

**FIRST ENGROSSMENT
with Senate Amendments
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 section 57-06-17.5, a new subsection to section
2 57-51-02.2, and sections 57-51-02.6 and 57-51.1-02.1 of the North Dakota Century Code,
3 relating to a new natural gas gathering and collection system property tax exemption, oil and
4 gas gross production tax exemption for natural gas, and an oil extraction tax exemption for
5 liquids produced from natural gas extracted to encourage use of gas that might otherwise be
6 flared; to amend and reenact sections 38-08-06.4 and 57-39.2-04.5 of the North Dakota
7 Century Code, relating to flaring restrictions for natural gas and sales tax exemption for property
8 used to process natural gas to encourage use of gas that might otherwise be flared; and to
9 provide an effective date.

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

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

13 **38-08-06.4. Flaring of gas restricted - Imposition of tax - Payment of royalties -**
14 **Industrial commission authority.**

15 1. As permitted under rules of the industrial commission, gas produced with crude oil
16 from an oil well may be flared ~~during a one-year period~~ for six months from the date of
17 first production from the well. ~~Thereafter,~~

18 2. After the six months, flaring of gas from the well must cease and the well must be
19 capped, ~~connected to a gas gathering line, or equipped with an electrical generator~~
20 ~~that consumes at least seventy-five percent of the gas from the well.~~

- 21 a. Capped;
- 22 b. Connected to a gas gathering line;
- 23 c. Equipped with an electrical generator that consumes at least seventy-five percent
24 of the gas from the well;

- 1 d. Equipped with a system that intakes at least seventy-five percent of the gas and
2 natural gas liquids volume from the well for beneficial consumption by means of
3 compression to liquid for use as fuel, transport to a processing facility, production
4 of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting
5 over fifty percent of the propane and heavier hydrocarbons; or
6 e. Equipped with other value-added processes as approved by the industrial
7 commission which reduce the volume or intensity of the flare by more than sixty
8 percent.
- 9 3. An electrical generator and its attachment units to produce electricity from gas and a
10 collection system described in subdivision d of subsection 2 must be considered to be
11 personal property for all purposes.
- 12 4. For a well operated in violation of this section, the producer shall pay royalties to
13 royalty owners upon the value of the flared gas and shall also pay gross production tax
14 on the flared gas at the rate imposed under section 57-51-02.2.
- 15 5. The industrial commission may enforce this section and, for each well operator found
16 to be in violation of this section, may determine the value of flared gas for purposes of
17 payment of royalties under this section and its determination is final.
- 18 6. A producer may obtain an exemption from this section from the industrial commission
19 upon if an application for the exemption is filed within ninety days from the date of first
20 production from the well and a showing the producer shows to the satisfaction of the
21 industrial commission that connection of the well to a natural gas gathering line is
22 economically infeasible at the time of the application or in the foreseeable future or
23 that a market for the gas is not available and that equipping the well with an electrical
24 generator to produce electricity from gas or employing a collection system described in
25 subdivision d of subsection 2 is economically infeasible.

26 **SECTION 2.** Section 57-06-17.5 of the North Dakota Century Code is created and enacted
27 as follows:

28 **57-06-17.5. New natural gas gathering and collection systems property tax**
29 **exemption.**

- 30 1. A natural gas gathering pipeline, and its associated equipment, or a natural gas or
31 natural gas liquids collection system that is initially placed in service on or between

- 1 January 1, 2013, and December 31, 2017, is exempt from property taxes for the first
2 taxable year after the line is initially placed in service, and the taxable valuation as
3 otherwise determined by law on the gathering pipeline or collection system and the
4 associated equipment must be reduced by:
- 5 a. Seventy-five percent for the second taxable year of operation of the gathering
6 pipeline or collection system.
- 7 b. Fifty percent for the third taxable year of operation of the gathering pipeline or
8 collection system.
- 9 c. Twenty-five percent for the fourth taxable year of operation of the gathering
10 pipeline or collection system.
- 11 2. After the fourth taxable year of operation the gathering or collection system is no
12 longer exempt, in any way, from payment of full property taxes as otherwise
13 determined by law.
- 14 3. For purposes of this section, the following terms have the following definitions:
- 15 a. "Associated equipment" includes compression, liquid separation facilities, and
16 any other equipment absolutely necessary to gather or collect natural gas and
17 natural gas liquids.
- 18 b. "Collection system" means a system that collects at least seventy-five percent of
19 the gas and natural gas liquids from the well for compression to liquid or dense
20 phase fluid for use as fuel or transport to a processing facility, production of
21 petrochemicals or fertilizer, or conversion to liquid fuels.
- 22 c. "Initially placed in service" includes both new construction and substantial
23 expansion of a preexisting gathering or collection system.
- 24 d. "Natural gas gathering pipeline" means an underground gas or liquid pipeline that
25 is designed for or capable of transporting natural gas produced in association
26 with oil and which is not subject to public service commission jurisdiction as a gas
27 or liquid transmission line under chapter 49-22.
- 28 e. "Substantial expansion" means a capacity increase of twenty percent or more.
- 29 4. Natural gas processing and other natural gas liquid refining plants or facilities are not
30 included in the exemption provided by this section.

1 **SECTION 3. AMENDMENT.** Section 57-39.2-04.5 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **57-39.2-04.5. Sales and use tax exemption for materials used in compressing,**
4 **processing, gathering, collecting, or refining of gas.**

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

1 **SECTION 4.** A new subsection to section 57-51-02.2 of the North Dakota Century Code is
2 created and enacted as follows:

3 An operator who collects natural gas at a well site by natural gas gathering line,
4 electrical generator, or collection system described in section 38-08-06.4 is entitled to
5 an exemption from the tax imposed under this section for a period of one year from the
6 day the natural gas is first collected.

7 **SECTION 5.** Section 57-51-02.6 of the North Dakota Century Code is created and enacted
8 as follows:

9 **57-51-02.6. Temporary exemption for oil and gas wells employing a system to avoid**
10 **flaring.**

11 Gas is exempt from the tax under section 57-51-02.2 for a period of two years and thirty
12 days from the time of first production if the gas is:

- 13 1. Collected and used at the well site to power an electrical generator that consumes at
14 least seventy-five percent of the gas from the well; or
- 15 2. Collected at the well site by a system that intakes at least seventy-five percent of the
16 gas and natural gas liquids volume from the well for beneficial consumption by means
17 of compression to liquid for use as fuel, transport to a processing facility, production of
18 petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over
19 fifty percent of the propane and heavier hydrocarbons, or other value-added
20 processes as approved by the industrial commission.

21 **SECTION 6.** Section 57-51.1-02.1 of the North Dakota Century Code is created and
22 enacted as follows:

23 **57-51.1-02.1. Temporary exemption for oil and gas wells employing a system to avoid**
24 **flaring.**

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

29 **SECTION 7. EFFECTIVE DATE.** This Act becomes effective July 1, 2013.