

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.~~ for an
 4 Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code,
 5 relating to income tax withholding for oil and gas royalties; to amend and reenact section
 6 15-05-10, subsection 4 of section 38-08-04, sections 57-51.1-01, 57-51.1-02, and 57-51.1-03,
 7 subsection 1 of section 57-51.1-03.1, and section 57-51.2-02 of the North Dakota Century
 8 Code, relating to oil extraction tax definitions, rates, and exemptions and the state-tribal oil tax
 9 agreement; to provide for a study; and to provide an effective date.

10 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

11 ~~— SECTION 1. AMENDMENT. Section 15-05-10 of the North Dakota Century Code is~~
 12 ~~amended and reenacted as follows:~~

13 ~~— 15-05-10. Royalties from oil leases -- Rents from other leases -- Rules.~~

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

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

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

11 ~~— **SECTION 3. AMENDMENT.** Section 57-51.1-01 of the North Dakota Century Code is~~
12 ~~amended and reenacted as follows:~~

13 ~~— **57-51.1-01. Definitions for oil extraction tax.**~~

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

16 ~~— 1. — "Average daily production" of a well means the qualified maximum total production of~~
17 ~~barrels of oil from the well during a calendar month period divided by the number of~~
18 ~~calendar days in that period, month and "qualified maximum total production" of a well~~
19 ~~means that the well must have been maintained at the maximum efficient rate of~~
20 ~~production as defined and determined by rule adopted by the industrial commission in~~
21 ~~furtherance of its authority under chapter 38-08.~~

22 ~~— 2. — "Average price" of a barrel of crude oil means the monthly average of the daily closing~~
23 ~~price for a barrel of west Texas intermediate cushing crude oil, as those prices appear~~
24 ~~in the Wall Street Journal, midwest edition, minus two dollars and fifty cents. When~~
25 ~~computing the monthly average price, the most recent previous daily closing price~~
26 ~~must be considered the daily closing price for the days on which the market is~~
27 ~~closed statewide production" means the number of barrels of oil produced from wells~~
28 ~~within this state during a calendar month divided by the number of calendar days in~~
29 ~~that month, as determined by the industrial commission.~~

1 ~~3.~~ "Horizontal reentry well" means a well that was not initially drilled and completed as a
2 horizontal well, including any well initially plugged and abandoned as a dry hole, which
3 is reentered and recompleted as a horizontal well.

4 ~~4.~~ "Horizontal well" means a well with a horizontal displacement of the well bore drilled at
5 an angle of at least eighty degrees within the productive formation of at least three
6 hundred feet [91.44 meters].

7 ~~5.~~ "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid
8 hydrocarbons that are recovered from gas on the lease incidental to the production of
9 the gas.

10 ~~6.4.~~ "Property" means the right which arises from a lease or fee interest, as a whole or any
11 designated portion thereof, to produce oil. A producer shall treat as a separate
12 property each separate and distinct producing reservoir subject to the same right to
13 produce crude oil; provided, that such if the reservoir is recognized by the industrial
14 commission as a producing formation that is separate and distinct from, and not in
15 communication with, any other producing formation.

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

27 ~~8.6.~~ "Qualifying tertiary recovery project" means a project for enhancing recovery of oil
28 which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as
29 amended through December 31, 1986, and includes the following methods for
30 recovery:

31 ~~a.~~ Miscible fluid displacement.

- 1 ~~_____ b. Steam drive injection.~~
- 2 ~~_____ c. Microemulsion.~~
- 3 ~~_____ d. In situ combustion.~~
- 4 ~~_____ e. Polymer augmented water flooding.~~
- 5 ~~_____ f. Cyclic steam injection.~~
- 6 ~~_____ g. Alkaline flooding.~~
- 7 ~~_____ h. Carbonated water flooding.~~
- 8 ~~_____ i. Immiscible carbon dioxide displacement.~~
- 9 ~~_____ j. New tertiary recovery methods certified by the industrial commission.~~

10 ~~It does not include water flooding, unless the water flooding is used as an element of~~
11 ~~one of the qualifying tertiary recovery techniques described in this subsection, or~~
12 ~~immiscible natural gas injection. To be eligible for the tax reduction provided under~~
13 ~~section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the~~
14 ~~industrial commission, the project operator must continue to operate the unit as a~~
15 ~~qualifying tertiary recovery project, and the project operator must have achieved for at~~
16 ~~least one month a production level of at least fifteen percent above the level that would~~
17 ~~have been recovered under normal recovery operations. To be eligible for the tax~~
18 ~~exemption provided under section 57-51.1-03 and subsequent thereto the rate~~
19 ~~reduction provided under section 57-51.1-02, a tertiary recovery project must be~~
20 ~~certified as qualifying by the industrial commission, the project operator must continue~~
21 ~~to operate the unit as a qualifying tertiary recovery project, and the project operator~~
22 ~~must have obtained incremental production as defined in subsection 5 of section~~
23 ~~57-51.1-03 rules of the industrial commission.~~

24 ~~—9.7.— "Royalty owner" means an owner of what is commonly known as the royalty interest~~
25 ~~and shall not include the owner of any overriding royalty or other payment carved out~~
26 ~~of the working interest.~~

27 ~~—10.8.— "Stripper well" means a well inside the Bakken or Three Forks formations whose~~
28 ~~average daily production of oil, excluding condensate recovered in nonassociated~~
29 ~~production, per well did not exceed ten barrels per day for wells of a depth of six~~
30 ~~thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of~~
31 ~~more than six thousand feet [1828.80 meters] but not more than ten thousand feet~~

1 ~~[3048 meters], and fifty barrels per day for wells of a depth of more than ten thousand~~
2 ~~feet [3048 meters] during any preceding consecutive twelve-month period. "Stripper~~
3 ~~well" also includes a well inside the Bakken or Three Forks formations which was~~
4 ~~drilled and completed before July 1, 2013, and was considered part of a stripper well~~
5 ~~property for purposes of this chapter on June 30, 2013.~~

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

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

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

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

1 ~~— **57-51.1-02. Imposition of oil**Oil extraction tax rate.~~

2 ~~— There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the~~
3 ~~activity in this state of extracting oil from the earth, and every owner, including any royalty-~~
4 ~~owner, of any part of the oil extracted is deemed for the purposes of this chapter to be engaged~~
5 ~~in the activity of extracting that oil.~~

6 ~~— The rate of tax is six and one-half percent of the gross value at the well of the oil extracted,~~
7 ~~except that the rate of tax is four percent of the gross value at the well of the oil extracted in the~~
8 ~~following situations:~~

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

11 ~~— 2. For oil produced from a secondary or tertiary recovery project that was certified as~~
12 ~~qualifying by the industrial commission before July 1, 1991;~~

13 ~~— 3. For oil that does not qualify as incremental oil but is produced from a secondary or~~
14 ~~tertiary recovery project that is certified as qualifying by the industrial commission after~~
15 ~~June 30, 1991;~~

16 ~~— 4. For incremental oil produced from a secondary or tertiary recovery project that is~~
17 ~~certified as qualifying by the industrial commission after June 30, 1991, and which~~
18 ~~production is not otherwise exempt under section 57-51.1-03; or~~

19 ~~— 5. For oil produced from a well that receives an exemption pursuant to subsection 4 of~~
20 ~~section 57-51.1-03 after June 30, 1993, and which production is not otherwise exempt~~
21 ~~under section 57-51.1-03.~~

22 ~~However, if the average price of a barrel of crude oil exceeds the trigger price for each month in~~
23 ~~any consecutive five-month period, then the rate of tax on oil extracted from all taxable wells is~~
24 ~~six and one-half percent of the gross value at the well of the oil extracted until the average price~~
25 ~~of a barrel of crude oil is less than the trigger price for each month in any consecutive~~
26 ~~five-month period, in which case the rate of tax reverts to four percent of the gross value at the~~
27 ~~well of the oil extracted for any wells subject to a reduced rate under subsections 1 through 5.~~

28 ~~— 1. Six percent for production from wells drilled and completed on or after the first day of~~
29 ~~the third calendar month following a period of three consecutive calendar months in~~
30 ~~which average statewide daily production exceeds eight hundred thousand barrels per~~
31 ~~day.~~

- 1 ~~2. Five and one-half percent for production from wells drilled and completed on or after~~
2 ~~the first day of the third calendar month following a period of three consecutive~~
3 ~~calendar months in which average statewide daily production exceeds nine hundred~~
4 ~~thousand barrels per day.~~
- 5 ~~3. Five percent for production from wells drilled and completed on or after the first day of~~
6 ~~the third calendar month following a period of three consecutive calendar months in~~
7 ~~which average statewide daily production exceeds one million barrels per day, or for~~
8 ~~production from wells drilled and completed on or after the first day of July 2015,~~
9 ~~whichever event occurs first.~~
- 10 ~~**SECTION 5. AMENDMENT.** Section 57-51.1-03 of the North Dakota Century Code is~~
11 ~~amended and reenacted as follows:~~
- 12 ~~**57-51.1-03. (Effective through June 30, 2013) Exemptions from oil extraction tax.**~~
- 13 ~~The following activities are specifically exempted from the oil extraction tax:~~
- 14 ~~1. The activity of extracting from the earth any oil that is exempt from the gross~~
15 ~~production tax imposed by chapter 57-51.~~
- 16 ~~2. The activity of extracting from the earth any oil from a stripper well property or~~
17 ~~individual stripper well. A well in the Bakken or Three Forks formation which was~~
18 ~~certified as a stripper well or as part of a stripper well property at the time it is~~
19 ~~reentered or reworked retains its stripper well or stripper well property exempt status~~
20 ~~for the first twelve months of production from that well after completion of the reentry~~
21 ~~or reworking project. After that period, the stripper well or stripper well property exempt~~
22 ~~status is lost after the average daily production of the well exceeds one hundred~~
23 ~~barrels per day for a calendar month and the well is then subject to a reduced tax rate~~
24 ~~of two percent under this chapter until production from that well individually meets the~~
25 ~~requirements of the definition of stripper well under section 57-51.1-01.~~
- 26 ~~3. For a well drilled and completed as a vertical well, the initial production of oil from the~~
27 ~~well is exempt from any taxes imposed under this chapter for a period of fifteen~~
28 ~~months, except that oil produced from any well drilled and completed as a horizontal~~
29 ~~well is exempt from any taxes imposed under this chapter for a period of twenty-four~~
30 ~~months. Oil recovered during testing prior to well completion is exempt from the oil~~
31 ~~extraction tax. The exemption under this subsection becomes ineffective if the average~~

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

5 ~~4.~~ The production of oil from a qualifying well that was worked over is exempt from any
6 taxes imposed under this chapter for a period of twelve months, beginning with the
7 first day of the third calendar month after the completion of the work-over project. The
8 exemption provided by this subsection is only effective if the well operator establishes
9 to the satisfaction of the industrial commission upon completion of the project that the
10 cost of the project exceeded sixty-five thousand dollars or production is increased at
11 least fifty percent during the first two months after completion of the project. A
12 qualifying well under this subsection is a well with an average daily production of no
13 more than fifty barrels of oil during the latest six calendar months of continuous
14 production. A work-over project under this subsection means the continuous
15 employment of a work-over rig, including recompletions and reentries. The exemption
16 provided by this subsection becomes ineffective if the average price of a barrel of
17 crude oil exceeds the trigger price for each month in any consecutive five-month
18 period. However, the exemption is reinstated if, after the trigger provision becomes
19 effective, the average price of a barrel of crude oil is less than the trigger price for
20 each month in any consecutive five-month period.

21 ~~5. a.~~ The incremental production from a secondary recovery project which has been
22 certified as a qualified project by the industrial commission after July 1, 1991, is
23 exempt from any taxes imposed under this chapter for a period of five years from
24 the date the incremental production begins.

25 ~~b.~~ The incremental production from a tertiary recovery project that does not use
26 carbon dioxide and which has been certified as a qualified project by the
27 industrial commission is exempt from any taxes imposed under this chapter for a
28 period of ten years from the date the incremental production begins. Incremental
29 production from a tertiary recovery project that uses carbon dioxide and which
30 has been certified as a qualified project by the industrial commission is exempt

1 from any taxes imposed under this chapter from the date the incremental
2 production begins.

3 ~~c. For purposes of this subsection, incremental production is defined in the following~~
4 ~~manner:~~

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

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

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

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

27 ~~(5) For purposes of determining the exemption provided for in subdivision b and~~
28 ~~with respect to a unit where there is or has been a secondary recovery~~
29 ~~project, incremental production means the difference between the total~~
30 ~~amount of oil produced during the tertiary recovery project and the amount~~
31 ~~of production which would be equivalent to the average monthly production~~

1 from the unit during the most recent twelve months of normal production
2 reduced by a production decline rate of ten percent for each year. The
3 industrial commission shall determine the average monthly production from
4 the unit during the most recent twelve months of normal production and
5 must upon request or upon its own motion hold a hearing to make this
6 determination. For purposes of this paragraph, when determining the most
7 recent twelve months of normal production the industrial commission is not
8 required to use twelve consecutive months. In addition, the production
9 decline rate of ten percent must be applied from the last month in the
10 twelve-month period of time.

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

26 ~~d.~~ The industrial commission shall adopt rules relating to this the exemption
27 that under this subsection which must include procedures for determining
28 incremental production as defined in subdivision c.

29 ~~6.~~ The production of oil from a two-year inactive well, as determined by the industrial
30 commission and certified to the state tax commissioner, for a period of ten years after
31 the date of receipt of the certification. The exemption under this subsection becomes

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

6 ~~7. The production of oil from a horizontal reentry well, as determined by the industrial~~
7 ~~commission and certified to the state tax commissioner, for a period of nine months~~
8 ~~after the date the well is completed as a horizontal well. The exemption under this~~
9 ~~subsection becomes ineffective if the average price of a barrel of crude oil exceeds the~~
10 ~~trigger price for each month in any consecutive five-month period. However, the~~
11 ~~exemption is reinstated if, after the trigger provision becomes effective, the average~~
12 ~~price of a barrel of crude oil is less than the trigger price for each month in any~~
13 ~~consecutive five-month period.~~

14 ~~8.4. The initial production of oil from a well is exempt from any taxes imposed under this~~
15 ~~chapter for a period of sixty months if:~~

16 ~~a. The well is located within the boundaries of an Indian reservation;~~

17 ~~b. The well is drilled and completed on lands held in trust by the United States for~~
18 ~~an Indian tribe or individual Indian; or~~

19 ~~c. The well is drilled and completed on lands held by an Indian tribe if the interest is~~
20 ~~in existence on August 1, 1997.~~

21 ~~9. The first seventy five thousand barrels or the first four million five hundred thousand~~
22 ~~dollars of gross value at the well, whichever is less, of oil produced during the first~~
23 ~~eighteen months after completion, from a horizontal well drilled and completed after~~
24 ~~April 30, 2009, is subject to a reduced tax rate of two percent of the gross value at the~~
25 ~~well of the oil extracted under this chapter. A well eligible for a reduced tax rate under~~
26 ~~this subsection is eligible for the exemption for horizontal wells under subsection 3, if~~
27 ~~the exemption under subsection 3 is effective during all or part of the first twenty four~~
28 ~~months after completion. The rate reduction under this subsection becomes effective~~
29 ~~on the first day of the month following a month for which the average price of a barrel~~
30 ~~of crude oil is less than fifty five dollars. The rate reduction under this subsection~~
31 ~~becomes ineffective on the first day of the month following a month in which the~~

1 average price of a barrel of crude oil exceeds seventy dollars. If the rate reduction
2 under this subsection is effective on the date of completion of a well, the rate reduction
3 applies to production from that well for up to eighteen months after completion, subject
4 to the other limitations of this subsection. If the rate reduction under this subsection is
5 ineffective on the date of completion of a well, the rate reduction under this subsection
6 does not apply to production from that well at any time.

7 ~~— (Effective after June 30, 2013) Exemptions from oil extraction tax. The following~~
8 ~~activities are specifically exempted from the oil extraction tax:~~

9 ~~— 1. The activity of extracting from the earth any oil that is exempt from the gross~~
10 ~~production tax imposed by chapter 57-51.~~

11 ~~— 2. The activity of extracting from the earth any oil from a stripper well property.~~

12 ~~— 3. For a well drilled and completed as a vertical well, the initial production of oil from the~~
13 ~~well is exempt from any taxes imposed under this chapter for a period of fifteen~~
14 ~~months, except that oil produced from any well drilled and completed as a horizontal~~
15 ~~well is exempt from any taxes imposed under this chapter for a period of twenty-four~~
16 ~~months. Oil recovered during testing prior to well completion is exempt from the oil~~
17 ~~extraction tax. The exemption under this subsection becomes ineffective if the average~~
18 ~~price of a barrel of crude oil exceeds the trigger price for each month in any~~
19 ~~consecutive five-month period. However, the exemption is reinstated if, after the~~
20 ~~trigger provision becomes effective, the average price of a barrel of crude oil is less~~
21 ~~than the trigger price for each month in any consecutive five-month period.~~

22 ~~— 4. The production of oil from a qualifying well that was worked over is exempt from any~~
23 ~~taxes imposed under this chapter for a period of twelve months, beginning with the~~
24 ~~first day of the third calendar month after the completion of the work-over project. The~~
25 ~~exemption provided by this subsection is only effective if the well operator establishes~~
26 ~~to the satisfaction of the industrial commission upon completion of the project that the~~
27 ~~cost of the project exceeded sixty-five thousand dollars or production is increased at~~
28 ~~least fifty percent during the first two months after completion of the project. A~~
29 ~~qualifying well under this subsection is a well with an average daily production of no~~
30 ~~more than fifty barrels of oil during the latest six calendar months of continuous~~
31 ~~production. A work-over project under this subsection means the continuous~~

1 employment of a work-over rig, including recompletions and reentries. The exemption
2 provided by this subsection becomes ineffective if the average price of a barrel of
3 crude oil exceeds the trigger price for each month in any consecutive five-month
4 period. However, the exemption is reinstated if, after the trigger provision becomes
5 effective, the average price of a barrel of crude oil is less than the trigger price for
6 each month in any consecutive five-month period.

7 ~~5. a. The incremental production from a secondary recovery project which has been~~
8 ~~certified as a qualified project by the industrial commission after July 1, 1991, is~~
9 ~~exempt from any taxes imposed under this chapter for a period of five years from~~
10 ~~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 is exempt from any taxes imposed under this chapter for a~~
14 ~~period of ten years from the date the incremental production begins. Incremental~~
15 ~~production from a tertiary recovery project that uses carbon dioxide and which~~
16 ~~has been certified as a qualified project by the industrial commission is exempt~~
17 ~~from any taxes imposed under this chapter from the date the incremental~~
18 ~~production begins.~~

19 ~~c. For purposes of this subsection, incremental production is defined in the following~~
20 ~~manner:~~

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

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

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

1 that conforms to the practice and procedure used by the commission at the
2 time the new secondary recovery project is certified.

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

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

28 ~~(6) For purposes of determining the exemption provided for in subdivision b and~~
29 ~~with respect to a unit where there is or has been a secondary recovery~~
30 ~~project and where the industrial commission can establish an accurate~~
31 ~~production decline curve, incremental production means the difference~~

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

12 ~~_____d._____The industrial commission shall adopt rules relating to this exemption that must~~
13 include procedures for determining incremental production as defined in
14 subdivision c.

15 ~~_____6._____The production of oil from a two-year inactive well, as determined by the industrial~~
16 commission and certified to the state tax commissioner, for a period of ten years after
17 the date of receipt of the certification. The exemption under this subsection becomes
18 ineffective if the average price of a barrel of crude oil exceeds the trigger price for
19 each month in any consecutive five-month period. However, the exemption is
20 reinstated if, after the trigger provision becomes effective, the average price of a barrel
21 of crude oil is less than the trigger price for each month in any consecutive five-month
22 period.

23 ~~_____7._____The production of oil from a horizontal reentry well, as determined by the industrial~~
24 commission and certified to the state tax commissioner, for a period of nine months
25 after the date the well is completed as a horizontal well. The exemption under this
26 subsection becomes ineffective if the average price of a barrel of crude oil exceeds the
27 trigger price for each month in any consecutive five-month period. However, the
28 exemption is reinstated if, after the trigger provision becomes effective, the average
29 price of a barrel of crude oil is less than the trigger price for each month in any
30 consecutive five-month period.

1 ~~8. The initial production of oil from a well is exempt from any taxes imposed under this~~
2 ~~chapter for a period of sixty months if:~~

3 ~~a. The well is located within the boundaries of an Indian reservation;~~

4 ~~b. The well is drilled and completed on lands held in trust by the United States for~~
5 ~~an Indian tribe or individual Indian; or~~

6 ~~c. The well is drilled and completed on lands held by an Indian tribe if the interest is~~
7 ~~in existence on August 1, 1997.~~

8 ~~9. The first seventy-five thousand barrels of oil produced during the first eighteen months~~
9 ~~after completion, from a horizontal well drilled and completed in the Bakken formation~~
10 ~~after June 30, 2007, and before July 1, 2008, is subject to a reduced tax rate of two~~
11 ~~percent of the gross value at the well of the oil extracted under this chapter. A well~~
12 ~~eligible for a reduced tax rate under this subsection is eligible for the exemption for~~
13 ~~horizontal wells under subsection 3, if the exemption under subsection 3 is effective~~
14 ~~during all or part of the first twenty-four months after completion.~~

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

17 ~~**57-51.1-03.1. Stripper well, new well, work-over, and secondary or tertiary project**~~
18 ~~**certification for tax exemption or rate reduction -- Filing requirement.**~~

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

22 ~~1. To receive, from the first day of eligibility, a tax exemption or rate reduction on~~
23 ~~production from a stripper well property or individual stripper well under subsection 2~~
24 ~~of section 57-51.1-03, the industrial commission's certification must be submitted to~~
25 ~~the tax commissioner within eighteen months after the end of the stripper well~~
26 ~~property's or individual stripper well's qualification period.~~

27 ~~2. To receive, from the first day of eligibility, a tax exemption under subsection 3 of~~
28 ~~section 57-51.1-03 and a rate reduction on production from a new well under section~~
29 ~~57-51.1-02, the industrial commission's certification must be submitted to the tax~~
30 ~~commissioner within eighteen months after a new well is completed.~~

- 1 ~~3. To receive, from the first day of eligibility, a tax exemption under subsection 4 of~~
2 ~~section 57-51.1-03 and a rate reduction for a work-over well under section 57-51.1-02,~~
3 ~~the industrial commission's certification must be submitted to the tax commissioner~~
4 ~~within eighteen months after the work-over project is completed.~~
- 5 ~~4. To receive, from the first day of eligibility, a tax exemption under subsection 5 of~~
6 ~~section 57-51.1-03 and a tax rate reduction under section 57-51.1-02 on production~~
7 ~~from a secondary or tertiary project, the industrial commission's certification must be~~
8 ~~submitted to the tax commissioner within the following time periods:~~
- 9 ~~a. For a tax exemption, within eighteen months after the month in which the first~~
10 ~~incremental oil was produced.~~
- 11 ~~b. For a tax rate reduction, within eighteen months after the end of the period~~
12 ~~qualifying the project for the rate reduction.~~
- 13 ~~5. To receive, from the first day of eligibility, a tax exemption or the reduction on~~
14 ~~production for which any other tax exemption or rate reduction may apply, the~~
15 ~~industrial commission's certification must be submitted to the tax commissioner within~~
16 ~~eighteen months of the completion, recompletion, or other qualifying date.~~
- 17 ~~6. To receive, from the first day of eligibility, a tax exemption under subsection 6 of~~
18 ~~section 57-51.1-03 on production from a two-year inactive well, the industrial~~
19 ~~commission's certification must be submitted to the tax commissioner within eighteen~~
20 ~~months after the end of the two-year inactive well's qualification period.~~

21 ~~If the industrial commission's certification is not submitted to the tax commissioner within the~~
22 ~~eighteen-month period provided in this section, then the exemption or rate reduction does not~~
23 ~~apply for the production periods in which the certification is not on file with the tax~~
24 ~~commissioner. When the industrial commission's certification is submitted to the tax~~
25 ~~commissioner after the eighteen-month period, the tax exemption or rate reduction applies to~~
26 ~~prospective production periods only and the exemption or rate reduction is effective the first day~~
27 ~~of the month in which the certification is received by the tax commissioner.~~

28 ~~**SECTION 7. EFFECTIVE DATE.** This Act is effective for taxable events occurring after~~
29 ~~June 30, 2013.~~

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

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

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

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

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

SECTION 3. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Withholding requirement for oil and gas royalty payments to nonresidents.

1. For purposes of this section:

- a. "Publicly traded partnership" means a publicly traded partnership as defined in section 7704 of the Internal Revenue Code [26 U.S.C. 7704] which is not treated as a corporation.
- b. "Remitter" means any person who distributes royalty payments to royalty owners.
- c. "Royalty owner" means a person or entity entitled to receive periodic royalty payments for a nonworking interest in the production of oil or gas.

1 2. Except as provided in subsection 3, each remitter shall deduct and withhold from the
2 net amount of the royalty payment made to each nonresident individual or business
3 entity that does not have its commercial domicile in this state at the highest marginal
4 rate provided in sections 57-38-30 and 57-38-30.3. Sections 57-38-59 and 57-38-60
5 apply to the filing of the returns and payment of the tax under this subsection.

6 3. This section does not apply to royalty payments made to a royalty owner if the royalty
7 owner is:

8 a. The United States or an agency of the federal government, this state or a political
9 subdivision of this state, or another state or a political subdivision of another
10 state;

11 b. A federally recognized Indian tribe with respect to on-reservation oil and gas
12 production pursuant to a lease entered under the Indian Mineral Leasing Act of
13 1938 [25 U.S.C. 396a through 396g];

14 c. The United States as trustee for individual Indians;

15 d. A publicly traded partnership;

16 e. An organization that is exempt from the tax under this chapter; or

17 f. The same person or entity as the remitter.

18 4. a. This section does not apply to a remitter that produced less than three hundred
19 fifty thousand barrels of oil or less than five hundred million cubic feet of gas in
20 the preceding calendar year as certified to the tax commissioner in the manner
21 and on forms prescribed by the tax commissioner.

22 b. Each remitter that is exempt from withholding under this subsection shall make
23 an annual return to report royalty payments that exceed the dollar amounts in
24 subsection 6 and must be reported in the same manner as provided in section
25 57-38-60.

26 5. a. Each year, a publicly traded partnership that is exempt from withholding under
27 subsection 3 shall transmit to the tax commissioner, in an electronic format
28 approved by the tax commissioner, each partner's United States department of
29 the treasury schedule K-1, form 1065, or form 1065-B, as applicable, filed
30 electronically for the year with the United States internal revenue service.

1 b. A royalty owner that is a publicly traded partnership, or an organization exempt
2 from taxation under section 57-38-09, shall report to the remitter and tax
3 commissioner under oath, on a form prescribed by the tax commissioner, all
4 information necessary to establish that the remitter is not required under
5 subsection 2 to withhold royalty payments made to the partnership or
6 organization.

7 6. If the royalty payment made to a royalty owner under this section is less than six
8 hundred dollars for the current withholding period, or is less than one thousand dollars
9 if the payment is annualized, the tax commissioner may grant a remitter's request to
10 forego withholding the tax from the royalty payment made to that royalty owner for the
11 current withholding period or, if applicable, the royalty payments for the annual period.

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

14 **57-51.1-01. Definitions for oil extraction tax.**

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

- 17 1. "Average daily production" of a well means the qualified maximum total production of
18 oil from the well during a calendar month period divided by the number of calendar
19 days in that period, and "qualified maximum total production" of a well means that the
20 well must have been maintained at the maximum efficient rate of production as
21 defined and determined by rule adopted by the industrial commission in furtherance of
22 its authority under chapter 38-08.
- 23 2. ~~"Average price" of a barrel of crude oil means the monthly average of the daily closing~~
24 ~~price for a barrel of west Texas intermediate cushing crude oil, as those prices appear~~
25 ~~in the Wall Street Journal, midwest edition, minus two dollars and fifty cents. When~~
26 ~~computing the monthly average price, the most recent previous daily closing price~~
27 ~~must be considered the daily closing price for the days on which the market is closed.~~
- 28 ~~3.~~ "Horizontal reentry well" means a well that was not initially drilled and completed as a
29 horizontal well, including any well initially plugged and abandoned as a dry hole, which
30 is reentered and recompleted as a horizontal well.

1 | 4.3. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at
2 | an angle of at least eighty degrees within the productive formation of at least three
3 | hundred feet [91.44 meters].

4 | 5.4. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid
5 | hydrocarbons that are recovered from gas on the lease incidental to the production of
6 | the gas.

7 | 6.5. "Property" means the right which arises from a lease or fee interest, as a whole or any
8 | designated portion thereof, to produce oil. A producer shall treat as a separate
9 | property each separate and distinct producing reservoir subject to the same right to
10 | produce crude oil; provided, that such reservoir is recognized by the industrial
11 | commission as a producing formation that is separate and distinct from, and not in
12 | communication with, any other producing formation.

13 | 7.6. "Qualifying secondary recovery project" means a project employing water flooding. To
14 | be eligible for the tax reduction provided under section 57-51.1-02, a secondary
15 | recovery project must be certified as qualifying by the industrial commission and the
16 | project operator must have achieved for six consecutive months an average
17 | production level of at least twenty-five percent above the level that would have been
18 | recovered under normal recovery operations. To be eligible for the tax exemption
19 | provided under section 57-51.1-03 and subsequent thereto the rate reduction provided
20 | under section 57-51.1-02, a secondary recovery project must be certified as qualifying
21 | by the industrial commission and the project operator must have obtained incremental
22 | production as defined in subsection 5 of section 57-51.1-03.

23 | 8.7. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil
24 | which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as
25 | amended through December 31, 1986, and includes the following methods for
26 | recovery:

- 27 | a. Miscible fluid displacement.
- 28 | b. Steam drive injection.
- 29 | c. Microemulsion.
- 30 | d. In situ combustion.
- 31 | e. Polymer augmented water flooding.

- 1 f. Cyclic steam injection.
- 2 g. Alkaline flooding.
- 3 h. Carbonated water flooding.
- 4 i. Immiscible carbon dioxide displacement.
- 5 j. New tertiary recovery methods certified by the industrial commission.

6 It does not include water flooding, unless the water flooding is used as an element of
7 one of the qualifying tertiary recovery techniques described in this subsection, or
8 immiscible natural gas injection. To be eligible for the tax reduction provided under
9 section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the
10 industrial commission, the project operator must continue to operate the unit as a
11 qualifying tertiary recovery project, and the project operator must have achieved for at
12 least one month a production level of at least fifteen percent above the level that would
13 have been recovered under normal recovery operations. To be eligible for the tax
14 exemption provided under section 57-51.1-03 and subsequent thereto the rate
15 reduction provided under section 57-51.1-02, a tertiary recovery project must be
16 certified as qualifying by the industrial commission, the project operator must continue
17 to operate the unit as a qualifying tertiary recovery project, and the project operator
18 must have obtained incremental production as defined in subsection 5 of section
19 57-51.1-03.

20 ~~9.8.~~ "Royalty owner" means an owner of what is commonly known as the royalty interest
21 and shall not include the owner of any overriding royalty or other payment carved out
22 of the working interest.

23 ~~10.9.~~ "Stripper well" means a well drilled and completed, or reentered and recompleted as a
24 horizontal well, during the time the rate of tax for new wells is six percent under
25 section 57-51.1-02, whose average daily production of oil during any preceding
26 consecutive twelve-month period, excluding condensate recovered in nonassociated
27 production, per well did not exceed ten barrels per day for wells of a depth of six
28 thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of
29 more than six thousand feet [1828.80 meters] but not more than ten thousand feet
30 [3048 meters], and thirty barrels per day for wells of a depth of more than ten
31 thousand feet [3048 meters] outside the Bakken and Three Forks formations, and

thirty-five barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.

10. "Stripper well property" means wells drilled and completed, or a well reentered and recompleted as a horizontal well, before the time the rate of tax for new wells is six percent under section 57-51.1-02, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.

11. "Trigger price" means ~~thirty-five~~ an average price per barrel for crude oil of less than fifty-two dollars and ~~fifty-fourty~~ cents, ~~as indexed for inflation for a full calendar month. By December thirty-first of each year, the tax commissioner shall compute an indexed trigger price by applying to the current trigger price the rate of change of the producer price index for industrial commodities as calculated and published by the United States department of labor, bureau of labor statistics, for the twelve months ending June thirtieth of that year and the indexed trigger price so determined is the trigger price for the following calendar year.~~ The trigger price definition in this subsection is effective only during the time the rate of tax for new wells is six percent under section 57-51.1-02.

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

SECTION 5. AMENDMENT. Section 57-51.1-02 of the North Dakota Century Code is amended and reenacted as follows:

1 **57-51.1-02. Imposition of oil extraction tax.**

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

6 The rate of tax is six and one-half percent of the gross value at the well of the oil extracted
7 for wells drilled and completed before July 1, 2013, and six percent of the gross value at the
8 well of the oil extracted for wells drilled and completed after June 30, 2013, except that the rate
9 of tax is four percent of the gross value at the well of the oil extracted in the following situations:

- 10 1. For oil produced from wells drilled and completed after April 27, 1987, commonly
11 referred to as new wells, and not otherwise exempt under section 57-51.1-03;
- 12 2. For oil produced from a secondary or tertiary recovery project that was certified as
13 qualifying by the industrial commission before July 1, 1991;
- 14 3. For oil that does not qualify as incremental oil but is produced from a secondary or
15 tertiary recovery project that is certified as qualifying by the industrial commission after
16 June 30, 1991;
- 17 4. For incremental oil produced from a secondary or tertiary recovery project that is
18 certified as qualifying by the industrial commission after June 30, 1991, and which
19 production is not otherwise exempt under section 57-51.1-03; or
- 20 5. For oil produced from a well that receives an exemption pursuant to subsection 4 of
21 section 57-51.1-03 after June 30, 1993, and which production is not otherwise exempt
22 under section 57-51.1-03.

23 However, if the average price of a barrel of crude oil exceeds the trigger price for each month in
24 any consecutive five-month period, then the rate of tax on oil extracted from all taxable wells is
25 six and one-half percent of the gross value at the well of the oil extracted for wells drilled and
26 completed before July 1, 2013, and six percent of the gross value at the well of the oil extracted
27 for wells drilled and completed after June 30, 2013, until the average price of a barrel of crude
28 oil is less than the trigger price for each month in any consecutive five-month period, in which
29 case the rate of tax reverts to four percent of the gross value at the well of the oil extracted for
30 any wells subject to a reduced rate under subsections 1 through 5.

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

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

4 5. a. The incremental production from a secondary recovery project which has been
5 certified as a qualified project by the industrial commission after July 1, 1991, is
6 exempt from any taxes imposed under this chapter for a period of five years from
7 the date the incremental production begins.

8 b. The incremental production from a tertiary recovery project that does not use
9 carbon dioxide and which has been certified as a qualified project by the
10 industrial commission is exempt from any taxes imposed under this chapter for a
11 period of ten years from the date the incremental production begins. Incremental
12 production from a tertiary recovery project that uses carbon dioxide and which
13 has been certified as a qualified project by the industrial commission is exempt
14 from any taxes imposed under this chapter from the date the incremental
15 production begins.

16 c. For purposes of this subsection, incremental production is defined in the following
17 manner:

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

28 (2) For purposes of determining the exemption provided for in subdivision a and
29 with respect to a unit where a secondary recovery project was in existence
30 prior to July 1, 1991, and where the industrial commission cannot establish
31 an accurate production decline curve, incremental production means the

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

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

29 (4) For purposes of determining the exemption provided for in subdivision b and
30 with respect to a unit where there has not been a secondary recovery
31 project, incremental production means the difference between the total

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

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

23 (6) For purposes of determining the exemption provided for in subdivision b and
24 with respect to a unit where there is or has been a secondary recovery
25 project and where the industrial commission can establish an accurate
26 production decline curve, incremental production means the difference
27 between the total amount of oil produced from the unit during the tertiary
28 recovery project and the total amount of oil that would have been produced
29 from the unit if the tertiary recovery project had not been commenced. For
30 purposes of this paragraph, the total amount of oil that would have been
31 produced from the unit if the tertiary recovery project had not been

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

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

10 6. The production of oil from a two-year inactive well, as determined by the industrial
11 commission and certified to the state tax commissioner, for a period of ten years after
12 the date of receipt of the certification. The exemption under this subsection becomes
13 ineffective if the average price of a barrel of crude oil exceeds the trigger price for
14 each month in any consecutive five-month period. However, the exemption is
15 reinstated if, after the trigger provision becomes effective, the average price of a barrel
16 of crude oil is less than the trigger price for each month in any consecutive five-month
17 period.

18 7. The production of oil from a horizontal reentry well, as determined by the industrial
19 commission and certified to the state tax commissioner, for a period of nine months
20 after the date the well is completed as a horizontal well. The exemption under this
21 subsection becomes ineffective if the average price of a barrel of crude oil exceeds the
22 trigger price for each month in any consecutive five-month period. However, the
23 exemption is reinstated if, after the trigger provision becomes effective, the average
24 price of a barrel of crude oil is less than the trigger price for each month in any
25 consecutive five-month period.

26 8. The initial production of oil from a well is exempt from any taxes imposed under this
27 chapter for a period of sixty months if:

28 a. The well is drilled and completed before July 1, 2013, on nontrust lands located
29 within the boundaries of an Indian reservation;

30 b. The well is drilled and completed before July 1, 2013, on lands held in trust by
31 the United States for an Indian tribe or individual Indian; or

1 c. The well is drilled and completed before July 1, 2013, on lands held by an Indian
2 tribe if the interest is in existence on August 1, 1997.

3 9. ~~The first seventy five thousand barrels or the first four million five hundred thousand-~~
4 ~~dollars of gross value at the well, whichever is less, of oil produced during the first~~
5 ~~eighteen months after completion, from a horizontal well drilled and completed after~~
6 ~~April 30, 2009, is subject to a reduced tax rate of two percent of the gross value at the~~
7 ~~well of the oil extracted under this chapter. A well eligible for a reduced tax rate under~~
8 ~~this subsection is eligible for the exemption for horizontal wells under subsection 3, if~~
9 ~~the exemption under subsection 3 is effective during all or part of the first twenty four~~
10 ~~months after completion. The rate reduction under this subsection becomes effective~~
11 ~~on the first day of the month following a month for which the average price of a barrel~~
12 ~~of crude oil is less than fifty five dollars. The rate reduction under this subsection~~
13 ~~becomes ineffective on the first day of the month following a month in which the~~
14 ~~average price of a barrel of crude oil exceeds seventy dollars. If the rate reduction~~
15 ~~under this subsection is effective on the date of completion of a well, the rate reduction~~
16 ~~applies to production from that well for up to eighteen months after completion, subject~~
17 ~~to the other limitations of this subsection. If the rate reduction under this subsection is~~
18 ~~ineffective on the date of completion of a well, the rate reduction under this subsection~~
19 ~~does not apply to production from that well at any time.~~ The first seventy-five thousand
20 barrels of oil produced during the first eighteen months after completion, from a well
21 drilled and completed before July 1, 2017, outside the Bakken and Three Forks
22 formations and ten miles or more outside an established field in which the industrial
23 commission has defined the pool to include the Bakken or Three Forks formation, is
24 subject to a reduced tax rate of two percent of the gross value at the well of the oil
25 extracted under this chapter. A well eligible for a reduced tax rate under this
26 subsection is eligible for the exemption under subsection 3, if the exemption under
27 subsection 3 is effective during all or part of the first twenty-four months after
28 completion.

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

- ~~1. The activity of extracting from the earth any oil that is exempt from the gross production tax imposed by chapter 57-51.~~
- ~~2. The activity of extracting from the earth any oil from a stripper well property.~~
- ~~3. For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.~~
- ~~4. The production of oil from a qualifying well that was worked over is exempt from any taxes imposed under this chapter for a period of twelve months, beginning with the first day of the third calendar month after the completion of the work-over project. The exemption provided by this subsection is only effective if the well operator establishes to the satisfaction of the industrial commission upon completion of the project that the cost of the project exceeded sixty-five thousand dollars or production is increased at least fifty percent during the first two months after completion of the project. A qualifying well under this subsection is a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production. A work-over project under this subsection means the continuous employment of a work-over rig, including recompletions and reentries. The exemption provided by this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.~~
- ~~5. a. The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission after July 1, 1991, is~~

1 exempt from any taxes imposed under this chapter for a period of five years from
2 the date the incremental production begins.

3 ~~b. The incremental production from a tertiary recovery project that does not use
4 carbon dioxide and which has been certified as a qualified project by the
5 industrial commission is exempt from any taxes imposed under this chapter for a
6 period of ten years from the date the incremental production begins. Incremental
7 production from a tertiary recovery project that uses carbon dioxide and which
8 has been certified as a qualified project by the industrial commission is exempt
9 from any taxes imposed under this chapter from the date the incremental
10 production begins.~~

11 ~~c. For purposes of this subsection, incremental production is defined in the following
12 manner:~~

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

23 ~~(2) For purposes of determining the exemption provided for in subdivision a and
24 with respect to a unit where a secondary recovery project was in existence
25 prior to July 1, 1991, and where the industrial commission cannot establish
26 an accurate production decline curve, incremental production means the
27 difference between the total amount of oil produced from the unit during a
28 new secondary recovery project and the amount of production which would
29 be equivalent to the average monthly production from the unit during the
30 most recent twelve months of normal production reduced by a production
31 decline rate of ten percent for each year. The industrial commission shall~~

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

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

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

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

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

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

~~percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption for horizontal wells under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty four months after completion.~~

SECTION 7. AMENDMENT. Subsection 1 of section 57-51.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

1. To receive, from the first day of eligibility, a tax exemption on production from a stripper well property or individual stripper well under subsection 2 of section 57-51.1-03, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the end of the stripper well property's or stripper well's qualification period.

SECTION 8. AMENDMENT. Section 57-51.2-02 of the North Dakota Century Code is amended and reenacted as follows:

57-51.2-02. Agreement requirements.

An agreement under this chapter is subject to the following:

1. The only taxes subject to agreement are the state's oil and gas gross production and oil extraction taxes attributable to production from wells located within the exterior boundaries of the Fort Berthold Reservation.
2. The state's oil and gas gross production tax under chapter 57-51 and oil extraction tax under chapter 57-51.1 must apply to all wells located within the Fort Berthold Reservation.
3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas production ~~attributable to trust lands on the Fort Berthold Reservation may not exceed six and one-half percent but may be reduced through negotiation between the governor and the Three Affiliated Tribes~~ must be applied at the rate established under chapter 57-51.1.
4. Any exemptions for oil and gas production from trust lands under chapters 57-51 and 57-51.1 do not apply to production within the boundaries of the Fort Berthold Reservation except as otherwise provided in the agreement.
5. The allocation of revenue from oil and gas production and oil extraction taxes on the Fort Berthold Reservation must be as follows:

- 1 a. Production attributable to trust lands. All revenues and exemptions from all oil
2 and gas gross production and oil extraction taxes attributable to production from
3 trust lands on the Fort Berthold Reservation must be evenly divided between the
4 tribe and the state.
- 5 b. All other production. ~~The tribe must receive twenty percent of the total oil and gas~~
6 ~~gross production taxes collected from all production~~All revenues and exemptions
7 from all oil and gas gross production and oil extraction taxes attributable to
8 production from nontrust lands on the Fort Berthold Reservation must be evenly
9 divided between the tribe and the state in lieu of the application of the Three
10 Affiliated Tribes' fees and taxes related to production on such lands. ~~The state~~
11 ~~must receive the remainder.~~
- 12 c. The state's share of the revenue as divided in subdivisions a and b is subject to
13 distribution among political subdivisions as provided in chapters 57-51 and
14 57-51.1.
- 15 6. An oil or gas well that is drilled and completed during the time of an agreement under
16 this chapter must be subject to the terms of the agreement for the life of the well.
- 17 7. The Three Affiliated Tribes must agree not to impose a tribal tax or any fee on future
18 production of oil and gas on the Fort Berthold Reservation during the term of the
19 agreement.
- 20 8. To address situations in which the tax commissioner refunds taxes to a taxpayer, the
21 agreement must allow the tax commissioner to offset future distributions to the tribe.
- 22 9. The tax commissioner must retain authority to administer and enforce chapters 57-51
23 and 57-51.1 as applied to wells subject to any agreement authorized by this chapter.
- 24 10. An oil or gas well that is drilled and completed during the time an agreement under this
25 chapter is in effect is subject to state regulatory provisions for the life of the well in
26 addition to any other applicable regulatory provisions.
- 27 11. The federal district court for the western division of North Dakota is the venue for any
28 dispute arising from a revenue-sharing agreement between the state and the Three
29 Affiliated Tribes.
- 30 12. The agreement must require that the Three Affiliated Tribes report annually to the
31 budget section of the legislative management and that the report, at a minimum,

informs the budget section of tribal investments in essential infrastructure and fees,
expenses, and charges the tribe imposes on the oil industry.

SECTION 9. LEGISLATIVE MANAGEMENT STUDY - ANALYSIS OF FUTURE OIL

INDUSTRY CHANGES - CONSULTANT ASSISTANCE. The legislative management shall consider studying the likely changes to oil industry practices, production, impacts, and tax policy within the foreseeable future. To assist with this study, the legislative management may obtain the services of an independent consultant with demonstrated insight into current and future production advances, including use of carbon dioxide and water or other means of enhancing production; effects of mature production areas on state and local tax policy; future infrastructure needs; and environmental considerations. The objective of the study is development of a legislative vision of appropriate long-term policy issues and revenue and expenditure expectations. The legislative management shall report its findings and recommendations, together with any legislation to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 10. EFFECTIVE DATE. Section 3 of this Act is effective for taxable years beginning after December 31, 2013, and the remainder of this Act is effective for taxable events occurring after June 30, 2013.