

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2413

Introduced by

Senators Wardner, O'Connell, Bowman

Representatives Kempenich, Skarphol, Wald

1 A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North
2 Dakota Century Code, relating to a sales and use tax exemption for equipment to generate
3 electricity from waste heat or flared gas; to amend and reenact section 38-08-06.4 of the North
4 Dakota Century Code, relating to flaring of gas; and to provide an effective date.

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

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

8 **38-08-06.4. Flaring of gas restricted - Imposition of tax - Payment of royalties -**
9 **Industrial commission authority.** As permitted under rules of the industrial commission, gas
10 produced with crude oil from an oil well may be flared during a one-year period from the date of
11 first production from the well, ~~or until June 30, 1986, for wells in production prior to July 1, 1985.~~
12 Thereafter, flaring of gas from the well must cease and the well must ~~either~~ be capped ~~or,~~
13 connected to a gas gathering line, or equipped with an electrical generator that consumes at
14 least seventy-five percent of the gas from the well. An electrical generator and its attachment
15 units to produce electricity from gas must be considered to be the personal property of the
16 producer for all purposes. For a well operated in violation of this section, the producer shall pay
17 royalties to royalty owners upon the value of the flared gas and shall also pay gross production
18 tax on the flared gas at the rate imposed under section 57-51-02.2. Gas used for electrical
19 generation as allowed by this section is exempt from the tax imposed by section 57-51-02.2.
20 The industrial commission may enforce this section and, for each well operator found to be in
21 violation of this section, may determine the value of flared gas for purposes of payment of
22 royalties under this section and its determination is final. A producer may obtain an exemption
23 from this section from the industrial commission upon application and a showing that
24 connection of the well to a natural gas gathering line is economically infeasible at the time of the

1 application or in the foreseeable future or that a market for the gas is not available and that
2 equipping the well with an electrical generator to produce electricity from gas is economically
3 infeasible.

4 **SECTION 2.** A new subsection to section 57-39.2-04 of the North Dakota Century Code
5 is created and enacted as follows:

6 Gross receipts from the sale of machinery and attachment units directly and
7 exclusively used in the generation of electrical energy from waste heat from a
8 primary generator or natural gas that would otherwise be flared or the well capped.

9 A contractor who installs equipment eligible for the exemption under this
10 subsection is also exempt from sales and use taxes on the equipment.

11 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
12 June 30, 2009.