

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1134

Introduced by

Representatives Porter, Carlson, Drovdal

Senators Armstrong, Lyson, Wardner

1 A BILL for an Act to create and enact section 57-51-02.6 of the North Dakota Century Code,
2 relating to oil and gas gross production tax exemption for natural gas to encourage use of gas
3 that might otherwise be flared; to amend and reenact sections 38-08-06.4 and 57-39.2-04.5 of
4 the North Dakota Century Code, relating to flaring restrictions for natural gas and sales tax
5 exemption for property used to process natural gas to encourage use of gas that might
6 otherwise be flared; and to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 38-08-06.4 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **38-08-06.4. Flaring of gas restricted - Imposition of tax - Payment of royalties -**
11 **Industrial commission authority.**

- 12 1. As permitted under rules of the industrial commission, gas produced with crude oil
13 from an oil well may be flared during a one-year period from the date of first production
14 from the well. ~~Thereafter,~~
- 15 2. ~~After the time period in subsection 1, flaring of gas from the well must cease and the~~
16 ~~well must be capped, connected to a gas gathering line, or equipped with an electrical~~
17 ~~generator that consumes at least seventy-five percent of the gas from the well.:~~
- 18 a. Capped;
- 19 b. Connected to a gas gathering line;
- 20 c. Equipped with an electrical generator that consumes at least seventy-five percent
21 of the gas from the well; or
- 22 d. Equipped with a system that collects at least seventy-five percent of the gas and
23 natural gas liquids from the well for compression to liquid for use as fuel or

1 transport to a processing facility, production of petrochemicals or fertilizer, or
2 conversion to liquid fuels.

3 3. An electrical generator and its attachment units to produce electricity from gas and a
4 collection system described in subdivision d of subsection 2 must be considered to be
5 personal property for all purposes.

6 4. For a well operated in violation of this section and for gas flared from a well connected
7 to a gas gathering line, the producer shall pay royalties to royalty owners upon the
8 value of the flared gas and shall also pay gross production tax on the flared gas at the
9 rate imposed under section 57-51-02.2.

10 5. Gas production from a well that is connected to a gas gathering line, electrical
11 generator, or collection system described in subsection 2 from the time of first
12 production is exempt from gross production taxes as provided in section 57-51-02.6.

13 6. The industrial commission may enforce this section and, for each well operator found
14 to be in violation of this section, may determine the value of flared gas for purposes of
15 payment of royalties under this section and its determination is final.

16 7. A producer may obtain an exemption from this section from the industrial commission
17 upon application and a showing that connection of the well to a natural gas gathering
18 line is economically infeasible at the time of the application or in the foreseeable future
19 or that a market for the gas is not available and that equipping the well with an
20 electrical generator to produce electricity from gas or employing a collection system
21 described in subdivision d of subsection 2 is economically infeasible.

22 **SECTION 2. AMENDMENT.** Section 57-39.2-04.5 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **57-39.2-04.5. Sales and use tax exemption for materials used in compressing,**
25 **processing, gathering, collecting, or refining of gas.**

26 1. Gross receipts from sales of tangible personal property used to construct or expand a
27 system used to compress, process, gather, collect, or refine gas recovered from an oil
28 or gas well in this state or used to expand or build a gas processing facility in this state
29 are exempt from taxes under this chapter. To be exempt, the tangible personal
30 property must be incorporated into a system used to compress, process, gather,
31 collect, or refine gas. Tangible personal property used to replace an existing system to

compress, process, gather, collect, or refine gas does not qualify for exemption under this section unless the replacement creates an expansion of the system.

2. To receive the exemption under this section at the time of purchase, the owner of the gas compressing, processing, gathering, collecting, or refining system must receive from the tax commissioner a certificate that the tangible personal property used to construct or expand a system used to compress, process, gather, collect, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas processing facility in this state which the owner intends to purchase qualifies for exemption. If a certificate is not received before the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner of the gas compressing, processing, gathering, collecting, or refining system may apply to the tax commissioner for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.

4. For purposes of this section, a gas collecting system means a collection system described in subdivision d of subsection 2 of section 38-08-06.4.

SECTION 3. Section 57-51-02.6 of the North Dakota Century Code is created and enacted as follows:

57-51-02.6. Exemption for gas wells employing a system to avoid flaring.

Gas collected at the well site by a gas gathering line, electrical generator, or collection system described in subsection 2 of section 38-08-06.4 from the time of first production is exempt from the tax under section 57-51-02.2 for a period of two years from the time of first production.

SECTION 4. EFFECTIVE DATE. This Act becomes effective July 1, 2013.