only and the exemption or rate reduction is effective the first day~~
15 ~~of the month in which the certification is received by the tax commissioner.~~

16 **SECTION 7. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
17 June 30, 2013.