

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2413
(Senators Wardner, O'Connell, Bowman)
(Representatives Kempenich, Skarphol, Wald)

AN ACT to create and enact a new section to chapter 57-51 of the North Dakota Century Code, relating to an oil and gas gross production tax exemption for certain gas to generate electricity; to amend and reenact section 38-08-06.4 and subsection 7 of section 49-02-25 of the North Dakota Century Code, relating to flaring of gas and renewable electricity and recycled energy; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

38-08-06.4. Flaring of gas restricted - Imposition of tax - Payment of royalties - Industrial commission authority. As permitted under rules of the industrial commission, gas produced with crude oil from an oil well may be flared during a one-year period from the date of first production from the well, ~~or until June 30, 1986, for wells in production prior to July 1, 1985.~~ Thereafter, flaring of gas from the well must cease and the well must ~~either be capped or, connected to a gas gathering line, or equipped with an electrical generator that consumes at least seventy-five percent of the gas from the well.~~ An electrical generator and its attachment units to produce electricity from gas must be considered to be personal property for all purposes. For a well operated in violation of this section, the producer shall pay royalties to royalty owners upon the value of the flared gas and shall also pay gross production tax on the flared gas at the rate imposed under section 57-51-02.2. The industrial commission may enforce this section and, for each well operator found to be in violation of this section, may determine the value of flared gas for purposes of payment of royalties under this section and its determination is final. A producer may obtain an exemption from this section from the industrial commission upon application and a showing that connection of the well to a natural gas gathering line is economically infeasible at the time of the application or in the foreseeable future or that a market for the gas is not available and that equipping the well with an electrical generator to produce electricity from gas is economically infeasible.

SECTION 2. AMENDMENT. Subsection 7 of section 49-02-25 of the North Dakota Century Code is amended and reenacted as follows:

7. Recycled energy systems producing electricity from currently unused waste heat resulting from combustion or other processes into electricity and which do not use an additional combustion process. The term does not include any system whose primary purpose is the generation of electricity unless the generation system consumes wellhead gas that would otherwise be flared, vented, or wasted.

SECTION 3. A new section to chapter 57-51 of the North Dakota Century Code is created and enacted as follows:

Exemption of gas for electrical generation at well site. Gas burned at the well site to power an electrical generator that consumes at least seventy-five percent of the gas from the well is exempt from the tax under section 57-51-02.2.

SECTION 4. EFFECTIVE DATE. Section 3 of this Act is effective for taxable events occurring after June 30, 2009.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2413.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 93 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State