

Sixty-first
Legislative Assembly
of North Dakota

Introduced by

(At the request of the Department of Commerce)

1 A BILL for an Act to amend and reenact subsection 5 of section 57-51.1-03 of the North
2 Dakota Century Code, relating to exemption from oil extraction tax on tertiary recovery
3 projects which use carbon dioxide.

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

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

7 5. a. The incremental production from a secondary recovery project which has
8 been certified as a qualified project by the industrial commission after July 1,
9 1991, is exempt from any taxes imposed under this chapter for a period of
10 five years from the date the incremental production begins.

11 b. The incremental production from a tertiary recovery project in which
12 carbon dioxide is not used and which has been certified as a qualified project
13 by the industrial commission ~~subsequent to June 30, 1991,~~ is exempt from
14 any taxes imposed under this chapter for a period of ten years from the date
15 the incremental production begins. Incremental production from a tertiary
16 recovery project in which carbon dioxide is used and which has been certified
17 as a qualified project by the industrial commission is exempt from any taxes
18 imposed under this chapter from the date the incremental production begins.

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

21 (1) For purposes of determining the exemption provided for in subdivision a
22 and with respect to a unit where there has not been a secondary

Sixty-first
Legislative Assembly

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

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

Sixty-first
Legislative Assembly

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

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

20 (4) For purposes of determining the exemption provided for in subdivision b
21 and with respect to a unit where there has not been a secondary
22 recovery project, incremental production means the difference between
23 the total amount of oil produced from the unit during the tertiary recovery
24 project and the amount of primary production from the unit. For

Sixty-first
Legislative Assembly

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

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

22 (6) For purposes of determining the exemption provided for in subdivision b
23 and with respect to a unit where there is or has been a secondary
24 recovery project and where the industrial commission can establish an

Sixty-first
Legislative Assembly

1 accurate production decline curve, incremental production means the
2 difference between the total amount of oil produced from the unit during
3 the tertiary recovery project and the total amount of oil that would have
4 been produced from the unit if the tertiary recovery project had not been
5 commenced. For purposes of this paragraph, the total amount of oil that
6 would have been produced from the unit if the tertiary recovery project
7 had not been commenced includes both primary production and
8 production that occurred as a result of any secondary recovery project.
9 The industrial commission shall determine the amount of oil that would
10 have been produced from the unit if the tertiary recovery project had not
11 been commenced in a manner that conforms to the practice and
12 procedure used by the commission at the time the tertiary recovery
13 project is certified.
14 d. The industrial commission shall adopt rules relating to this exemption that
15 must include procedures for determining incremental production as defined
16 in subdivision c.