

SENATE BILL NO. 2343

Introduced by

Senators Triplett, Mathern, Warner

Representative Onstad

1 A BILL ~~for an Act to amend and reenact section 38-08-06.4 of the North Dakota Century Code,~~
2 ~~relating to flaring;~~ for an Act to create and enact a new section to chapter 54-17 of the North
3 Dakota Century Code, relating to a report on the fiscal impact of certain orders by the industrial
4 commission to the legislative assembly or budget section; and to provide for retroactive
5 application.

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

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

9 ~~— **38-08-06.4. Flaring of gas restricted -- Imposition of tax -- Payment of royalties --**~~
10 ~~**Industrial commission authority.**~~

11 ~~— 1. — As permitted under rules of the industrial commission, gas produced with crude oil~~
12 ~~from an oil well may be flared during a one-year period from the date of first production~~
13 ~~from the well.~~

14 ~~— 2. — After the time period in subsection 1, flaring of gas from the well must cease and the~~
15 ~~well must be:~~

16 ~~— a. — Capped;~~

17 ~~— b. — Connected to a gas gathering line;~~

18 ~~— c. — Equipped with an electrical generator that consumes at least seventy-five percent~~
19 ~~of the gas from the well;~~

20 ~~— d. — Equipped with a system that intakes at least seventy-five percent of the gas and~~
21 ~~natural gas liquids volume from the well for beneficial consumption by means of~~
22 ~~compression to liquid for use as fuel, transport to a processing facility, production~~
23 ~~of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting~~
24 ~~over fifty percent of the propane and heavier hydrocarbons; or~~

- 1 ~~e. Equipped with other value-added processes as approved by the industrial-~~
2 ~~commission which reduce the volume or intensity of the flare by more than sixty-~~
3 ~~percent.~~
- 4 ~~3. An electrical generator and its attachment units to produce electricity from gas and a-~~
5 ~~collection system described in subdivision d of subsection 2 must be considered to be~~
6 ~~personal property for all purposes.~~
- 7 ~~4. For a well operated in violation of this section~~that flares gas produced with crude oil
8 after fourteen days from the date of first production from the well, the producer shall
9 pay royalties to royalty owners upon the value of the flared gas and shall also pay
10 gross production tax 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 sections~~subsection 1 from the
15 industrial commission upon application that shows to the satisfaction of the industrial
16 commission that connection of the well to a natural gas gathering line is economically
17 infeasible at the time of the application or in the foreseeable future or that a market for
18 the gas is not available and that equipping the well with an electrical generator to
19 produce electricity from gas or employing a collection system described in
20 subdivision d of subsection 2 is economically infeasiblethe volumes of hydrocarbon-
21 gas being flared are less than or equal to fifty thousand cubic feet for each day.

22 **SECTION 1.** A new section to chapter 54-17 of the North Dakota Century Code is created
23 and enacted as follows:

24 **Report to legislative assembly or budget section on the fiscal impact of certain**
25 **orders of the industrial commission.**

26 If the industrial commission makes an order that has a fiscal effect or estimated fiscal effect
27 on the state in excess of five million dollars in a biennium, the industrial commission shall report
28 to the legislative assembly when in session and otherwise to the budget section of the
29 legislative management on the fiscal impact of the effect of the order on state revenues and
30 expenditures, including any effect on the funds of the industrial commission.

1 | **SECTION 2. RETROACTIVE APPLICATION.** This Act applies retroactively to orders of the
2 | industrial commission made after July 31, 2013, and applies specifically to the orders of the
3 | industrial commission on flaring. The industrial commission shall report on the fiscal impacts of
4 | past orders within ninety days of the effective date of this Act.