

Introduced by

1 A BILL for an Act to create and enact section 57-51.1-03.2 of the North Dakota Century Code,
2 relating to an oil extraction tax credit for carbon dioxide used for enhanced oil recovery; to
3 amend and reenact subsection 2 of section 57-51-05 and subsection 6 of section 57-51.1-01 of
4 the North Dakota Century Code, relating to administration of an oil extraction tax credit and the
5 definition of a qualifying tertiary recovery project; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Subsection 2 of section 57-51-05 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 2. On oil or gas produced and sold, the ~~gross production~~ tax thereon must be paid by the
10 purchaser, and the purchaser is authorized to deduct in making settlement with the
11 producer or royalty owner, the amount of tax paid after deduction of any credit under
12 section 57-51.1-03.2 to which the producer would be entitled if paying the tax as
13 verified by documentation provided from the producer to the purchaser; provided, that
14 in the event oil produced is not sold but is retained by the producer, the tax on the oil
15 not sold must be paid by the producer after deduction of any credit under section
16 57-51.1-03.2 to which the producer is entitled, including the tax due on royalty oil not
17 sold; provided further, that in settlement with the royalty owner the producer has the
18 right to deduct the amount of the tax paid on royalty oil or to deduct therefrom royalty
19 oil equivalent in value at the time the tax becomes due with the amount of the tax paid.

20 **SECTION 2. AMENDMENT.** Subsection 6 of section 57-51.1-01 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 6. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil
23 which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as

amended through December 31, 1986, and includes the following methods for recovery:

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

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, ~~or immiscible natural gas injection, or miscible carbon dioxide displacement~~. To be eligible for the tax exemption provided under section 57-51.1-03, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 3 of section 57-51.1-03.

SECTION 3. Section 57-51.1-03.2 of the North Dakota Century Code is created and enacted as follows:

57-51.1-03.2. Oil extraction tax credit for carbon dioxide purchased or acquired for use in enhanced oil recovery.

1. A producer of oil subject to taxes under this chapter is entitled to a credit against those taxes that apply to the producer's interest in that oil. The credit is equal to ten dollars per ton [907.18 kilograms] of carbon dioxide purchased or acquired for use in enhanced oil recovery in this state.
2. An oil producer shall report to the industrial commission the amount of carbon dioxide initially injected by the oil producer into an oil reservoir in this state for purposes of enhanced oil recovery. The industrial commission shall certify to the tax commissioner

1 the amount, by each oil producer, of carbon dioxide initially injected into an oil
2 reservoir in this state for purposes of enhanced oil recovery.

3 3. An oil producer claiming the credit under this section shall claim the credit in the
4 format prescribed by the tax commissioner. The purchaser of oil may deduct from
5 taxes due any credit under this section to which the producer would be entitled if
6 paying the tax. The return filed by the purchaser for the taxable period must include
7 documentation, in a format prescribed by the tax commissioner, verifying the amount
8 of the producer's credit deducted.

9 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
10 June 30, 2017.