

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2328  
(Senators Patten, J. Roers, Schaible)  
(Representatives Howe, Mock)

AN ACT to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to a credit for oil produced from a well site using an onsite flare mitigation system; to provide for application; and to provide an expiration date.

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

**SECTION 1.** A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

**Temporary exemption - Oil extraction tax credit for gas flaring mitigation.**

**1. As used in this section:**

- a. "Flare mitigation" means the quantity in millions of British thermal units of heat content of gas used by an onsite flare mitigation system. The term does not include the heat content of any gas flared before, during, or after intake by a flare mitigation system.
- b. "Onsite flare mitigation system" means a system at a well site which intakes gas and natural gas liquids from a well, separating and collecting or utilizing over fifty percent of the propane and heavier hydrocarbons, to achieve a reduction of flared thermal intensity through beneficial consumption by:
  - (1) Compressing or liquifying gas for use as fuel or transport to a processing facility;
  - (2) Production of petrochemicals or fertilizer;
  - (3) Conversion to liquid fuels;
  - (4) Conversion to electricity for onsite use or supply to the electrical grid;
  - (5) Conversion to computational power; or
  - (6) Other value-added processes as approved by the industrial commission.
- c. "Qualifying well" means a well on which:
  - (1) If a well site already is connected to a pipeline and pipeline capacity is unavailable on the existing pipeline, the producer and the pipeline operator jointly have filed a sundry with the industrial commission attesting to the lack of existing pipeline takeaway capacity;
  - (2) If the producer's well is not connected to an existing pipeline but the producer's lands, leases, wells, or gas are dedicated contractually to a pipeline operator, the producer and the pipeline operator to which the lands, leases, wells, or gas are dedicated jointly have filed a sundry with the industrial commission attesting it is either technically or commercially unfeasible to connect a pipeline to the producer's well; or
  - (3) If the producer's well is not already connected to an existing pipeline and the producer's lands, leases, wells, or gas are not dedicated contractually, the producer unilaterally has filed a sundry with the industrial commission attesting to these facts.

2. A system that otherwise meets the definition of onsite flare mitigation system as defined in this section is not an "onsite flare mitigation system" if it is:
  - a. Installed on a stripper well as defined by subsection 8 of section 57-51.1-01;
  - b. Installed before July 1, 2021;
  - c. Installed on a well connected to or is technically and commercially feasible to connect to a gas pipeline with capacity;
  - d. A system that supports the normal production operations of a well, consumes gas as part of the routine oil and gas production process, such as a heater treater, separator, or electrical dissipation through a load bank, or any system or application traditionally considered as on-pad use.
3. A producer is entitled to a credit against the tax liability determined under chapter 57-51.1 equal to seventy-five cents per one million British thermal units of flare mitigation resulting from the operation of an onsite flare mitigation system on a qualifying well.
4. The credit may be claimed for up to twelve months per well and may not exceed six thousand dollars per well per month.
5. To qualify for the credit:
  - a. The industrial commission shall certify the well of a producer as a qualifying well and the producer shall submit a copy of the certification to the tax commissioner.
  - b. On or before the fifteenth day of the month succeeding the month of production, the owner or operator of the onsite flare mitigation system shall file a monthly report with the tax commissioner and the producer certifying the amount of flare mitigation per qualifying well during the month of production.
  - c. The credit for flare mitigation must be claimed by the producer against the oil extraction tax due on a per well basis for the production month following the month in which the mitigation occurred.
  - d. The producer shall file the return required under this chapter for the duration of the credit and pay any oil taxes due. After the exemption period ends, the purchaser shall pay the oil taxes due.
6. The tax commissioner may audit the records of the producer and operator of the onsite flare mitigation system to administer this section. The credit allowed may not exceed the liability of the tax under this section.

**SECTION 2. APPLICATION.** The credit in section 1 of this Act only applies to production from wells located outside the exterior boundaries of the Fort Berthold Reservation unless the Three Affiliated Tribes, through the tribal chair, notifies the tax commissioner in writing that the Three Affiliated Tribes desires to include production from wells from within the boundaries of the exterior boundaries of the Fort Berthold Indian Reservation without altering the provisions of the compact on oil and gas production taxes within the Fort Berthold Reservation. This Act applies to flare mitigation from a qualifying well on which a flare mitigation system is installed between June 30, 2021, and July 1, 2023.

**SECTION 3. EXPIRATION DATE.** This Act is effective through June 30, 2023, and after that date is ineffective.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2328.

Senate Vote:    Yeas 44            Nays 3            Absent 0

House Vote:    Yeas 89            Nays 3            Absent 1

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State