

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1134

Introduced by

Representatives Porter, Carlson, Drovdal

Senators Armstrong, Lyson, Wardner

1 A BILL for an Act to create and enact sections 57-51-02.6 and 57-51.1-02.1 of the North Dakota  
2 Century Code, relating to oil and gas gross production tax exemption for natural gas and an oil  
3 extraction tax exemption for liquids produced from natural gas extracted to encourage use of  
4 gas that might otherwise be flared; to amend and reenact sections 38-08-06.4 and 57-39.2-04.5  
5 of the North Dakota Century Code, relating to flaring restrictions for natural gas and sales tax  
6 exemption for property used to process natural gas to encourage use of gas that might  
7 otherwise be flared; and to provide an effective date.

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

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

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

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

1                   compression to liquid for use as fuel, transport to a processing facility, production  
2                   of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting  
3                   over fifty percent of the propane and heavier hydrocarbons, or other value-added  
4                   processes as approved by the industrial commission.

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

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

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

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

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

22          **57-39.2-04.5. Sales and use tax exemption for materials used in compressing,**  
23          **processing, gathering, collecting, or refining of gas.**

24          1. Gross receipts from sales of tangible personal property used to construct or expand a  
25          system used to compress, process, gather, collect, or refine gas recovered from an oil  
26          or gas well in this state or used to expand or build a gas processing facility in this state  
27          are exempt from taxes under this chapter. To be exempt, the tangible personal  
28          property must be incorporated into a system used to compress, process, gather,  
29          collect, or refine gas. Tangible personal property used to replace an existing system to  
30          compress, process, gather, collect, or refine gas does not qualify for exemption under  
31          this section unless the replacement creates an expansion of the system.

- 1           2. To receive the exemption under this section at the time of purchase, the owner of the  
2           gas compressing, processing, gathering, collecting, or refining system must receive  
3           from the tax commissioner a certificate that the tangible personal property used to  
4           construct or expand a system used to compress, process, gather, collect, or refine gas  
5           recovered from an oil or gas well in this state or used to expand or build a gas  
6           processing facility in this state which the owner intends to purchase qualifies for  
7           exemption. If a certificate is not received before the purchase, the owner shall pay the  
8           applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
- 9           3. If the tangible personal property is purchased or installed by a contractor subject to the  
10          tax imposed by this chapter, the owner of the gas compressing, processing, gathering,  
11          collecting, or refining system may apply to the tax commissioner for a refund of the  
12          difference between the amount remitted by the contractor and the exemption imposed  
13          or allowed by this section. Application for a refund must be made at the times and in  
14          the manner directed by the tax commissioner and must include sufficient information  
15          to permit the tax commissioner to verify the sales and use taxes paid and the exempt  
16          status of the sale or use.
- 17          4. For purposes of this section, a gas collecting system means a collection system  
18          described in subdivision d of subsection 2 of section 38-08-06.4.

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

21          **57-51-02.6. Temporary exemption for oil and gas wells employing a system to avoid**  
22 **flaring.**

23          Gas is exempt from the tax under section 57-51-02.2 for a period of two years from the time  
24 of first production if the gas is:

- 25           1. Collected and used at the well site to power an electrical generator that consumes at  
26           least seventy-five percent of the gas from the well; or
- 27           2. Collected at the well site by a system that intakes at least seventy-five percent of the  
28           gas and natural gas liquids volume from the well for beneficial consumption by means  
29           of compression to liquid for use as fuel, transport to a processing facility, production of  
30           petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over

1           fifty percent of the propane and heavier hydrocarbons, or other value-added  
2           processes as approved by the industrial commission.

3           **SECTION 4.** Section 57-51.1-02.1 of the North Dakota Century Code is created and  
4 enacted as follows:

5           **57-51.1-02.1. Temporary exemption for oil and gas wells employing a system to avoid**  
6 **flaring.**

7           Liquids produced from a collection system described in subdivision d of subsection 2 of  
8 section 38-08-06.4 utilizing absorption, adsorption, or refrigeration are exempt from the tax  
9 under section 57-51.1-02 for a period of two years from the time of first production.

10          **SECTION 5. EFFECTIVE DATE.** This Act becomes effective July 1, 2013.