# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

GREAT SEAL STATE OF NORTH DAKOTA

| ROLL NUMBER |
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DESCRIPTION

2397

2007 SENATE FINANCE AND TAXATION

SB 2397

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2397**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: # 2469

| Committee Clerk Signature | Sharon Renfrow |
|---|---|

Minutes:

**Sen. Urlacher** called the committee to order and opened the hearing on SB 2397.

**Sen. Wardner**: prime sponsor of the bill appeared in support stating concerned with revenues to the State and the economy in our area of the State. We want the oil industry to develop, continue to drill and produce the natural resources that we have out in the western part of the State. What this bill does is it brings the extraction tax down from the 6 ½ to 10 ½ then the following year bringing it down to 9 and I think that's fair.

**Sen. O'connell**: co-sponsor of the bill appeared in support with written testimony. (See attached)

**Ron Ness**: ND Petroleum Council appeared in support with written testimony. (See attached)

**Sen. Triplett**: do you have any examples from other states where they may have changed their tax structure by reducing the oil taxes, etc.

**Answer**: I think ND is a fine example of that, incentives do work in this business.

**Jeff Herman**: Regional Mgr for Petro appeared in support stating Ron brought some points especially that this is a very competitive business, dollars are being fought for for all the various states, we've got the big differential plus the highest rates in the country so it's a detriment to bringing oil investments to ND.

**David Serrell**: Marathon Oil Company appeared in support and stated he will get the committee written testimony.

**Vicky Steiner**: Oil & Gas Producing Counties appeared in support

**Bob Harms**: Pres. Of Northern Alliance appeared in support stating 2 points. We've done some analysis on the Bakken Play and we've done some modeling where if we had to take the Bakken rigs from 20 rigs up to 30 over a 10 year period we'd see a 400 million dollar tax revenue increase over and above the fiscal impact on bills this morning. Secondly a lot of the industry members today are going to Houston, TX to look at putting deals together to take acreage that they've leased in ND and presented them to other companies.

**Dale Frink**: State Engineer appeared in opposition with written testimony. (See attached)

**Sen. Triplett**: the suggestion from the proponents is that if we reduce the tax they will increase, increase the production which then would increase the dollar amount of the tax over time even though the rate is lower, do you have an opinion on that or are you just generally concerned.

**Answer**: we only have a limited amount of oil out there, it makes sense to leave a little bit for our grandchildren anyway.

**Sen. Oehlke**: In comparison of last years, has that gone up or down or stayed the same?

Answer: it has gone up and the forecast is to go up the next biennium and that's because of the Bakken Plan or not just that, its production.

Closed the hearing.

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2397**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 6, 2007

Recorder Job Number: # 2939

| Committee Clerk Signature | Sharon Renfrow |
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Minutes:

**Sen. Urlacher** called the committee back to order to look at amendments and further discussion.

**Sen. Wardner**: appeared to present amendments 0202 and 0204. This is on new wells and doesn't pertain to old wells and secondly when currently when the holidays are on, when the exemptions are on, the extraction is zero. When the holidays are off, the extraction tax goes automatically to 6 ½ but also when holidays are on its zeroed during the holiday but when it comes off holiday it goes to 4. This amendment does this, on new wells all new wells not just horizontal but vertically if they decide to drill that way, when the holiday is on it changes the zero extraction to 2%. So we have a new well comes in it's a horizontal well, its got a 24 month holiday, currently it gets no tax collected, under this amendment and under the bill it will be a 2% extraction tax during the 24 month holiday. What it does, it takes care of the fiscal note, and it basically flattens it out. When they come off the 24 months it will go to 9, that's the way it currently is, so that doesn't change when we're below the trigger. Now what changes then is if oil goes above the trigger like it is now, there are no holidays it won't go to 11 ½ it will remain at 9. A trade off here. 2% on the one end and your lowering it 2 ½. It's a better deal for the State.

**Sen. Oehlke**: this would apply anywhere to the Bakken or anywhere, correct?

**Answer**: yes

**Sen. Triplett**: why did you pick July 1st of 2008 as the start date as opposed to the beginning of the biennium?

**Answer**: to keep the FN down

**Sen. Oehlke:** you mentioned 24 month window it mentions 15 months on vertical wells, is that your intention?

**Answer**: that's the way it is now

**Sen. Triplett**: what you're really doing is instead of having a variation that goes between 5 and 11 ½ you're now going to a variation that goes between 7 and 9, is that it?

**Answer:** yes.

**Sen. Horne**: there's a base tax that stays on all the time at 5% what is the name of that?

**Answer**: production tax, we don't touch that.

**Sen. Horne**: what's the trigger price now?

**Answer:** I believe it sits at about $45.86 and I could be off a little bit. That is not on the price of ND crude and that's really why this bill is here. It's on the NY Mercantile Stock Exchange and the price of ND crude lags that.

**Sen. Anderson**: asked for explanation on Tertiary.

Closed discussion.

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2397**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 7, 2007

Recorder Job Number: # 3062

| Committee Clerk Signature | Sharon Renfrow |
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Minutes:

**Sen. Urlacher** called the committee back to order for action on SB 2397.

John Walstad from Legislative Council appeared to explain Sen. Wardner's amendments for clarification to the committee.

**Sen. Triplett**: Have you done a calculation to sort of analyze what the overall impact would be on tax collections assuming there was no increase in production?

**Answer:** no I haven't it, I don't do that. I think a new FN should be attached so everyone knows.

**Ron Ness**: ND Petroleum Council regarding the fiscal note and its affect. If the incentives go back on it currently would go back to 5 and for the first 15 or 24 months. All wells have a decline so you have a greater percentage of oil in the first 2 yrs for instance. What this bill does is it assumes that if prices would drop and the triggers go back on then the State would receive more and that's with the new FN. The 2% was picked by the Tax Dept. as basically a balancing act.

**Sen. Triplett**: what if the bill doesn't work?

**Ron**: you have to assume everything is stable, the way it's got to be looked at is that we're really stabilizing it and taking big steps to start fixing our structure to both the State and

Industry and in the end you have to take a step to get there somehow. This one pays for itself it's a shift within industry ultimately.

**Sen. Oehlke**: worse case scenario, if the price per barrel drops below the trigger, then we're down to 5% anyhow, correct? So all we get is production tax?

**Answer**: yes, basically providing a hedge here. On the upside, it's always very positive for the State.

**Sen. Triplett** made a Motion for **DO PASS on Amendments**, seconded by Sen. Oehlke.

Voice vote: 6-0-1 Amendments pass. Sen. Tollefson absent

**Sen. Horne**: would like to suggest that maybe we should make it a top tax rate of 10%, which would be a 13 1/2 % reduction and still give a tax break to the industry and keep income a little stronger than it would have been otherwise. Also suggest to see how it works over a period of time and concern a 4 yr sunset so we can be forced to look at it in 4 yrs.

**Sen. Cook**: made a Motion for **DO PASS as amended**, seconded by Sen. Triplett.

Roll call vote: 6-1-0 Sen. Triplett will carry the bill

# FISCAL NOTE

**Requested by Legislative Council**
03/21/2007

Amendment to: Engrossed SB 2397

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2005-2007 Biennium | | 2007-2009 Biennium | | 2009-2011 Biennium | |
|---|---|---|---|---|---|---|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | ($3,127,000) | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2005-2007 Biennium | | | 2007-2009 Biennium | | | 2009-2011 Biennium | | |
|---|---|---|---|---|---|---|---|---|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engr. SB 2397 with House Amendments reduces the oil extraction tax from 6.5% to 2% on horizontal wells drilled in the Bakken formation during FY 08.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Under the provisions of Engr. SB 2397 with House Amendments, new Bakken horizontal wells will receive a reduced oil extraction tax rate of 2% for the first 75,000 barrels of oil produced, or the first 18 months of production, whichever comes first. If existing law incentives trigger back on, these wells will be entitled to the appropriate incentives.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Engr. SB 2397 with House Amendments is expected to reduce total oil extraction tax revenues by an estimated $3.127 million in the 2007-09 biennium. The revenue loss would be distributed as follows: 60% from the permanent oil tax trust fund, 20% from the resources trust fund, and 20% according to Article X of the Constitution.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

| | | | |
|---|---|---|---|
| **Name:** | Kathryn L. Strombeck | **Agency:** | Office of Tax Commissioner |
| **Phone Number:** | 328-3402 | **Date Prepared:** | 03/21/2007 |

# FISCAL NOTE

**Requested by Legislative Council**
02/09/2007

Amendment to: SB 2397

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2005-2007 Biennium | | 2007-2009 Biennium | | 2009-2011 Biennium | |
|---|---|---|---|---|---|---|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| **Revenues** | | | | ($3,240,000) | | |
| **Expenditures** | | | | | | |
| **Appropriations** | | | | | | |

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2005-2007 Biennium | | | 2007-2009 Biennium | | | 2009-2011 Biennium | | |
|---|---|---|---|---|---|---|---|---|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Eng. SB 2397 reduces the oil extraction tax on wells drilled after July 1, 2008.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Eng. SB 2397 reduces the oil extraction tax rate from 6.5% to 4% on all new wells drilled in FY 2009 and beyond. Under current law, if oil prices fall below the "trigger price" for 5 consecutive months, the statutory oil extraction tax exemptions and rate reductions will trigger back on. If incentives trigger back on, all wells drilled since 1987 will receive the statutory exemptions and rate reductions. The provisions of Eng. SB 2397 would subject those wells drilled after July 1, 2008 to a 2% oil extraction tax rate during any remaining portion of the 24-month (or 15-month) holiday period. This could potentially be "revenue-positive" to the state, but is not assumed to occur during the 2007-09 biennium. The forecast assumes oil prices remain above the "trigger price" for the biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Eng. SB 2397 is expected to reduce total oil extraction tax revenues by an estimated $3.24 million in fiscal year 2009. The revenue loss would be distributed as follows: 60% from the permanent oil tax trust fund, 20% from the resources trust fund, and 20% according to Article X of the Constitution.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

| | | | |
|---|---|---|---|
| **Name:** | Kathryn L. Strombeck | **Agency:** | Office of Tax Commissioner |

| Phone Number: | 328-3402 | Date Prepared: | 02/12/2007 |
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# FISCAL NOTE
**Requested by Legislative Council**
01/23/2007

Bill/Resolution No.: SB 2397

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2005-2007 Biennium | | 2007-2009 Biennium | | 2009-2011 Biennium | |
|---|---|---|---|---|---|---|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| **Revenues** | | | | ($3,100,000) | | |
| **Expenditures** | | | | | | |
| **Appropriations** | | | | | | |

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2005-2007 Biennium | | | 2007-2009 Biennium | | | 2009-2011 Biennium | | |
|---|---|---|---|---|---|---|---|---|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2397 reduces the oil extraction tax on wells drilled after January 1, 2008.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of SB 2397 reduces the oil extraction tax rate to 5.5% on wells drilled in 2008 and to 4.0% on wells drilled after 2008.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

SB 2397 is expected to reduce total oil extraction tax revenues by an estimated $3.1 million in the 2007-09 biennium. The revenue loss would be distributed as follows: 60% from permanent oil tax trust fund, 20% from resources trust fund, and 20% according to Article X of the Constitution.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

| | | | |
|---|---|---|---|
| **Name:** | Kathryn L. Strombeck | **Agency:** | Office of Tax Commissioner |
| **Phone Number:** | 328-3402 | **Date Prepared:** | 01/30/2007 |

Prepared by the Legislative Council staff for
Senators Wardner and O'Connell
February 5, 2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2397

Page 1, line 1, replace "section" with "sections" and after "57-51.1-02" insert ", 57-51.1-03, and 57-51.1-03.1"

Page 1, line 2, after "rates" insert ", exemptions, and rate reductions"

Page 1, line 10, replace "January" with "July"

Page 1, line 14, replace "4" with "3"

Page 1, remove lines 15 through 19

Page 1, line 20, replace "3." with "2." and replace "December 31" with "June 30"

Page 1, line 22, replace "4" with "3"

Page 2, line 1, replace "4." with "3."

Page 2, line 2, after "exempt" insert "or subject to a reduced tax rate"

Page 2, line 11, after "exempt" insert "or subject to a reduced tax rate"

Page 2, line 14, after "exempt" insert "or subject to a reduced tax rate"

Page 2, line 15, replace "5." with "4."

Page 2, line 18, remove ", five and one-half percent for wells subject to subsection 2,"

Page 2, line 19, replace "3" with "2"

Page 2, line 24, replace "4" with "3"

Page 2, after line 24, insert:

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

**57-51.1-03. Exemptions ~~from oil extraction tax~~ and rate reductions.** The following activities are specifically exempted from, or subject to a reduced rate under, 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 before July 1, 2008, 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.

For a well drilled and completed as a vertical well after June 30, 2008, the initial production of oil from the well is subject to a tax of two percent of the gross value at the well of the oil extracted for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well after June 30, 2008, is subject to a tax of two percent of the gross value at the well of the oil extracted for a period of twenty-four months.

Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption or rate reduction 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 or rate reduction 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 before July 1, 2008, 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 production of oil from a qualifying well that was worked over after June 30, 2008, is subject to a tax of two percent of the gross value at the well of the oil extracted 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 or rate reduction 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 or rate reduction 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, and before July 1, 2008, is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.

   The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission after June 30, 2008, is subject to a tax of two percent of the gross value at the well of the oil extracted for a period of five years from the date the incremental production begins.

   b. The incremental production from a tertiary recovery project which has been certified as a qualified project by the industrial commission subsequent to June 30, 1991, <u>and before July 1, 2008,</u> is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins.

<u>The incremental production from a tertiary recovery project which has been certified as a qualified project by the industrial commission after June 30, 2008, is subject to a tax of two percent of the gross value at the well of oil extracted for a period of ten years from the date the incremental production begins.</u>

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

(1) For purposes of determining the exemption <u>or rate reduction</u> provided for in subdivision a and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the secondary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the secondary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.

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

(3) For purposes of determining the exemption <u>or rate reduction</u> provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence before July 1, 1991, and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the new secondary recovery project and the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced includes

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

(4) For purposes of determining the exemption <u>or rate reduction</u> provided for in subdivision b and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the tertiary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.

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

(6) For purposes of determining the exemption <u>or rate reduction</u> provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced includes both primary production and production that occurred as a result of any secondary recovery project. The industrial commission shall determine the amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the tertiary recovery project is certified.

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

6. The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner~~,~~ before July 1, 2008, is exempt for a period of ten years after the date of receipt of the certification.

The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner after June 30, 2008, is subject to a tax of two percent of the gross value at the well of the oil extracted for a period of ten years after the date of receipt of the certification.

The exemption or rate reduction 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 or rate reduction 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.

7. The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner~~,~~ before July 1, 2008, is exempt for a period of nine months after the date the well is completed as a horizontal well.

The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner after June 30, 2008, is subject to a tax of two percent of the gross value at the well of the oil extracted for a period of nine months after the date the well is completed as a horizontal well.

The exemption or rate reduction 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 or rate reduction 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.

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

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

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

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

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

**57-51.1-03.1. Stripper well, new well, work-over, and secondary or tertiary project certification for tax exemption or rate reduction - Filing requirement.** To receive the benefits of a tax exemption or tax rate reduction, a certification of qualifying well status prepared by the industrial commission must be submitted to the tax commissioner as follows:

1. To receive, from the first day of eligibility, a tax exemption on production from a stripper well property 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 qualification period.

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

3. To receive, from the first day of eligibility, a tax exemption or rate reduction under subsection 4 of section 57-51.1-03 and a rate reduction for a work-over well under section 57-51.1-02, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the work-over project is completed.

4. To receive, from the first day of eligibility, a tax exemption or rate reduction under subsection 5 of section 57-51.1-03 and a tax rate reduction under section 57-51.1-02 on production from a secondary or tertiary project, the industrial commission's certification must be submitted to the tax commissioner within the following time periods:

    a. For a tax exemption, within eighteen months after the month in which the first incremental oil was produced.

    b. For a tax rate reduction, within eighteen months after the end of the period qualifying the project for the rate reduction.

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

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

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

Renumber accordingly

70813.0204
Title.

Prepared by the Legislative Council staff for
Senators Wardner and O'Connell
February 6, 2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2397

Page 1, line 1, replace "section" with "sections" and after "57-51.1-02" insert ", 57-51.1-03, and 57-51.1-03.1"

Page 1, line 2, after "rates" insert ", exemptions, and rate reductions"

Page 1, line 10, replace "January" with "July"

Page 1, line 14, replace "4" with "3"

Page 1, remove lines 15 through 19

Page 1, line 20, replace "3." with "2." and replace "December 31" with "June 30"

Page 1, line 22, replace "4" with "3"

Page 2, line 1, replace "4." with "3."

Page 2, line 2, after "exempt" insert "or subject to a reduced tax rate"

Page 2, line 11, after "exempt" insert "or subject to a reduced tax rate"

Page 2, line 14, after "exempt" insert "or subject to a reduced tax rate"

Page 2, line 15, replace "5." with "4."

Page 2, line 18, remove ", five and one-half percent for wells subject to subsection 2."

Page 2, line 19, replace "3" with "2"

Page 2, line 24, replace "4" with "3"

Page 2, after line 24, insert:

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

**57-51.1-03. Exemptions ~~from oil extraction tax~~ and rate reductions.** The following activities are specifically exempted from, or subject to a reduced rate under, 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 before July 1, 2008, 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