

HOUSE BILL NO. 1062

Introduced by

Energy and Natural Resources Committee

(At the request of the Industrial Commission)

1 A BILL for an Act to amend and reenact ~~subdivision b of subsection 1 of section 38-08-04,~~
2 ~~subsection 6 of section 38-22-06, subsection 4 of section 44-04-20,~~ section 54-17-03,
3 subsection 8 of section 54-17-07.3, ~~section 54-17-07.9, subsection 2 of section 54-18-04,~~ and
4 subsection 2 of section 54-63-03, ~~and section 57-51.1-02.2~~ of the North Dakota Century Code,
5 relating to ~~regulation of oil and gas wells, service requirements, modernization of the notice-~~
6 ~~requirement,~~ updating position titles, clarification for mortgage insurance requirements, ~~an~~
7 ~~exemption for specialized mill equipment, and flare mitigation~~ industrial commission powers.

8 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

9 ~~SECTION 1. AMENDMENT.~~ ~~Subdivision b of subsection 1 of section 38-08-04 of the North-~~
10 ~~Dakota Century Code is amended and reenacted as follows:~~

11 ~~b. To regulate:~~

12 ~~(1) The drilling, producing, and plugging of wells, the restoration of drilling and~~
13 ~~production sites, and all other operations for the production of oil or gas.~~

14 ~~(2) The shooting and chemical treatment of wells.~~

15 ~~(3) The spacing of wells.~~

16 ~~(4) Operations to increase ultimate recovery such as cycling of gas, the~~
17 ~~maintenance of pressure, and the introduction of gas, water, or other~~
18 ~~substances into producing formations.~~

19 ~~(5) Disposal of saltwater and oilfield wastes.~~

20 ~~(a) The commission shall give all affected counties written notice of~~
21 ~~hearings in such matters at least fifteen days before the hearing.~~

22 ~~(b) The commission may consider, in addition to other authority granted~~
23 ~~under this section, safety of the location and road access to saltwater~~
24 ~~disposal wells, treating plants, and all associated facilities.~~

1 ~~_____ (6) The underground storage of oil or gas.~~

2 ~~_____ (7) Wellhead and lease equipment, oil and gas separators, emulsion treaters,~~
3 ~~boilers, electric generators, flares, newly constructed underground gathering~~
4 ~~pipelines, flare mitigation systems, and all other equipment located at or on~~
5 ~~an oil or gas well site.~~

6 ~~_____ **SECTION 2. AMENDMENT.** Subsection 6 of section 38-22-06 of the North Dakota Century~~
7 ~~Code is amended and reenacted as follows:~~

8 ~~_____ 6. Service of hearing~~~~Hearing~~ ~~notices required by this section must conform to personal~~
9 ~~service provisions in rule 4 of the North Dakota Rules of Civil Procedure~~~~be served~~
10 ~~personally, by mail requiring a signed receipt, or by overnight courier or delivery~~
11 ~~service requiring a signed receipt at each affected person's last known post-office~~
12 ~~address. Failure to accept mail requiring a signed receipt constitutes service.~~

13 ~~_____ **SECTION 3. AMENDMENT.** Subsection 4 of section 44-04-20 of the North Dakota Century~~
14 ~~Code is amended and reenacted as follows:~~

15 ~~_____ 4. The notice required in this section must be posted at the principal office of the~~
16 ~~governing body holding the meeting, if such exists, or on the governing body's website~~
17 ~~and other electronic locations, and at the location of the meeting on the day of the~~
18 ~~meeting. In addition, unless all the information contained in the notice was previously~~
19 ~~filed with the appropriate office under subsection 3, the notice must be filed in the~~
20 ~~office of the secretary of state for state-level bodies or for public entities defined in~~
21 ~~subdivision c of subsection 13 of section 44-04-17.1, the city auditor or designee of the~~
22 ~~city for city-level bodies, the county auditor or designee of the county for all other~~
23 ~~bodies, or posted on the public entity's website. This subsection does not apply to~~
24 ~~meetings of the legislative assembly or any committee thereof.~~

25 **SECTION 1. AMENDMENT.** Section 54-17-03 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **54-17-03. Chairman and attorney - Secretary - Employees - Compensation - Bonds.**

28 The governor is the chairman of the industrial commission, and its attorney is the attorney
29 general. The commission shall appoint a ~~secretary~~an executive director and may employ other
30 subordinate officers, employees, and agents, on such terms as the commission determines
31 proper. The commission may require suitable bonds of its ~~secretary~~executive director or other

1 subordinate officers, employees, or agents. The commission shall fix the amount of the
2 compensation of the commission's ~~secretary~~executive director, officers, employees, and agents
3 and the secretary's salary may exceed the maximum salary in the grade established for the
4 classification assigned under chapter 54-44.3. The compensation, together with other
5 expenditures for operation and maintenance of the general business of the commission, must
6 remain within the appropriation available in each year for such purpose. The commission may
7 set the compensation, within the limits of legislative appropriation, for members of a board,
8 committee, or council that advises the commission. Notwithstanding any other provision of law,
9 the compensation for any board, committee, or council member may include reimbursement for
10 expenses, a salary, a per diem, or a combination of the three, as set by the commission.

11 **SECTION 2. AMENDMENT.** Subsection 8 of section 54-17-07.3 of the North Dakota
12 Century Code is amended and reenacted as follows:

13 8. The housing finance agency may purchase, service, and sell residential real estate
14 loans secured by a first mortgage lien on real property originated by financial
15 institutions. The loans may be held in the agency's portfolio or sold on the secondary
16 market with servicing retained. ~~All loans with a loan-to-value ratio exceeding eighty-~~
17 ~~percent and not guaranteed by a federal agency must be insured by an approved~~
18 ~~mortgage insurance company.~~

19 ~~— **SECTION 6. AMENDMENT.** Section 54-17-07.9 of the North Dakota Century Code is~~
20 ~~amended and reenacted as follows:~~

21 ~~— **54-17-07.9. Execution of instruments.**~~

22 ~~— In the absence of any provision regulating the execution and acknowledgment of~~
23 ~~conveyances, transfers, assignments, releases, satisfactions, or other instruments affecting~~
24 ~~liens on, title to, or interest in real estate, the executive director or the director of financial~~
25 ~~programs other staff as designated by the executive director, may execute and acknowledge~~
26 ~~such instruments on behalf of the industrial commission acting as the North Dakota housing~~
27 ~~finance agency.~~

28 ~~— **SECTION 7. AMENDMENT.** Subsection 2 of section 54-18-04 of the North Dakota Century~~
29 ~~Code is amended and reenacted as follows:~~

30 ~~— 2. Purchase, lease, construct, or otherwise acquire warehouses, elevators, flour mills,~~
31 ~~factories, offices, plants, machinery, equipment, and all other things necessary,~~

1 incidental, or convenient in the manufacturing and marketing of all kinds of raw and
2 finished farm products within or without the state. Actions of the commission under this
3 subsection are exempt from chapter 54-44.4.

4 **SECTION 3. AMENDMENT.** Subsection 2 of section 54-63-03 of the North Dakota Century
5 Code is amended and reenacted as follows:

- 6 2. The industrial commission ~~shall~~may contract with the department of commerce to
7 provide technical assistance to the renewable energy council and the industrial
8 commission to carry out and effectuate the purposes of this chapter, including pursuit
9 of aid, grants, or contributions of money or other things of value from any source for
10 any purpose consistent with this chapter. The department may contract with a public or
11 private third party to provide any or all of the technical assistance necessary to
12 implement the purposes of this chapter.

13 ~~**SECTION 9. AMENDMENT.** Section 57-51.1-02.2 of the North Dakota Century Code is~~
14 ~~amended and reenacted as follows:~~

15 ~~**57-51.1-02.2. Temporary exemption**Exemption ~~Oil extraction tax credit for gas~~
16 ~~flaring mitigation. (Expired effective July 1, 2023)~~~~

17 ~~1. As used in this section:~~

18 ~~a. "Flare mitigation" means the quantity in millions of British thermal units of heat~~
19 ~~content of gas used by an onsite flare mitigation system. The term does not~~
20 ~~include the heat content of any gas flared before, during, or after intake by a flare~~
21 ~~mitigation system.~~

22 ~~b. "Onsite flare mitigation system" means a system at a well site which intakes gas~~
23 ~~and natural gas liquids from a well, separating and collecting or utilizing over fifty~~
24 ~~percent of the propane and heavier hydrocarbons, to achieve a reduction of~~
25 ~~flared thermal intensity through beneficial consumption~~use ~~by:~~

26 ~~(1) Compressing or liquifying gas for artificial lift, use as fuel, or for nonpipeline~~
27 ~~transport to a processing facility;~~

28 ~~(2) Production of petrochemicals or fertilizer;~~

29 ~~(3) Conversion to liquid fuels;~~

30 ~~(4) Conversion to electricity for onsite use or supply to the electrical grid;~~

31 ~~(5) Conversion to computational power; or~~

- 1 ~~————— (6) — Collection of tank vapors for beneficial use or transport to a processing-~~
2 ~~facility; or~~
- 3 ~~————— (7) — Other value-added processes as approved by the industrial commission.~~
- 4 ~~————— c. "Qualifying well" means a well on which:~~
- 5 ~~————— (1) — If a well site already is connected to a pipeline and pipeline capacity is~~
6 ~~unavailable on the existing pipeline, the producer and the pipeline operator~~
7 ~~jointly have filed a sundry with the industrial commission attesting to the lack-~~
8 ~~of existing pipeline takeaway capacity;~~
- 9 ~~————— (2) — If the producer's well is not connected to an existing pipeline but the~~
10 ~~producer's lands, leases, wells, or gas are dedicated contractually to a~~
11 ~~pipeline operator, the producer and the pipeline operator to which the lands,-~~
12 ~~leases, wells, or gas are dedicated jointly have filed a sundry with the~~
13 ~~industrial commission attesting it is either technically or commercially~~
14 ~~unfeasible to connect a pipeline to the producer's well; or~~
- 15 ~~————— (3) — If the producer's well is not already connected to an existing pipeline and~~
16 ~~the producer's lands, leases, wells, or gas are not dedicated contractually,~~
17 ~~the producer unilaterally has filed a sundry with the industrial commission~~
18 ~~attesting to these facts.~~
- 19 ~~————— 2. — A system that otherwise meets the definition of onsite flare mitigation system as~~
20 ~~defined in this section is not an "onsite flare mitigation system" if it is:~~
- 21 ~~————— a. — Installed on a stripper well as defined by subsection 8 of section 57-51.1-01.~~
- 22 ~~————— b. — Installed before July 1, 2021.~~
- 23 ~~————— c. — Installed on a well connected to or is technically and commercially feasible to~~
24 ~~connect to a gas pipeline with capacity.~~
- 25 ~~————— d. — A system that supports the normal production operations of a well, consumes gas-~~
26 ~~as part of the routine oil and gas production process, such as a heater treater,-~~
27 ~~separator, or electrical dissipation through a load bank, or any system or~~
28 ~~application traditionally considered as on-pad use.~~
- 29 ~~————— 3. — A producer is entitled to a credit against the tax liability determined under chapter~~
30 ~~57-51.1 equal to seventy-five cents per one million British thermal units of flare-~~

1 mitigation resulting from the operation of an onsite flare mitigation system on a
2 qualifying well.

3 ~~4. The credit may be claimed for up to twelve months per well and may not exceed six~~
4 ~~thousand dollars per well per month.~~

5 ~~5. To qualify for the credit:~~

6 ~~a. The industrial commission shall certify the well of a producer as a qualifying well~~
7 ~~and the producer shall submit a copy of the certification to the tax commissioner.~~

8 ~~b. On or before the fifteenth day of the month succeeding the month of production,~~
9 ~~the owner or operator of the onsite flare mitigation system shall file a monthly~~
10 ~~report with the tax commissioner and the producer certifying the amount of flare~~
11 ~~mitigation per qualifying well during the month of production.~~

12 ~~c. The credit for flare mitigation must be claimed by the producer against the oil~~
13 ~~extraction tax due on a per well basis for the production month following the~~
14 ~~month in which the mitigation occurred.~~

15 ~~d. The producer shall file the return required under this chapter for the duration of~~
16 ~~the credit and pay any oil taxes due. After the exemption period ends, the~~
17 ~~purchaser shall pay the oil taxes due.~~

18 ~~6. The tax commissioner may audit the records of the producer and operator of the~~
19 ~~onsite flare mitigation system to administer this section. The credit allowed may not~~
20 ~~exceed the liability of the tax under this section.~~