

HOUSE BILL NO. 1062

Introduced by

Energy and Natural Resources Committee

(At the request of the Industrial Commission)

1 A BILL for an Act to amend and reenact subdivision b of subsection 1 of section 38-08-04,
2 subsection 6 of section 38-22-06, subsection 4 of section 44-04-20, section 54-17-03,
3 subsection 8 of section 54-17-07.3, section 54-17-07.9, subsection 2 of section 54-18-04,
4 subsection 2 of section 54-63-03, and section 57-51.1-02.2 of the North Dakota Century Code,
5 relating to regulation of oil and gas wells, service requirements, modernization of the notice
6 requirement, updating position titles, clarification for mortgage insurance requirements, an
7 exemption for specialized mill equipment, and flare mitigation.

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

9 **SECTION 1. AMENDMENT.** Subdivision b of subsection 1 of section 38-08-04 of the North
10 Dakota Century Code is amended and reenacted as follows:

11 b. To regulate:

- 12 (1) The drilling, producing, and plugging of wells, the restoration of drilling and
13 production sites, and all other operations for the production of oil or gas.
14 (2) The shooting and chemical treatment of wells.
15 (3) The spacing of wells.
16 (4) Operations to increase ultimate recovery such as cycling of gas, the
17 maintenance of pressure, and the introduction of gas, water, or other
18 substances into producing formations.
19 (5) Disposal of saltwater and oilfield wastes.
20 (a) The commission shall give all affected counties written notice of
21 hearings in such matters at least fifteen days before the hearing.
22 (b) The commission may consider, in addition to other authority granted
23 under this section, safety of the location and road access to saltwater
24 disposal wells, treating plants, and all associated facilities.

- 1 (6) The underground storage of oil or gas.
- 2 (7) Wellhead and lease equipment, oil and gas separators, emulsion treaters,
- 3 boilers, electric generators, flares, newly constructed underground gathering
- 4 pipelines, flare mitigation systems, and all other equipment located at or on
- 5 an oil or gas well site.

6 **SECTION 2. AMENDMENT.** Subsection 6 of section 38-22-06 of the North Dakota Century
7 Code is amended and reenacted as follows:

- 8 6. ~~Service of hearing~~Hearing notices required by this section must ~~conform to personal-~~
9 ~~service provisions in rule 4 of the North Dakota Rules of Civil Procedure~~be served
10 personally, by mail requiring a signed receipt, or by overnight courier or delivery
11 service requiring a signed receipt at each affected person's last-known post-office
12 address. Failure to accept mail requiring a signed receipt constitutes service.

13 **SECTION 3. AMENDMENT.** Subsection 4 of section 44-04-20 of the North Dakota Century
14 Code is amended and reenacted as follows:

- 15 4. The notice required in this section must be posted at the principal office of the
16 governing body holding the meeting, if such exists, or on the governing body's website
17 and other electronic locations, and at the location of the meeting on the day of the
18 meeting. In addition, unless all the information contained in the notice was previously
19 filed with the appropriate office under subsection 3, the notice must be filed in the
20 office of the secretary of state for state-level bodies or for public entities defined in
21 subdivision c of subsection 13 of section 44-04-17.1, the city auditor or designee of the
22 city for city-level bodies, the county auditor or designee of the county for all other
23 bodies, or posted on the public entity's website. This subsection does not apply to
24 meetings of the legislative assembly or any committee thereof.

25 **SECTION 4. AMENDMENT.** Section 54-17-03 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **54-17-03. Chairman and attorney - Secretary - Employees - Compensation - Bonds.**

28 The governor is the chairman of the industrial commission, and its attorney is the attorney
29 general. The commission shall appoint ~~a secretary~~an executive director and may employ other
30 subordinate officers, employees, and agents, on such terms as the commission determines
31 proper. The commission may require suitable bonds of its ~~secretary~~executive director or other

1 subordinate officers, employees, or agents. The commission shall fix the amount of the
2 compensation of the commission's ~~secretary~~executive director, officers, employees, and agents
3 ~~and the secretary's salary may exceed the maximum salary in the grade established for the~~
4 ~~classification assigned under chapter 54-44.3.~~ The compensation, together with other
5 expenditures for operation and maintenance of the general business of the commission, must
6 remain within the appropriation available in each year for such purpose. The commission may
7 set the compensation, within the limits of legislative appropriation, for members of a board,
8 committee, or council that advises the commission. Notwithstanding any other provision of law,
9 the compensation for any board, committee, or council member may include reimbursement for
10 expenses, a salary, a per diem, or a combination of the three, as set by the commission.

11 **SECTION 5. AMENDMENT.** Subsection 8 of section 54-17-07.3 of the North Dakota
12 Century Code is amended and reenacted as follows:

13 8. The housing finance agency may purchase, service, and sell residential real estate
14 loans secured by a first mortgage lien on real property originated by financial
15 institutions. The loans may be held in the agency's portfolio or sold on the secondary
16 market with servicing retained. ~~All loans with a loan-to-value ratio exceeding eighty-~~
17 ~~percent and not guaranteed by a federal agency must be insured by an approved~~
18 ~~mortgage insurance company.~~

19 **SECTION 6. AMENDMENT.** Section 54-17-07.9 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **54-17-07.9. Execution of instruments.**

22 In the absence of any provision regulating the execution and acknowledgment of
23 conveyances, transfers, assignments, releases, satisfactions, or other instruments affecting
24 liens on, title to, or interest in real estate, the executive director or ~~the director of financial~~
25 ~~programs~~other staff as designated by the executive director, may execute and acknowledge
26 such instruments on behalf of the industrial commission acting as the North Dakota housing
27 finance agency.

28 **SECTION 7. AMENDMENT.** Subsection 2 of section 54-18-04 of the North Dakota Century
29 Code is amended and reenacted as follows:

30 2. Purchase, lease, construct, or otherwise acquire warehouses, elevators, flour mills,
31 factories, offices, plants, machinery, equipment, and all other things necessary,

1 incidental, or convenient in the manufacturing and marketing of all kinds of raw and
2 finished farm products within or without the state. Actions of the commission under this
3 subsection are exempt from chapter 54-44.4.

4 **SECTION 8. AMENDMENT.** Subsection 2 of section 54-63-03 of the North Dakota Century
5 Code is amended and reenacted as follows:

6 2. The industrial commission ~~shall~~may contract with the department of commerce to
7 provide technical assistance to the renewable energy council and the industrial
8 commission to carry out and effectuate the purposes of this chapter, including pursuit
9 of aid, grants, or contributions of money or other things of value from any source for
10 any purpose consistent with this chapter. The department may contract with a public or
11 private third party to provide any or all of the technical assistance necessary to
12 implement the purposes of this chapter.

13 **SECTION 9. AMENDMENT.** Section 57-51.1-02.2 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **57-51.1-02.2. ~~Temporary exemption~~Exemption - Oil extraction tax credit for gas**
16 **flaring mitigation. (~~Expired effective July 1, 2023~~)**

17 1. As used in this section:

18 a. "Flare mitigation" means the quantity in millions of British thermal units of heat
19 content of gas used by an onsite flare mitigation system. The term does not
20 include the heat content of any gas flared before, during, or after intake by a flare
21 mitigation system.

22 b. "Onsite flare mitigation system" means a system at a well site which intakes gas
23 and natural gas liquids from a well, ~~separating and~~ collecting or utilizing over fifty
24 percent of the propane and heavier hydrocarbons, to achieve a reduction of
25 flared thermal intensity through beneficial ~~consumption~~use by:

- 26 (1) Compressing or liquifying gas for artificial lift, use as fuel, or for nonpipeline
27 transport to a processing facility;
- 28 (2) Production of petrochemicals or fertilizer;
- 29 (3) Conversion to liquid fuels;
- 30 (4) Conversion to electricity for onsite use or supply to the electrical grid;
- 31 (5) Conversion to computational power; ~~or~~

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

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