

INITIATED MEASURES, APPROVED

CHAPTER 649

OIL EXTRACTION TAX

An initiated measure to levy an oil extraction tax; to provide income tax relief by an annual credit equal to the amount of tax liability up to one hundred dollars for individuals, estates and trusts; to provide statewide property tax relief of up to five hundred dollars on each assessment description of real estate and mobile home by an annual credit reducing the twenty-one mill tax levy in each county; to provide dedicated funds for the state foundation aid program for schools; to create a trust fund for protection from future impacts caused by removal of a nonrenewable resource and to use the trust income to provide funds for development of programs for energy conservation and renewable energy sources; and to provide funds for Grafton state school and for general state purposes.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

* SECTION 1. INTENT. It is the intent of the electors of the state of North Dakota to increase the funding of educational opportunities for students in the elementary and secondary schools in North Dakota, to provide funds for Grafton state school, to provide for energy conservation and development programs, and to equalize the tax structure and revenue sources of the state by enactment of an excise tax to be known as the "oil extraction tax" and enactment of an income tax credit and a credit for the county twenty-one mill property tax levy for schools.

SECTION 2. IMPOSITION OF OIL EXTRACTION TAX. There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the activity in this state of extracting oil from the earth, and every owner, including any royalty owner, of any part of the oil extracted shall be deemed for the purposes of this Act to be engaged in the activity of extracting that oil. The rate of tax shall be six and one-half percent of the gross value at the well of the oil extracted.

** SECTION 3. EXEMPTIONS FROM OIL EXTRACTION TAX. The following activities are specifically exempted from the oil extraction tax:

* NOTE: This section was amended by section 1 of House Bill No. 1651, chapter 612, by section 1 of Senate Bill No. 2338, chapter 613, and by section 1 of Senate Bill No. 2230, chapter 198.

** NOTE: Subsection 2 was amended by section 1 of House Bill No. 1651, chapter 612.

1. The activity of extracting from the earth any oil that is exempt from the gross production tax imposed by chapter 57-51 of the North Dakota Century Code.
2. The activity of extracting from the earth any oil from a stripper well.
3. The activity not otherwise exempt of extracting from the earth the oil that is owned by a royalty owner or royalty owners in the first one hundred barrels, or any lesser amount, of the average daily production of oil that is produced during each calendar day from any well.

SECTION 4. DEFINITIONS FOR OIL EXTRACTION TAX. For the purposes of the oil extraction tax law, the following words and terms shall have the meaning ascribed to them in this section:

1. "Oil" shall mean petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas by means of a separator, or by other nonmechanical methods, incidental to the production of the gas.
2. "Stripper well" shall mean an oil producing well whose average daily production of oil is ten barrels or less during the calendar quarter year period for which the exemption is subsection 2 of section 3 of this Act is claimed.
3. "Average daily production" of a well shall mean the qualified maximum total production of oil from the well during a calendar quarter year period divided by the number of calendar days in that period; and "qualified maximum total production" of a well shall mean that the well must have been maintained at the maximum possible rate of production during the period in accordance with recognized conservation practices and not significantly curtailed by reason of mechanical failure or other disruption of production.
4. "Royalty owner" shall mean an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.

SECTION 5. ADMINISTRATION OF OIL EXTRACTION TAX. For the purposes of administering the tax imposed by section 2 of this Act, the provisions of chapter 57-51 of the North Dakota Century Code, but not including section 57-51-08 of that chapter, pertaining to the administration of the oil and gas gross production tax law not in conflict with the provisions of this Act, including but not limited to the provisions of that chapter relating to the filing of returns, deduction of the tax by the purchaser or producer in making settlement with any owner of the oil, payment of the tax and

interest and penalties thereon, refunds, attachment of liens for failure to pay the tax, and civil and criminal penalties for failure to comply with the provisions of that chapter, shall govern the administration of the tax imposed by section 2 of this Act.

SECTION 6. OIL EXTRACTION TAX DEVELOPMENT FUND ESTABLISHED. The tax imposed by section 2 of this Act shall be paid to the state treasurer when collected by the state tax commissioner and shall be credited to a special fund in the state treasury, to be known as the oil extraction tax development fund. The moneys accumulated in such fund shall be allocated as provided in this Act and the legislative assembly shall make any appropriation of money that may be necessary to accomplish the purposes of this Act.

* SECTION 7. ALLOCATION OF MONEYS IN OIL EXTRACTION TAX DEVELOPMENT FUND. Moneys deposited in the oil extraction tax development fund shall be apportioned quarterly by the state treasurer as follows:

1. Forty-five percent shall be allocated to the state school aid program for use in accordance with the provisions of chapter 15-40.1 of the North Dakota Century Code. It is the intent of the electors that other appropriations made by the legislative assembly for state aid to schools in accordance with chapter 15-40.1 of the North Dakota Century Code when added to the amount allocated under this subsection shall provide at least seventy percent of the funds required to meet the educational cost per pupil in elementary and secondary education as determined under the provisions of that chapter.
2. Ten percent shall be allocated and credited to a special trust fund to be established in the state treasury and shall be deposited and invested as are other state funds to earn the maximum amount permitted by law; provided that the first fifteen million dollars allocated and credited to this special trust fund shall be appropriated by the legislative assembly for Grafton state school for the remodeling or reconstruction and equipping of existing buildings and other facilities, for the construction and equipping of new buildings and other facilities, and for providing additional staffing for that institution, as shall be provided by the legislative assembly. The principal of this special trust fund shall not be used for any other purpose, but the income therefrom shall be administered by the state industrial commission pursuant to appropriations made by the legislative assembly for the following: the funding of programs for development of energy conservation and renewable energy sources; for studies for development of cogeneration systems that increase the capacity of a system to produce more than one kind of energy from the same fuel; for studies for development of waste products utilization; and for the making of grants and loans in connection therewith. Any

* NOTE: Subsection 2 was amended by section 2 of Senate Bill No. 2338, chapter 613.

income earned by the special trust fund that is not appropriated by the legislative assembly, or if appropriated but not expended or loaned by the state industrial commission by the end of a fiscal biennium, shall be transferred to the state's general fund.

3. Forty-five percent shall be allocated and credited to the state's general fund for general state purposes and as an offset for the reduction in income tax revenue and for the replacement of the county twenty-one mill property tax credit for schools as provided in section 10 of this Act.

SECTION 8. INCOME TAX CREDIT. Except as limited herein, there shall be allowed to individuals, estates and trusts required to file an income tax return, a credit equal to the tax liability imposed by section 57-38-29 of the North Dakota Century Code. This credit shall be placed on the state income tax return as a separate line item entitled "energy cost relief credit" which shall follow the computation of tax liability pursuant to the provisions of chapter 57-38 of the North Dakota Century Code. The income tax liability computed on the income tax return shall be reduced by the amount of this credit, provided that the maximum credit deducted on any return shall not exceed one hundred dollars for any taxable year.

SECTION 9. PROPERTY TAX CREDIT FOR TWENTY-ONE MILL LEVY. A credit, not to exceed five hundred dollars, shall be allowed for the amount of the twenty-one mill tax levied for schools under section 57-15-24 of the North Dakota Century Code each year on each parcel of real estate assessed locally as provided in sections 57-02-34 and 57-02-38 of the North Dakota Century Code and on each mobile home assessed as provided in chapter 57-55 of the North Dakota Century Code. The credit provided for in this section shall be shown on the tax statement for the property as the "energy cost relief credit."

SECTION 10. REPLACEMENT TO COUNTY EQUALIZATION FUND. The property tax revenue lost to schools because of the credit provided in section 9 of this Act shall be replaced to the county equalization fund of each county by appropriation of the legislative assembly from the state's general fund.

On or before December 31, 1981, and each year thereafter, each county treasurer shall certify to the state tax commissioner the total amount of credits allowed for that year under section 9 of this Act. The state tax commissioner shall forthwith determine the correctness of the amount certified by the county treasurer and shall then certify to the state treasurer the correct amount for immediate payment to the county for crediting to the county equalization fund.

SECTION 11. APPROPRIATIONS. It is the mandate of the electors that this Act will be appropriately funded by the legislative assembly.

SECTION 12. EFFECTIVE DATES. The effective date of section 8 of this Act shall be for all taxable years beginning on or after January 1, 1981. The effective date for the remaining sections of this Act shall be January 1, 1981.

Approved November 4, 1980

163,991 to 125,231

NOTE: This was measure No. 6 on the general election ballot.

CHAPTER 650

HOME MORTGAGE FINANCE PROGRAM

An initiated measure to amend certain sections of the North Dakota Century Code, to provide amendments allowing tax-exempt revenue bonds to be issued to finance single family residential mortgage loans for persons and families of low and moderate income.

BE IT ENACTED BY THE ELECTORS OF THE STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 54-17-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-01. INDUSTRIAL COMMISSION TO MANAGE INDUSTRIES OF STATE AND TO ACT AS A STATE HOUSING FINANCE AGENCY IN PROVIDING RESIDENTIAL MORTGAGE LOANS FOR PERSONS OR FAMILIES OF LOW AND MODERATE INCOME. The commission created to conduct and manage, on behalf of the state of North Dakota, certain utilities, industries, enterprises, including a home mortgage finance program, and business projects established by law shall be known as the industrial commission of North Dakota, but may be designated as the industrial commission. In the creation of the industrial commission, it is the intention of the legislative assembly that all acts of the industrial commission shall be the acts of the state of North Dakota functioning in its sovereign capacity.

** SECTION 2. AMENDMENT. Section 54-17-07 of the 1979 Supplement to the North Dakota Century Code is hereby amended by adding two new subsections to read as follows:

54-17-07.1. HOME MORTGAGE FINANCE PROGRAM OF COMMISSION. Acting in its capacity as a state housing finance agency, the industrial commission is authorized to purchase or contract to purchase from lenders mortgage loans made to persons or families of low and moderate income to finance the purchase or substantial rehabilitation of owner occupied, single family residential dwelling units which shall include mobile homes and manufactured housing. The term lenders shall mean any bank or trust company chartered by

* NOTE: Section 54-17-01 was also amended by section 1 of House Bill No. 1186, chapter 471.

** NOTE: Section 54-17-07.1 was amended by section 2 of House Bill No. 1196, chapter 524.

the state of North Dakota or any national banking association located in North Dakota, state or federal savings and loan association located in North Dakota, and FHA approved mortgagee or other mortgage banking institutions currently actively engaged in home mortgage lending in North Dakota approved by the commission. The term persons or families of low and moderate income shall mean persons or families whose financial means are insufficient, taking into account such factors as the commission shall deem relevant, to secure decent safe and sanitary housing provided by private industry without the financial assistance afforded by the home mortgage finance program of the commission. The commission shall appoint a five-member Advisory Board consisting of representatives of lenders, and others engaged in the residential real estate industry, and home owners and buyers, and in consultation with such board may adopt rules and regulations for the conduct of its home mortgage finance program which may, among other matters, establish requirements for the type and purchase price of dwelling units eligible to be financed, the income limits for eligible low or moderate income persons or families, the interest rates and other terms of mortgage loans by lenders eligible for purchase by the commission, requirements relating to federal or private mortgage insurance or guaranties, and the general terms and conditions for the issuance and security of housing revenue bonds to be issued.

54-17-07.2. HOUSING REVENUE BONDS OF COMMISSION. In order to fund its home mortgage finance program, the commission is authorized to issue revenue bonds which shall be sold at not less than ninety-five percent of par plus any accrued interest. The principal of and interest on such bonds shall be payable only from revenues generated under the home mortgage finance program, and the bonds shall not constitute a debt of the state of North Dakota and shall contain a statement to that effect on their face. The bonds may be sold at public or private sale or by negotiation as the commission may direct, shall mature not more than forty years from their date or dates and shall contain such terms and provisions as the commission shall determine. The commission may capitalize from bond proceeds all expenses incidental to the issuance of the bonds or to its housing mortgage finance program, including, without limitation, any reserves for the payment of the bonds.

Approved November 4, 1980

159,633 to 104,644

NOTE: This was measure No. 7 on the general election ballot.