

Introduced by

Finance and Taxation Committee

(At the request of the Department of Mineral Resources)

1 A BILL for an Act to amend and reenact section 57-51.1-02.2 of the North Dakota Century  
2 Code, relating to the oil extraction tax credit for gas flaring mitigation.

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

4 **SECTION 1. AMENDMENT.** Section 57-51.1-02.2 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **57-51.1-02.2. Temporary exemption - Oil extraction tax credit for gas flaring**  
7 **mitigation. (Expired effective July 1, 2023)**

8 1. As used in this section:

- 9 a. "Flare mitigation" means the quantity in millions of British thermal units of heat  
10 content of gas used by an onsite flare mitigation system. The term does not  
11 include the heat content of any gas flared before, during, or after intake by a flare  
12 mitigation system.
- 13 b. "Onsite flare mitigation system" means a system at a well site which intakes gas  
14 and natural gas liquids from a well, ~~separating and~~ collecting or utilizing over fifty  
15 percent of the propane and heavier hydrocarbons, to achieve a reduction of  
16 flared thermal intensity through beneficial ~~consumption~~use by:
- 17 (1) Compressing or liquifying gas for artificial lift, use as fuel, or for nonpipeline  
18 transport to a processing facility;
- 19 (2) Production of petrochemicals or fertilizer;
- 20 (3) Conversion to liquid fuels;
- 21 (4) Conversion to electricity for onsite use or supply to the electrical grid;
- 22 (5) Conversion to computational power;
- 23 (6) Collection of tank vapors for beneficial use or transport to a processing  
24 facility; or

- 1           ~~(6)~~(7) Other value-added processes as approved by the industrial commission.
- 2           c. "Qualifying well" means a well on which:
- 3                 (1) If a well site already is connected to a pipeline and ~~pipeline capacity is~~  
4                     ~~unavailable on the existing pipeline~~, the producer and the pipeline operator  
5                     jointly have filed a sundry with the industrial commission attesting to the ~~lack~~  
6                     of existing pipeline takeaway capacity;
- 7                 (2) If the producer's well is not connected to an existing pipeline but the  
8                     producer's lands, leases, wells, or gas are dedicated contractually to a  
9                     pipeline operator, the producer and the pipeline operator to which the lands,  
10                    leases, wells, or gas are dedicated jointly have filed a sundry with the  
11                    industrial commission attesting it is either technically or commercially  
12                    unfeasible to connect a pipeline to the producer's well; or
- 13                (3) If the producer's well is not already connected to an existing pipeline and  
14                    the producer's lands, leases, wells, or gas are not dedicated contractually,  
15                    the producer unilaterally has filed a sundry with the industrial commission  
16                    attesting to these facts.
- 17           2. A system that otherwise meets the definition of onsite flare mitigation system as  
18                defined in this section is not an "onsite flare mitigation system" if it is:
- 19                a. Installed on a stripper well as defined by subsection 8 of section 57-51.1-01.
- 20                b. Installed before July 1, 2021.
- 21                c. ~~Installed on a well connected to or is technically and commercially feasible to~~  
22                    ~~connect to a gas pipeline with capacity.~~
- 23                d. A system that supports the normal production operations of a well, consumes gas  
24                    as part of the routine oil and gas production process, such as a heater treater,  
25                    separator, or electrical dissipation through a load bank, or any system or  
26                    application traditionally considered as on-pad use.
- 27           3. A producer is entitled to a credit against the tax liability determined under chapter  
28                57-51.1 equal to seventy-five cents per one million British thermal units of flare  
29                mitigation resulting from the operation of an onsite flare mitigation system on a  
30                qualifying well.

- 1           4.    The credit may be claimed for up to twelve months per well and may not exceed six  
2           thousand dollars per well per month.
- 3           5.    To qualify for the credit:
  - 4           a.    The industrial commission shall certify the well of a producer as a qualifying well  
5           and the producer shall submit a copy of the certification to the tax commissioner.
  - 6           b.    On or before the fifteenth day of the month succeeding the month of production,  
7           the owner or operator of the onsite flare mitigation system shall file a monthly  
8           report with the tax commissioner and the producer certifying the amount of flare  
9           mitigation per qualifying well during the month of production.
  - 10          c.    The credit for flare mitigation must be claimed by the producer against the oil  
11          extraction tax due on a per well basis for the production month following the  
12          month in which the mitigation occurred.
  - 13          d.    The producer shall file the return required under this chapter for the duration of  
14          the credit and pay any oil taxes due. After the exemption period ends, the  
15          purchaser shall pay the oil taxes due.
- 16          6.    The tax commissioner may audit the records of the producer and operator of the  
17          onsite flare mitigation system to administer this section. The credit allowed may not  
18          exceed the liability of the tax under this section.