2013 HOUSE FINANCE AND TAXATION

HB 1134

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1134
January 15, 2013
Job #17234

☐ Conference Committee

Committee Clerk Signature	Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to oil and gas gross production tax exemption for natural gas to encourage use of gas that might be flared; flaring restrictions for natural gas and sales tax exemption for property used to process natural gas to encourage use of gas that might otherwise be flared.

Minutes:

Attached amendment #1 and attached testimony 2

Chairman Belter: Opened hearing on HB 1134.

Representative Todd Porter: Introduced bill. See attached amendment #1. During our discussions in the interim energy committee it became very apparent that we needed as a legislative assembly to address the concerns that there are with the amount of flaring in western North Dakota. You may think that this is an environment concern but it's really not. The concerns that we heard were the fact that this source of energy because of the lag time between drilling the well and actually implementing the gathering system and getting the systems in place. That lag time requires that the gas be flared. The concerns we heard had to do with looking at this resource basically going up in flames. There was no beneficial use of this due to the lag time. As we looked at this we thought about different ways to incentivize the industry to tackle some of these concerns. Some of these you've heard Cenex Harvest States going forward with a fertilizer plant and an anhydrous ammonia plant in Jamestown and taking out of a pipeline like Alliance that's going nearby and taking the liquids out of that pipeline and processing that into anhydrous ammonia. A few sessions ago Representative Wald had a bill that dealt with moving in on site electrical generation and using either propane or natural gas fired engines to operate a generator and produce electricity on site for that. There's individuals in the room today that have either effective technology or are in the process of implementing technologies that can be used on site and produce a beneficial result. Whether that is electrical generation on site manufacturer of fertilizer, some of the plastics off the liquids that are stripped, or stripping the liquids and transporting them away for further processing somewhere else. As we were going through and listening to the testimony in the interim I think one of the key components we heard had to do with a value added energy industry. We are shipping a lot of products out of the state that could just as easily be manufactured in the state of North Dakota. If you think about how the commodity of oil and gas work there's a lot of things when you think of WD-40, all of the plastics we use that have an oil component in them that the manufacturing of those components could be done right here in the state. We went through a whole phase in the 90s and 2000s talking about value added agriculture and how do we keep the end game in our state. I think this is one of those end games we want to keep in North Dakota and start having an end game for these products. As this commodity fluctuates up and down in price and those jobs come and go whether it be because of the drilling or the perfecting of the leases and the number of the drilling rigs, the price of the commodity but the beneficial use of these commodities can stay right here in the state. The purpose of this bill is to incentivize the industry and start getting onsite when we're waiting for the collection systems to be put in place and actually have a beneficial use of that product rather than flare it. By doing that we are then going to that next level of that beneficial use of those products. Right now we had an overview in the energy committee and we had a tad fewer than 30% of the gas being flared. That really isn't that alarming given the level of activity in western North Dakota. What's alarming is in the end when the gathering lines are built in the systems and infrastructure are put in place that we're probably going to be sitting around a 5% mark that is either too remote of a site or it doesn't produce enough that it isn't beneficial enough to hook up to a gathering system that will always be flared. That 20% right now that isn't being captured will be captured and the companies are very interested online and getting it processed. It just takes a little while to build that infrastructure. Some of that under this proposal can be used and be beneficial to the state. The real focus of this bill is to get those technologies interested in being in North Dakota and to deal with those that will never be hooked up in that 5% category. Maybe bring that value added oil manufacturing to the state so that some of those products that we commonly think about with plastics and Styrofoam that are using an end game of what we're producing that they locate in the state of North Dakota rather than someplace else and ship the products back to us. Those jobs are real jobs and don't fluctuate with the fluctuation of a commodities based product and would mean real growth in the energy industry. We met yesterday with the tax department with Mr. Helms from the oil and gas division and figured out where our errors were in our original draft. I have amendments to pass out. Refer to attached amendments #1.

Representative Froseth: The fiscal note has $32 million. It provides a two year exemption on the gas production and a sales tax exemption for equipment but it doesn't have any sunset or ending date on the equipment. It would seem to me that a combination of the sales tax exemption and the gross production gas and tax would be more than $32 million. Maybe someone could speak about the fiscal note.

Representative Todd Porter: I would rather not jump at those because I would hope the committee puts the amendments on and then a lot of those are virtually non-issues.

Chairman Belter: Further testimony in support?

Lynn Helms, Director of the Department of Mineral Resources: See attached testimony #2 in support. We are experiencing current flaring problems with 1980s tools. The current tax regime and regulatory regime for flaring was written in 1986 and ran up through 1992 Supreme Court decision dealing with natural gas liquids and that sort of thing. We are dealing with late 80s tools to try and attack a 2010 problem. Review of attached testimony #2. It took a while for the natural gas gathering and processing industry to recognize the value of Bakken and Three Forks gas so we were two or three years in to this play before we really recognized or could have tracked the billions of dollars of investment necessary to go into processing. Referred to page 4 of his testimony regarding future plans. He also referred to the graph indicating where we are in terms of gas being flared and this is nowhere near where we want to be, flaring about 30% of the gas. That means that about $35,000 a day in potential gross production tax revenue is flared. About $35,000 a day in royalty value is flared right now. At 2 ½ billion cubic feet a day if we can push that gas flaring back down to historical levels at around 5% we would still be flaring 125 million cubic feet per day. That's enough to feed more than a large gas processing facility. There will be long term stranded gas scattered here and there and so we want to incentivize processes to get at those little pockets. The two year limitation if it's reachable by a natural gas processing plant and gathering system then we expect that they will be able to get there within the two year time frame when the tax incentives would expire here. We could tackle this with 1980s tools, production restrictions, and that sort of thing but what would that do? It would reduce the cash flow from the Bakken well by 5 fold and the long term profitability of that well by over 25%. We are still in the phase where these Bakken drilling companies are reinvesting 125-150% of cash flow. If we reduce their cash flow by fivefold what have we done? We've destroyed the economic engine that we are trying to build here. In the fiscal note on page 2 line 10 we were exempting all gas connected to a gathering system and we never intended to do that. That meant that every bit of gas produced in North Dakota was exempt from the gross production tax and that wasn't the intent of this legislation. That's what created the $32 million fiscal note. The sales tax revenue from these little processing plants doesn't exist at the present time so there is no fiscal note on that. We're not giving away anything we are just gaining value on the natural gas. That was really the major correction. That same error on line 24 of page 3 so by removing those two we are taking away that huge fiscal note which was never intended to be there which was a big hit to county gross production tax revenue. Secondly, we were trying to clarify some confusion over what happens to natural gas right now if a well is connected to a pipeline but through force majeure no fault of the operator the gas has to go to flare. That's what you see in lines 6 and 7 of the current bill but that language is now being removed from there and inserted on line 11 page 2 so that we now have clarified that gas is actually exempt from taxes and royalties. So if you're connected to a pipeline you've done everything as an operator but something goes wrong for a few days and you have to flare a little bit of gas you don't have to calculate taxes and royalties on that gas. That's traditionally how the tax department and industrial commission have interpreted the current language but this will clarify it. We also added the word temporary a couple places in section 3 so everybody recognizes we don't want to process 30% of our natural gas this way long term. Long term we want to build out the infrastructure and the gas plants to process it and maximize the value. Temporarily we need to attack this problem with things that use compression and refrigeration and that sort of thing. Finally section 4 is a new section for the bill. We discovered yesterday that there is a 1992 Supreme Court decision that causes natural gas liquids and it can treat natural gas liquids produced in the field as oil and apply the oil extraction tax to them. This clarifies that if they use three processes; absorption, adsorption, or refrigeration in that field unit then it's not crude oil that comes out of it, it's natural gas liquids and not subject to the oil extraction tax.

Representative Kelsh: Under the new section 4 after the two year exemption the liquids then are classified as an oil type extraction product?

Lynn Helms: Yes, they could be. The point of all that is to make sure these are looked as temporary processes and not looked as a long term solution. Our focus is always on the long term solution of gathering lines and gas plants. Another thing I would like to mention is that on the bottom of page 1 line 23 the word compression shows up there and we need to make sure that everybody understands that when we talk about this compression it can do three things and these are the three things that would be exempted; liquefied natural gas which could potentially power trucks and trains and all those sorts of things, compressed natural gas which can power drilling rigs or be hauled in someplace and put into vehicles or fleets or something, and compressed natural gas that might be trucked to a gas plant so that it doesn't end up going out of a flare but might go into one of these big tubes and be trucked off to gas plants.

Chairman Belter: Any other questions? Further testimony in support of 1134?

Dale Niezwaag, Basin Electric Power Cooperative: We are in support of what the bill is trying to do. We have some concerns and don't want to have a large numbers of generators showing up all over wells going on out there. Our concern is mainly for safety and the number of emissions we are going to have just from going from flaring to running small uncontrolled gas engines. We agree that the idea is to get to the point where we've got a large gas gathering system where the gas can be processed. If we generate electricity we do it in larger units that are more efficient and can have emission controls on them.

Chairman Belter: Further testimony?

John Simmons, Chairman of Carbon Tec Energy Corporation: We have a company called Bakken Western Services and we're going to introduce a system that uses centrifugal force to separate the liquids from the gas. I believe our system will separate perhaps 50 or 60% of the energy so we won't reach the 75% level. However, the liquids will be recovered as a commercial commodity and will benefit the well owner, royalty owner, and so forth. I see that the number to reach is 75%. This will be new technology to North Dakota but it's not new in Texas or other areas where there is over 1,000 units operating. We are going to introduce this system that doesn't use electricity or power; it uses centrifugal force and the pressure from the well. We recover perhaps approximately 50% of the energy. We will reduce the flare by whatever else energy we remove so it is something that should be considered for some technology that doesn't go all the way.

Chairman Belter: Further testimony in support of 1134? Any opposition to 1134? Neutral testimony?

David Munch, Morton County resident: On natural gas we've been flaring at in the state since the 50s. We built a gasification plant in the 1980s and after that MDU came along with the eighth wonder of the world and they had enough natural gas to furnish for 100 years. The government paid Basin Electric money so they could take over the gasification plant. With the technology they use to convert coal they should be able to use some of that. I've researched some on the internet on natural gas. Indonesia has big tanker ships and they ship natural gas from Indonesia to Asia. There's a device called a boom box. A guy that worked for NASA was going to develop an oxygen converter for the guys to go to Mars but her scrapped that and he built a boom box. It's the size of a cracker box and you can furnish electricity for a house and it runs on different fuels. I don't see why I shouldn't have to subsidize someone in an oil or gas company. The government ended up paying for the gas plant and the taxpayers. When you start giving these tax breaks away you always continue to tax the little guy at the same rate somewhere. If you don't take care of this earth it's going to eat you alive. I don't disagree with the things you're trying to do with this bill but I'm just tired of seeing these tax breaks going to big companies and the country is going down the tubes.

Chairman Belter: Any other neutral testimony? If not we will close the hearing on HB 1134.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1134
February 11, 2013
Job #18752

☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to oil and gas gross production tax exemption for natural gas to encourage use of gas that might be flared; flaring restrictions for natural gas and sales tax exemption for property used to process natural gas to encourage use of gas that might otherwise be flared.

Minutes:

Amendments #1, marked up bill #2

Vice Chairman Headland: Distributed 03002 amendments and marked up copy of bill. See attached #1 and 2.

Chairman Belter: There's a question on page 1 subsection 2D.

Representative Froseth: On page 1 line 22 what all constitutes "intakes?"

John Walstad: No idea. All this language was handed to me and I was told to put it in there so I prepared an amendment. None of these were my words.

Representative Owens: The original bill talked about capturing or taking over 75% and I believe the 75% had to be converted then we heard testimony that 75% was actually a very high amount. The paragraph is saying that it's going to take in at least 75% of it but then produce 50% of the liquid. This was supposed to make sure the paragraph didn't suggest it had to produce 75% but it had to produce around 50 percent so you could still have some flaring.

Representative Froseth: That would mean then that the electrical generator didn't use 75% of it then we'd have to find one of these other methods for getting rid of another 25% before you would get the tax credit.

Chairman Belter: I don't read it that way.

Zach Weisz, WPX Energy: We probably won't benefit from this bill but I helped the pipeline authority write up this a little bit so I can help take some questions on this. The whole point of putting intakes is the system now can intake that gas that would otherwise be flared into their process whether that would be to the electric generator or to the company out of Bismarck that separates the liquids from the gas then is captured. On page 2 that specifically call out their process. The electric generator is going to intake at least 75% of the otherwise flared gas; it's actually going to use all of it. It will use more than 50% of it; it will use all of it.

Representative Froseth: I'm trying to visualize the electric generator. The electric generator would be used to run the pump and if you had extra electricity where are you going to put it? There's not a power line out there.

Zach Weisz: Blaze energy would come with electric generators on to your well pad and takes that flared gas and it generates electricity with it then kicks it out to a power line into the grid. That's what number three does; the electric generator is attached units to produce electricity from the gas and collection system described in subsection two. That produces electricity and puts it into the grid.

Representative Froseth: If it puts excess electricity into the grid is that free electricity for the power company?

Zach Weisz: REC would buy that electricity for a certain price.

Representative Drovdal: If we force them to put gas in the pipeline the royalty owner gets paid his royalties on the sales of that natural gas but if they use that on site does the royalty owner still get paid the value of that gas?

Zach Weisz: I'm not sure. Is that part of the two year exemption?

Representative Drovdal: No.

Zach Weisz: Their still using that otherwise flared gas so I would say they would be paying that royalty but I can't say for sure.

Representative Drovdal: They're not gaining more but they're not losing more either.

Zach Weisz: Right.

Vice Chairman Headland: The only way the royalties are going to get paid is if it's in violation which means if it's continued to be flared.

Representative Drovdal: This deals with the tax only and I think the payment to the royalty owner has more to do with the lease agreement. Right now I think that if it's flared they don't get paid any royalty. If there's a value used on site I don't think you get paid the royalty.

Vice Chairman Headland: I think the way it reads is the only way he's going to get paid is if they continue to flare it.

Representative Drovdal: No he won't get paid to flare it but if they get it in the line and sell it as natural gas then they will get paid the royalty.

Zach Weisz: That's if they're flaring it without an industrial commission approval. If they are flaring because they're flaring it then we would have to pay that royalty.

Chairman Belter: If you're in violation?

Zach Weisz: For non-violation and we're selling it to blaze energy to produce electricity or if we're selling it to the company that separates the liquids from the solids.

Representative Drovdal: If you sell the gas you're going to have to pay royalties but if you produce electricity on site and use it on site you don't have to pay royalties.

Zach Weisz: These exemptions you're giving they aren't typically going to be an operator like WPX that will be using that so we are going to sell that gas.

Representative Froseth: That gas will all be metered if it's being used to process anything so I would think that royalty owner would collect the percentage of the value of that gas.

Zach Weisz: Yes, we meter so we know how much gas we're producing. Instead of flaring it we're selling it to blaze energy then I would have to assume we're paying a royalty on that even though it might be a smaller amount because we're selling it at a cheaper rate which is probably negotiated out in the lease.

Representative Trottier: What is the need for an incentive to do this?

Zach Weisz: It can flare for up to a year then we can go back to the industrial commission and make a case that for some reason we need to continue to flare. That's then up to the industrial commission to grant that waiver.

Representative Trottier: Why is it that we don't have an incentive in there then?

Zach Weisz: The purpose of the bill is to cut down on flaring so in the usual case for working on these wells sites that we can't get a pipe to yet to gather the gas we're going to flare it and then in most cases the industrial commission gives a waiver to keep flaring. In order to combat that we're going to give this incentive to put this process that might cost some extra money and give an incentive to capture that gas and collect it or burn it off and produce electricity or whatever.

Representative Trottier: There's no profitability in there for the pipe?

Zach Weisz: We're going to get that piped as soon as we can to that well site for sure. It takes time for additional infrastructure and plants to get put in place.

Representative Trottier: Will this speed it up?

Zach Weisz: This won't speed up the process for getting pipe in the ground but it will speed up the process for reducing flaring.

Representative Froseth: On page 4 it says it's a two year exemption. How did they arrive at the two years?

Zach Weisz: I didn't draft the whole bill; I just helped with some of these amendments to the bill so you'll have to ask Representative Porter about the two years.

Representative Owens: I'd like to ask Mr. Walstad a question. I count four tax exemptions in this bill and I don't see an expiration date.

John Walstad, Legislative Council: No expiration for anything.

Representative Kelsh: When Representative Porter presented this bill he mentioned reference to the zeroed out fiscal note and I'm wondering where that part is in the amendment?

John Walstad: I don't see it.

Representative Hatlestad: On the bottom of page 2 does this mean the sales and use tax exemption could be for building a gas gathering plant or pipeline or whatever?

John Walstad: Most of what you're looking at here is existing law. That was put in last session about the processing facility exemption.

Chairman Belter: Does "collect" include liquefied natural gas?

Chairman Belter: I think we're going to need some clarification on this language before we move any further.

Representative Porter: I realize Vice Chairman Headland was working on amendments but I can try to answer any other questions that come up. During the original testimony there was a question on the start point of beneficial use and the end point that would allow the individual to get the production tax credit and that's addressed with Vice Chairman Headland's amendments so that is fixed. The purpose the bill addresses is to incentivize the beneficial use of the flared gas and that the first year under current law can be flared without any reason or payment to a royalty owner. Only after year one can it still be flared with permission from the industrial commission but the payment has to be made to the royalty owner after year one. If they strip it off at the site they're just saving the production tax and the royalty owner instantly goes on the paycheck along with the lease holder. There is a money benefit to the mineral owner and to the lease holder on that production by stripping it off. It's not something that is just taken without payment back to the royalty holder or the lease holder; it's just to incentivize companies with these innovative ideas to get on site and start using this gas instead of flaring it. Mr. Helms told us that their estimate is that there will be as this whole Bakken plays out 5% of the wells that the gas will never be able to be picked up from and will always be flared because it's too far away from a gathering system. I got an email from a guy in Finland where they developed a process to turn liquefied products into feed for cattle and livestock. There are all sorts of potential beneficial uses out there; it's just a matter of giving them the ability to get there and get started. On the 25% that's being flared we will eventually get hooked into a gathering system we can use that gas tomorrow and then on the 5% residual that will never be hooked up there can be beneficial uses to stripping out those liquids and putting them to beneficial use.

Representative Kelsh: When you first presented this bill you mentioned that the amendments would zero out the fiscal note. Can you tell me where that is in the bill?

Representative Porter: I'm not sure where Vice Chairman Headland's amendment did that. The only tax is the liquids are treated as oil when they're pulled off. If they're pushed into the pipeline they aren't taxed because they don't show value going into a pipeline because they are mixed in with the oil and potentially stripped out later. If somebody puts them to beneficial use on site in the first 12 months in comparison to them being flared it's a wash because either they are going to flare it and there's no tax or it's going to be put to beneficial use so that should be zero. There shouldn't be a loss of revenues there. On the second year if they would continue to flare them and they get a waiver for flaring I don't know that they currently have to pay the tax but they have to pay the mineral holder.

Representative Drovdal: On section two what is meant by the wording "collecting?" I know what gathering is and I thought gathering was the pipeline but what is "collecting" referring to there?

Representative Porter: My understanding of that being added is the fact that they are collecting at the site and using it at the site is what collection would be.

Representative Froseth: How did you arrive at the two year exemption?

Representative Porter: That was just a number as we were discussing this. By doing it for a year it would really be a zero net incentive because they can flare it free for a year and have no penalties whatsoever. If we could offer out an incentive to the companies to get going right away with these processes then it really benefits the company because they are getting money back for something that they would normally burn and the mineral holders would have a huge benefit because they are now getting paid for something that they wouldn't normally get paid for. We felt that by telling them for doing this and bring these processes on your site and start making anhydrous or feed for cattle or electricity or diesel fuel on site with these mini processes that it's going to be worth your return on your investment. The biggest benefit in this program really goes to the mineral holders.

Representative Froseth: This says for a period of two years from the time of first production. That would mean for the time that well came into production and if they can flare it for a year without paying any tax they only have one more year left on their exemption to install this equipment and get the tax benefit.

Representative Porter: I don't think that is how it was looked upon. It was not to allow for three total years it was two years from the time of first production. If they don't come in with one of these systems until the second year they would get one year. Right now they get a year guaranteed to flare and after that they pay the royalties on that gas or an estimate on the royalties on that gas that is flared. Mr. Weisz just said the fiscal note on page 3 line 28 is where that amendment that Vice Chairman Headland put on that gets rid of that. We had gas gathering line which meant it was already piped gas that got the exemption that didn't have anything to do with this so that portion is what takes the fiscal note to zero.

Vice Chairman Headland: Mr. Ness just confirmed that. I was also informed that we need Representative Porter's amendments as well; we need them both.

Chairman Belter: Where is the Porter amendment?

Representative Porter: That was the January 14 one that was handed out with the testimony.

Chairman Belter: Vice Chairman Headland your saying we need both 3001 and 3002 amendments?

Vice Chairman Headland: That's what Mr. Ness indicated.

Chairman Belter: That's not included in the mark up?

Vice Chairman Headland: No. Can we get a new marked up with both in it?

Chairman Belter: We can do that. We'll have to have legislative council get a markup of this bill or see if both those amendments are part of 3002 mark up bill.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1134
February 11, 2013
Job #18758

☐ Conference Committee

Committee Clerk Signature	Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to oil and gas gross production tax exemption for natural gas to encourage use of gas that might be flared; flaring restrictions for natural gas and sales tax exemption for property used to process natural gas to encourage use of gas that might otherwise be flared.

Minutes:

Vice Chairman Headland: Made a motion to adopt the amendments 03002.

Representative Owens: Seconded.

VOICE VOTE: MOTION CARRIED.

Chairman Belter: What are your wishes on 1134?

Representative Drovdal: Made a motion for a Do Pass as Amended.

Representative Hatlestad: Seconded.

ROLL CALL VOTE:
10 YES
3 NO
1 ABSENT

Representative Drovdal will carry this bill.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1134
February 12, 2013
Job #18844

☐ Conference Committee

Committee Clerk Signature	Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to oil and gas gross production tax exemption for natural gas to encourage use of gas that might be flared; flaring restrictions for natural gas and sales tax exemption for property used to process natural gas to encourage use of gas that might otherwise be flared.

Minutes:

Attached amendments #1.

Representative Drovdal: Made a motion to reconsider our actions whereby we had a Do Pass as Amended.

Representative Klein: Seconded.

VOICE VOTE: MOTION CARRIED.

Chairman Belter: We have 1134 before us.

Representative Drovdal: When I was reviewing this I noticed some language I was questioning so I checked with Legislative Council and it seemed as if we didn't get that fiscal note down to zero because we were allowing all the gas hooked up to the wells that were less than two years old and going to our processing plants to be exempt from the tax. The amendment I passed out removes the word "gas gathering lines." Therefore, the exemption only will apply to gas that is being collected on site and moved to another place but if they have the processing lines they are not going to get the exemption; as soon as they put in the processing lines the exemption disappears. **Made a motion to adopt the amendments (no number but dated February 12, 2013).**

Vice Chairman Headland: Seconded.

Representative Froseth: Do these replace the amendments we put on yesterday of 3002?

Representative Drovdal: I believe they are on top of those amendments because this just takes out "gathering lines." No, I guess he has them all in here.

Chairman Belter: We'll have to remove 3001. Do you want to withdraw your motion?

Representative Drovdal: I will withdraw my motion to adopt the amendments of February 12, 2013.

Vice Chairman Headland: Seconded.

Representative Owens: Some of it is in this new one but not all of it. On the red and green copy 2002 on page 1 lines 22-24 are not in this amendment. There were changes we accepted in that.

Representative Froseth: There are quite a few in 3002 that aren't in the new one.

Chairman Belter: These amendments fit on the original bill. I think the February 12 amendments fit on the original bill.

Ron Ness, President of the Petroleum Council: I think the piece that the tax department caught was on page 3 line 24. The intent here is that we are only after the gas that is flared on that pad. If it's connected then this exemption should not apply, therefore, there is no fiscal impact to anybody because that gas is a waste. We had proposed amendments yesterday on page 1 delete subsection 2D beginning on line 22 and replace with "equip with a system that intakes at least 75% of a natural gas." I assume you added that yesterday because the gentleman from Bismarck, Mr. John Simmons, said the bill didn't work for him and that is the fix to ensure what they are trying to do with their new technology is covered under this bill. If you take that and the amendment today I think you've covered what the tax department is after.

Chairman Belter: You're saying we should adopt the 3002 amendment which we've already done.

Ron Ness: The one I got today doesn't have a number on it.

Chairman Belter: No, yesterday. Vice Chairman Headland had my bill.

Vice Chairman Headland: We found out from Legislative Council yesterday that these covered the earlier Porter amendments as well it just didn't fix this problem. We should be able to just add this.

Representative Owens: On the red and green copy of 3002 it eliminated a gas gathering line and it sure sounds like the tax exemption is still in the gas gathering line.

Representative Drovdal: That is correct and with the amendment we got today takes it out of there.

Representative Owens: This is on page 2 line 14.

Chairman Belter: I would suggest Representative Drovdal take these amendments back up to legislative council and make sure we've got everything squared away.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1134
February 13, 2013
Job #18879

☐ Conference Committee

Committee Clerk Signature Mary Brucker

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Minutes:

Attached amendments #1.

Representative Drovdal: Distributed amendments. See attached amendments #1.

John Walstad, Legislative Council: Explained amendments. I think the difficulty that existed with the way the bill was prepared and the amendments brought to the committee was that there are two components and they were getting mixed together. One component, the first portion of the bill, relates to when wells may be flared the one year period and then after that period there were some things added that could be done instead of having to cap that well to avoid flaring. The list of things that could be done included hooking that well up to a pipeline, a gathering line, or whatever which may go to a processing facility and that is appropriate in that section where there are reasons you don't have to cap the well. In the section on a tax exemption for the gross production tax it referenced subsection 2 of the other section which then meant that if you were hooked to a gathering line going to a processing facility that natural gas would be exempt from tax for two years and that was the problem. In putting the amendment together I tried to make clear that those reasons listed for not having to cap a well after a year are all fine. I took out one subsection which said if you do all this stuff then your gas is exempt under 57-51-02.6 because that paragraph is pointless because we already have that other subsection saying your exempt. I restructured the language in the gross production tax exemption and rather than having a reference there to subdivision d of subsection 2 of 38-08-04 I took parts of that which the committee wanted the exemption to apply to and moved them and they are at the bottom of page 1 of the amendment sheet (numbers 1 and 2). Section 4 added at the end of the amendments what the tax department recommended. Ordinarily you wouldn't need an exemption for natural gas under the extraction tax because the extraction tax doesn't apply to natural gas, however, when some of that natural gas is converted to liquid then it is subject to extraction tax. A provision is added about liquids produced by a collection system. It doesn't cover what we need about production tax because the part about used on site to power an electrical generator is subdivision C but D is all of the stuff that might through absorption, adsorption, or refrigeration produce a liquid from natural gas.

Representative Kelsh: After the two year exemption on the liquids does that mean that those liquids then are subject to the extraction tax?

John Walstad: Yes and the gas as well. It doesn't matter how you use it, it is taxable.

Representative Froseth: On that two year exemption, if they flare it for a year and then capture it they are only going to get one year because they get the exemption on years flaring now.

John Walstad: I looked at that and thought it may be a problem but I think if it's being flared that is not considered production that is just blowing it into the atmosphere.

Representative Froseth: I took it as production on the well.

John Walstad: Maybe there is an issue but I took it as flaring is not production.

Chairman Belter: These are the 3005 amendments so if we're going to adopt this we will have to take off the 3002 amendments.

John Walstad: Yes. That would be my recommendation. I've prepared this off the original bill. I didn't want to incorporate some of the confusion that has come up in some of the previous ones so stripping off anything the committee already adopted would be the first step then adding this to the bill if it's the committee's wishes.

Representative Drovdal: Would you reiterate what Kathy Strombeck said about the fiscal note?

John Walstad: In talking with Kathy Strombeck the bill showed a negative $32 million fiscal affect and that was all attributable to the two year exemption for gas going into a pipeline at the well site and off to a processing facility. Without that exemption for pipeline gas she said the resulting fiscal effect would be pretty close to nothing because either those wells have to be capped or used in one of these ways so there wouldn't be tax revenue if this was not allowed so there's no revenue to lose than that.

Representative Zaiser: The well isn't producing unless somebody is purchasing the product in terms of establishing that two year timeframe?

John Walstad: The interpretation I have of production is that you're taking something out of the earth that has value to you and flared gas has negative value if any.

Representative Hatlestad: You don't have any flared gas unless you are producing that well, correct?

John Walstad: You're saying that a well can be producing oil and flaring gas at the same time so the well is producing while it is flaring?

Representative Hatlestad: The reason you flare the gas is because you can't produce the well without the gas.

John Walstad: Ok, maybe it's not as cut and dry as I was thinking. I'm not sure and maybe we need to clarify. Maybe the effective date would be better to key off of the end of that one year flaring allowance and after that then the two years begin. Would that make sense?

Representative Froseth: Couldn't you just begin that two year exemption period after you capture that gas into the liquefied system?

John Walstad: I think the result is the same. 38-08-04 says after a year you have to cap it or you have to do one of these things. I'm thinking if you haven't capped it after a year you're doing one of those things you're doing one of those things that qualifies for the tax treatment.

Representative Hatlestad: My concern is the longer you extend the situation out the less incentive to do something. You have a year and you better have it hooked up to something then we'll give you a year to get the pieces in effect.

John Walstad: That might be the way this thing is ultimately interpreted because if your year of flaring is also a year of production then you only have another year after that first year and maybe that's how this should be interpreted. Maybe we need to make it absolutely clear what the committee's desire is.

Representative Drovdal: The group that would make that decision right now is the industrial commission, correct?

John Walstad: Yes until someone says they want an attorney general opinion or a court case.

Representative Zaiser: Would it be necessary to change the wording so it was clear where that line was in terms of the two year time frame when it begins?

John Walstad: At this point maybe that would be the best solution because your diligent clerk is recording this discussion and indicating the legislative intent might be a little hazy so it might be best to make it clear one way or the other.

Representative Drovdal: Could I ask Mr. Ness when the date of production would be determined?

Ron Ness, President of Petroleum Council: In reality this is how it is going to happen, you're going to drill a well then you're going to get it on production, see what the well has for gas and oil, and this third party vendor who has this on-site capture equipment at some point is going to come after the operator says he knows what they have and what type of gas it is so I think the clock starts ticking under that language. The day of first production to us means the day of first production so you're not giving them much lag time. If you truly want the third party vendors to have a business model under this bill, you're trying to give them two years to be on that well site to capture the flare. It might be smart to have some type of language "within 60 days of the first date of production" because they are not getting on that well site for safety reasons until the well is clearly under production and their equipment is all set and things are ready to go. Giving them a buffer might make sense if you truly want them to have their two years.

Representative Zaiser: Wouldn't it be wise to go back and clarify this in language so we don't have that ambiguous interpretation in the industrial commission?

John Walstad: That's kind of an opinion. I think from the discussion we have some different ideas of what this means. Mr. Ness is right and if we just say production that would mean oil. I was thinking it meant production of gas or flaring of the gas or when the gas was being captured and used.

Chairman Belter: Is everybody fine with the way the language is?

Representative Drovdal: Made a motion to reconsider action on approving amendments 3002.

Representative Dockter: Seconded.

VOICE VOTE: MOTION CARRIED.

Representative Drovdal: Made a motion to adopt amendments 3005.

Representative Klein: Seconded.

Representative Hatlestad: Did we ever decide when production begins?

Representative Drovdal: Production begins when the first minerals are extracted from the earth for sale.

VOICE VOTE: MOTION CARRIED.

Chairman Belter: We have the amended bill before us. What are your wishes?

Representative Drovdal: Made a motion for a Do Pass as Amended.

Representative Hatlestad: Seconded.

Representative Zaiser: Wouldn't this new interpretation now mean oil and gas when we're talking about minerals.

Representative Drovdal: I said minerals.

ROLL CALL VOTE: 14 YES 0 NO 0 ABSENT

Representative Drovdal will carry this bill.

FISCAL NOTE
Requested by Legislative Council
01/09/2013

Bill/Resolution No.: HB 1134

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$(28,160,000)		
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		$(3,840,000)	
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1134 deals with natural gas at the well site that would otherwise be flared and provides a gross production tax exemption. It also provides a sales tax exemption for equipment used in qualifying gas collection systems.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1134 adds a new "gas collection system" option for gas that would otherwise be flared, and allows the gas to be covered by a new, broadened gross production tax exemption contained in Section 3. Section 2 of HB 1134 broadens the existing sales tax exemption to include gas collection systems. It is not known what additional sales might be exempted by this provision. Section 3 creates a 2-year gross production tax exemption for gas gathered at the well site.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The fiscal impact of the 2-year exemption in Section 3 relative to existing gas production that is subject to gross production tax is estimated to be -$32 million for the 2013-15 biennium. The expansion to include gas collection systems cannot be determined. This gross production exemption is expected to reduce county revenue by an estimated $3.84 million and "other funds" by $28.16 million in the 2013-15 biennium. The "other funds" include the legacy and strategic investment and improvements funds.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/14/2013

VRL
2/13/13
1 of 2

13.0257.03005
Title.05000

Prepared by the Legislative Council staff for
Representative Drovdal
February 12, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1134

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "57-51-02.6" insert "and 57-51.1-02.1"

Page 1, line 2, after the second "gas" insert "and an oil extraction tax exemption for liquids produced from natural gas extracted"

Page 1, line 22, replace "collects" with "intakes"

Page 1, line 23, after "liquids" insert "volume"

Page 1, line 23, after "for" insert "beneficial consumption by means of"

Page 1, line 23, replace "or" with an underscored comma

Page 2, line 1, remove the second "or"

Page 2, line 2, after "fuels" insert ", separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission"

Page 2, line 6, remove "and for gas flared from a well connected"

Page 2, line 7, remove "to a gas gathering line"

Page 2, line 10, remove "Gas production from a well that is connected to a gas gathering line, electrical"

Page 2, remove lines 11 and 12

Page 2, line 13, remove "6."

Page 2, line 16, replace "7." with "6."

Page 3, line 23, replace "**Exemption**" with "**Temporary exemption**"

Page 3, line 23, after "**for**" insert "**oil and**"

Page 3, line 24, remove "collected at the well site by a gas gathering line, electrical generator, or collection"

Page 3, line 25, remove "system described in subsection 2 of section 38-08-06.4 from the time of first production"

Page 3, line 27, after "production" insert: "if the gas is:

1. Collected and used at the well site to power an electrical generator that consumes at least seventy-five percent of the gas from the well; or

2. Collected at the well site by a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the

propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission

SECTION 4. Section 57-51.1-02.1 of the North Dakota Century Code is created and enacted as follows:

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

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

Renumber accordingly

Date: 2-11-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1134

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment 03002

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Headland Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) No

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Voice Vote
Motion Carried.

Date: 2-11-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1134

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Drovdal Seconded By Rep. Haltestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh		✓
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser	—	
Rep. Matthew Klein	✓		Rep. Jessica Haak		✓
Rep. David Drovdal	✓		Rep. Marie Strinden		✓
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Drovdal

If the vote is on an amendment, briefly indicate intent:

Date: 2-12-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1134

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☒ Reconsider

Motion Made By Rep. Drovdal Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

Voice Vote
Motion Carried

Date: 2-12-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1134

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number WITHDRAWN

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment 2-12-13

☐ Rerefer to Appropriations ☐ Reconsider ~~Adopt~~

Motion Made By Rep. Drovdal Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

~~Voice Vote~~
~~Motion~~

Date: 2-13-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1134

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☒ Reconsider ~~passed~~ remove 3002 amendment

Motion Made By Rep. Drovdal Seconded By Rep. Headland

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

Voice Vote
Motion Carried.

Date: 2-13-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1134

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ____________

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment 03005
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Drovdal Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) ____________ No ____________

Absent ____________

Floor Assignment ____________

If the vote is on an amendment, briefly indicate intent:

Voice Vote
Motion Carried.

Date: 2-13-13
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1134

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Drovdal Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	√		Rep. Scot Kelsh	√	
Vice Chairman Craig Headland	√		Rep. Steve Zaiser	√	
Rep. Matthew Klein	√		Rep. Jessica Haak	√	
Rep. David Drovdal	√		Rep. Marie Strinden	√	
Rep. Glen Froseth	√				
Rep. Mark Owens	√				
Rep. Patrick Hatlestad	√				
Rep. Wayne Trottier	√				
Rep. Jason Dockter	√				
Rep. Jim Schmidt	√				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Drovdal

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1134: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1134 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "57-51-02.6" insert "and 57-51.1-02.1"

Page 1, line 2, after the second "gas" insert "and an oil extraction tax exemption for liquids produced from natural gas extracted"

Page 1, line 22, replace "collects" with "intakes"

Page 1, line 23, after "liquids" insert "volume"

Page 1, line 23, after "for" insert "beneficial consumption by means of"

Page 1, line 23, replace "or" with an underscored comma

Page 2, line 1, remove the second "or"

Page 2, line 2, after "fuels" insert ", separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission"

Page 2, line 6, remove "and for gas flared from a well connected"

Page 2, line 7, remove "to a gas gathering line"

Page 2, line 10, remove "Gas production from a well that is connected to a gas gathering line, electrical"

Page 2, remove lines 11 and 12

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Page 3, line 27, after "production" insert: "if the gas is:

1. Collected and used at the well site to power an electrical generator that consumes at least seventy-five percent of the gas from the well; or

2. Collected at the well site by a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty

percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission

SECTION 4. Section 57-51.1-02.1 of the North Dakota Century Code is created and enacted as follows:

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

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

Renumber accordingly

2013 SENATE NATURAL RESOURCES

HB 1134

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

HB 1134
March 8, 2013
Job Number 19651

☐ Conference Committee

Veronica Sparling

Explanation or reason for introduction of bill/resolution:

Relating to oil and gas gross production tax exemption for natural gas and an oil extraction tax exemption for liquids produced from natural gas extracted to encourage use of gas that might otherwise be flared

Minutes: Attached testimony

Chairman Lyson opened the hearing on HB 1134.

Rep. Porter, District 34, introduced HB 1134. This bill is to address the flaring issue. It is a natural occurrence to the production of oil especially in the Bakken. The concern of this bill is partly to address the 25% that will eventually be hooked up to a gathering system, the availability to be incentivized to do something as an alternative until the gathering system comes to them. There will always be a delay in the build-out of the processing plants. (03:21) During that delay, it would be nice to put some to beneficial use. He gave some examples of different ways of doing that.
The biggest concern isn't the fact that it is being flared but the fact that it is a waste of energy. It has beneficial use and the goal is to get that use to a beneficial end.

The other side is that under current laws a well can stay on flare status forever if there is no gathering system that's close to that well. That is the other key component to this. (07:14)

With this piece of legislation it gives them the ability to gather the liquids and it gives them a 2-year exemption from the production tax to do it. (08:00) The mineral holder benefits, the company benefits, and the state of ND benefits.

He proposed an amendment. See attachment #1. The reason for the amendment is because in the first 30 days of production it is the most dangerous timeframe for the well. The companies would be reluctant to allow anybody else on that site during that phase.

Sen. Laffen asked why 75% is necessary.

Rep. Porter said his understanding is that they are mainly stripping off the liquids and the methane side would still need to be flared for these processes to work.

Lynn Helms, Dept. of Mineral Resources ND Industrial Commission, testified in support of HB 1134. See attachment #2. (11:00) On page four he pointed out a correction that the value currently is about $30 not $3.
(22:16) In answer to the question from Sen. Laffen about the 75%, he said that a significant amount of gas is used on lease. It is gas that goes into the heater treater or operations of equipment on the lease. That varies seasonally - as much as 25% or as small as 1 or 2%. That allows the company to put this process on and use the 75% that isn't being used on lease and still meet the letter and the spirit of the law.
This is extremely marginal and in many cases not economical. It's fraught with liability and tax policy questions and concerns. (23:45) This bill does a great job of relieving those safety and royalty liability issues and should move that marginal economics to the positive side and make it possible to put much of the flared gas to beneficial use.

Sen. Burckhard asked how North Dakota would compare if we were to compare North Dakota to Texas as to the maturity of the oil and gas industry.

Mr. Helms replied that North Dakota is way behind and went on to explain differences.

Sen. Triplett asked if there was any indication of what the line looks like in terms of the actual total amount of gas being flared over time.

Mr. Helms said they had it in a chart form and he would provide it for the committee.

Sen. Triplett referred to the amendment proposed by Rep. Porter and wondered if there was a cleaner way of making that statement.

Mr. Helms replied that there really is not. (28:50) He explained how they came up with the 30 days.

Ron Ness, North Dakota Petroleum Council, spoke in favor. There are 5 or 6 various pieces of legislation floating between the two chambers that do various things to try to address flaring. North Dakota is flaring a gas that is a small percentage of the oil that is being recovered. (31:00) He talked about different concepts of capturing the liquid gas.
They also support the additional amendment offered by the sponsor which he feels is a safety issue.

Robert Harms, mineral owner and lifelong resident of ND, testified on his own behalf in support. See attachment #3. He offered amendments on page 3 of his testimony (35:20).
He also provided two articles about Continental Resources, Inc. whose corporate goal is essentially just to get to near zero flaring in their operations. See attachments #4 and #5.
He thinks that is where we should be headed as a state and how to get there and that is what he would encourage the committee to address.
(38:44) He spoke about the amendments that are attached to his testimony.

Sen. Laffen asked about Mr. Harms' amendment - item 3. He wanted to know if it was correct that it meant there isn't an unlimited exemption and it needs to be looked at every now and then.

Mr. Harms responded that it was correct. He understood that is the practice within the Industrial Commission at the present time as well, so it might be useful to simply put it in code.

Mark Wald, President of Blaze Energy, spoke, as one of the companies out in the trenches trying to come up with solutions to flaring. Their approach is that they have tried to provide a market based solution to flaring. They've tried to come up with new ideas/methods - a new business model. He spoke about the things they are doing and the challenges they face. (47:00)
He pointed out that, without the help of the state, Blaze Energy wouldn't be there and wouldn't be able to try different methods. It is important to incentivize companies to try new methods and ideas. It's a catch twenty-two for small companies trying to grow and raise capital. Investors want to see something that is proven. It's difficult to raise money if it's a new idea or new model so any incentives the state can give is helpful.

Don Morrison, Dakota Resource Council. Their organization is a statewide organization of farmers, ranchers, small business owners and others. Most of their members live in the Bakken region. He encouraged the committee to consider the thoughtful suggestions from Mr. Harms. Everyone wants to have flaring decreased. Providing incentives to encourage operators to capture the natural gas is good, but we should also consider stopping the subsidizing of flaring. Providing exemptions to paying royalties and taxes on gas that's flared should be considered an incentive to flare. Maybe that should be stopped.

There was no opposition to HB 1134.

The hearing was closed on HB 1134.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

HB 1134
March 21, 2013
Job Number 20325

☐ Conference Committee

Veronica Sparling

Explanation or reason for introduction of bill/resolution:

Relating to oil and gas gross production tax exemption for natural gas and an oil extraction tax exemption for liquids produced from natural gas extracted to encourage use of gas that might otherwise be flared

Minutes:

No attachments

Chairman Lyson opened the discussion for HB 1134.

Senator Triplett said she is waiting for an amendment for this bill.

The committee turned their attention to other bills.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

HB 1134
April 4, 2013
Job Number 20885

☐ Conference Committee

Veronica Sparling

Explanation or reason for introduction of bill/resolution:

Relating to oil and gas gross production tax exemption for natural gas and an oil extraction tax exemption for liquids produced from natural gas extracted to encourage use of gas that might otherwise be flared

Minutes: attachments

Chairman Lyson opened the discussion for HB 1134.

Chairman Lyson spoke of an amendment that would add the words "and thirty days" after the word "years" on line 23 on page 3.

Senator Unruh: Motion to adopt the amendment.
Senator Burckhard: Second
Motion carried by voice vote.

Senator Triplett presented amendment # 13.0257.05002. See attachment #1.

Senator Triplett made a motion to adopt amendment # 13.0257.05002.
Senator Murphy: Second
Senator Triplett explained the amendment. (03:45 to 08:36) She mentioned that she did meet with Lynn Helms and he was comfortable with this change.

Senator Murphy commented that when they met with Lynn Helms, Mr. Helms had said this is easy for companies to do this analysis more quickly.

Motion to adopt amendment # 13.0257.05002 carried by voice vote.

Senator Triplett presented amendment # 13.0257.05003. See attachment # 2. She explained the amendment. (11:34 to 16:35) The idea is to try any and all ideas that come forward. This could make it clear that the Industrial Commission has a little more flexibility.

Senator Triplett made a motion to adopt amendment # 13.0257.05003.
Senator Murphy: Second

Senator Burckhard questioned Senator Triplett about how she established the 60%. (16:52 to 18:33)

Senator Laffen asked if they could just compromise and make them all 60%. Mr. Ness shook his head at this idea, and Senator Laffen surmised it was a bad idea.

Senator Murphy spoke about the process of stripping the liquids off the gas at the well head. You take about 25% of the bulk of what is being burned away but because you are stripping out the minerals (propane and other elements) and burning just ethane and methane, you reduce the brightness by about 60 to 65% depending on the composition. It will be helpful if we can do some of that.

Voice vote to adopt amendment # 13.0257.05003. Motion carried.

Senator Triplett explained amendment # 13.0257.05004. It is a property tax exemption intended to encourage getting natural gas gathering systems in place earlier. It was originally part of another bill. It was in SB 2370 and it was killed in House Finance and Tax. See attachment #3. Even though it would bring in less money for the counties, the Association of Counties did not oppose it because they felt it could move forward the process of getting gas gathering lines in place more quickly. If it is small enough that the PSC is not regulating it, then it would be covered by this bill. (23:20 to 26:50)

Senator Laffen mentioned that SB 2370 had a 7, 0 vote in committee; a 13, 0 vote in Appropriations; and a 47, 0 vote on the Senate floor. Then it failed in the House.

Senator Triplett made a motion to adopt amendment # 13.0257.05004.
Senator Laffen: Second

There was some discussion about the mid-streamers being to ones who have fallen behind, causing the need for so much flaring. This is an incentive to encourage them to get their work done faster.

Senator Burckhard asked about the 16M fiscal note on this part of it; 14M in revenues and 1.9M to the counties.

Senator Triplett said the counter argument to that is: if the lines aren't in place, the counties aren't getting anything. So if the lines get in place sooner, getting the flaring down, as soon as the four years have passed, they will get their money anyway. From then on they will always get their property tax on this property. It is money that the counties aren't currently getting. The idea is to speed this process up a little bit so we get the gas gathering lines in place.

Senator Lyson: This will need a fiscal note then.

Motion to adopt amendment # 13.0257.05004 carried by voice vote.

Senator Triplett: Do Pass as Amended four times.
Senator Murphy: Second
Roll Call Vote: 6, 1, 0
Carrier: Senator Laffen

FISCAL NOTE
Requested by Legislative Council
02/14/2013

Amendment to: HB 1134

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1134 creates a gross production tax exemption for natural gas that would otherwise be flared, and a sales tax exemption for property used to process natural gas that would otherwise be flared.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Engrossed HB 1134 creates incentives that will encourage the use of natural gas that would otherwise be flared. The fiscal impact cannot be estimated but is likely small because flared gas is not a significant source of gross production tax revenue.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck
Agency: Office of Tax Commissioner
Telephone: 328-3402
Date Prepared: 02/20/2013

FISCAL NOTE
Requested by Legislative Council
01/09/2013

Bill/Resolution No.: HB 1134

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$(28,160,000)		
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		$(3,840,000)	
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1134 deals with natural gas at the well site that would otherwise be flared and provides a gross production tax exemption. It also provides a sales tax exemption for equipment used in qualifying gas collection systems.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1134 adds a new "gas collection system" option for gas that would otherwise be flared, and allows the gas to be covered by a new, broadened gross production tax exemption contained in Section 3. Section 2 of HB 1134 broadens the existing sales tax exemption to include gas collection systems. It is not known what additional sales might be exempted by this provision. Section 3 creates a 2-year gross production tax exemption for gas gathered at the well site.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The fiscal impact of the 2-year exemption in Section 3 relative to existing gas production that is subject to gross production tax is estimated to be -$32 million for the 2013-15 biennium. The expansion to include gas collection systems cannot be determined. This gross production exemption is expected to reduce county revenue by an estimated $3.84 million and "other funds" by $28.16 million in the 2013-15 biennium. The "other funds" include the legacy and strategic investment and improvements funds.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/14/2013

Adopted by the Natural Resources Committee

April 4, 2013

4/4/13
TV
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1134

Page 1, line 1, after "enact" insert "section 57-06-17.5, a new subsection to section 57-51-02.2, and"

Page 1, line 2, after "to" insert "a new natural gas gathering and collection system property tax exemption,"

Page 1, line 2, after the second "gas" insert a comma

Page 1, line 14, overstrike "during a one-year period" and insert immediately thereafter "for six months"

Page 1, line 16, replace "time period in subsection 1" with "six months"

Page 1, line 22, remove "or"

Page 2, line 3, replace the underscored comma with an underscored semicolon

Page 2, line 3, after "or" insert:

"e. Equipped with"

Page 2, line 4, after "commission" insert "which reduce the volume or intensity of the flare by more than sixty percent"

Page 2, line 15, overstrike "upon" and insert immediately thereafter "if an"

Page 2, line 15, after "application" insert "for the exemption is filed within ninety days from the date of first production from the well"

Page 2, line 15, overstrike "a showing" and insert immediately thereafter "the producer shows to the satisfaction of the industrial commission"

Page 2, after line 19, insert:

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

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

1. A natural gas gathering pipeline, and its associated equipment, or a natural gas or natural gas liquids collection system that is initially placed in service on or between January 1, 2013, and December 31, 2017, is exempt from property taxes for the first taxable year after the line is initially placed in service, and the taxable valuation as otherwise determined by law on the gathering pipeline or collection system and the associated equipment must be reduced by:

   a. Seventy-five percent for the second taxable year of operation of the gathering pipeline or collection system.

   b. Fifty percent for the third taxable year of operation of the gathering pipeline or collection system.

c. Twenty-five percent for the fourth taxable year of operation of the gathering pipeline or collection system.

2. After the fourth taxable year of operation the gathering or collection system is no longer exempt, in any way, from payment of full property taxes as otherwise determined by law.

3. For purposes of this section, the following terms have the following definitions:

a. "Associated equipment" includes compression, liquid separation facilities, and any other equipment absolutely necessary to gather or collect natural gas and natural gas liquids.

b. "Collection system" means a system that collects at least seventy-five percent of the gas and natural gas liquids from the well for compression to liquid or dense phase fluid for use as fuel or transport to a processing facility, production of petrochemicals or fertilizer, or conversion to liquid fuels.

c. "Initially placed in service" includes both new construction and substantial expansion of a preexisting gathering or collection system.

d. "Natural gas gathering pipeline" means an underground gas or liquid pipeline that is designed for or capable of transporting natural gas produced in association with oil and which is not subject to public service commission jurisdiction as a gas or liquid transmission line under chapter 49-22.

e. "Substantial expansion" means a capacity increase of twenty percent or more.

4. Natural gas processing and other natural gas liquid refining plants or facilities are not included in the exemption provided by this section."

Page 3, after line 18, insert:

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

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

Page 3, line 23, after "years" insert "and thirty days"

Page 4, line 9, after "years" insert "and thirty days"

Renumber accordingly

Date: 4-4-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES engr.
BILL/RESOLUTION NO. 1134

Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Unruh Seconded By Burkhard

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

voice vote carried

"and 30 days"

Date: 4-4-13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1134 engr.

Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☐ Do Pass ☐ Do Not Pass ☒ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider 13.0257.05002

Motion Made By Triplett Seconded By Murphy

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

carried by voice vote

Date: 4-4-13
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES Engr.
BILL/RESOLUTION NO. 1134

Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ____________

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider 13.0257.05003

Motion Made By Triplett Seconded By Murphy

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) ____________ No ____________

Absent ____________

Floor Assignment ____________

If the vote is on an amendment, briefly indicate intent:

voice vote
carried

Date: 4-4-13
Roll Call Vote #: 4

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. eng. 1134

Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider 13.0257.05004

Motion Made By Triplett Seconded By Laffen

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) No

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

voice vote carried

Date: 4-4-13
Roll Call Vote #: 5

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. eng 1134

Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ as Amended 4X ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Triplett Seconded By Murphy

Senators	Yes	No	Senators	Yes	No
Senator Lyson	✓		Senator Triplett	✓	
Senator Burckhard		✓	Senator Murphy	✓	
Senator Hogue	✓				
Senator Laffen	✓				
Senator Unruh	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Laffen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1134, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1134 was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "section 57-06-17.5, a new subsection to section 57-51-02.2, and"

Page 1, line 2, after "to" insert "a new natural gas gathering and collection system property tax exemption,"

Page 1, line 2, after the second "gas" insert a comma

Page 1, line 14, overstrike "during a one-year period" and insert immediately thereafter "for six months"

Page 1, line 16, replace "time period in subsection 1" with "six months"

Page 1, line 22, remove "or"

Page 2, line 3, replace the underscored comma with an underscored semicolon

Page 2, line 3, after "or" insert:

"e. Equipped with"

Page 2, line 4, after "commission" insert "which reduce the volume or intensity of the flare by more than sixty percent"

Page 2, line 15, overstrike "upon" and insert immediately thereafter "if an"

Page 2, line 15, after "application" insert "for the exemption is filed within ninety days from the date of first production from the well"

Page 2, line 15, overstrike "a showing" and insert immediately thereafter "the producer shows to the satisfaction of the industrial commission"

Page 2, after line 19, insert:

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

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

1. A natural gas gathering pipeline, and its associated equipment, or a natural gas or natural gas liquids collection system that is initially placed in service on or between January 1, 2013, and December 31, 2017, is exempt from property taxes for the first taxable year after the line is initially placed in service, and the taxable valuation as otherwise determined by law on the gathering pipeline or collection system and the associated equipment must be reduced by:

   a. Seventy-five percent for the second taxable year of operation of the gathering pipeline or collection system.

   b. Fifty percent for the third taxable year of operation of the gathering pipeline or collection system.

c. Twenty-five percent for the fourth taxable year of operation of the gathering pipeline or collection system.

2. After the fourth taxable year of operation the gathering or collection system is no longer exempt, in any way, from payment of full property taxes as otherwise determined by law.

3. For purposes of this section, the following terms have the following definitions:

a. "Associated equipment" includes compression, liquid separation facilities, and any other equipment absolutely necessary to gather or collect natural gas and natural gas liquids.

b. "Collection system" means a system that collects at least seventy-five percent of the gas and natural gas liquids from the well for compression to liquid or dense phase fluid for use as fuel or transport to a processing facility, production of petrochemicals or fertilizer, or conversion to liquid fuels.

c. "Initially placed in service" includes both new construction and substantial expansion of a preexisting gathering or collection system.

d. "Natural gas gathering pipeline" means an underground gas or liquid pipeline that is designed for or capable of transporting natural gas produced in association with oil and which is not subject to public service commission jurisdiction as a gas or liquid transmission line under chapter 49-22.

e. "Substantial expansion" means a capacity increase of twenty percent or more.

4. Natural gas processing and other natural gas liquid refining plants or facilities are not included in the exemption provided by this section."

Page 3, after line 18, insert:

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

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

Page 3, line 23, after "years" insert "and thirty days"

Page 4, line 9, after "years" insert "and thirty days"

Renumber accordingly

2013 CONFERENCE COMMITTEE

HB 1134

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 1134
April 16, 2016
Job #21184

☒ Conference Committee

Lynell Thueson

Explanation or reason for introduction of bill/resolution:

A Bill relating to oil and gas gross production tax exemption for natural gas and an oil extraction tax exemption for liquids produced from natural gas extracted to encourage use of gas that might otherwise be flared.

Minutes:

Representative Drovdal: Called the conference committee on HB 1134 to order.

00:50 Senator Unruh: Explained the changes done by the Senate. The first change added 30 days to the two year exemption under section 5. The second and third changes are in section 1. The last change is under section 2.

4:50 Senator Triplett: This is intended as a property tax exemption for the gas line itself as an incentive to free up some of their cash for use in buying easements, etc.

7:19 Representative Drovdal: There are four changes in the bill.

7:53 Representative Kelsh: On page 2 subsection e where did this language come from where we dropped the number to 60%.

Senator Unruh: We wanted to provide additional opportunities to allow for different processes to be able to be qualified under this section.

8:40 Senator Triplett: It was an idea that happened when Lynn Helms commented in our committee the significant degree of intensity in the flare is caused by the richness of the natural gas liquids. It would help alleviate the complaints of landowners because the brightness of the flare wouldn't be so intense.

10:40 Senator Lyson: Can you tell us what you didn't concur with?

11:06 Representative Froseth: On page 1 the flaring period from 1 year to 6 months isn't workable. On page 2 the 90 day period for filing an exemption isn't enough time for the companies to get their plans in place to get an exemption. I can't agree with the pipeline gathering tax exemption being put back in again.

12:48 Senator Triplett: The idea on the movement toward 6 months there is no suggestion on anyone's part that the gas gathering lines will necessarily be in place within 6 months. The idea is to use this earlier analysis to encourage the companies to consider the alternatives.

15:44 Senator Unruh: After further consideration I would have to agree with Representative Froseth on this.

Senator Triplett: Given the concerns I would ask Mr. Helms if he could respond to them.

16:52 Lynn Helms, Director of the Department of Mineral Resources: Our experience has been that it takes 90 days to stabilize a well and evaluate what you have. The six months would incentivize companies to move quicker on connecting to a pipeline. It would decrease the timeframe within which they could be talking to electric generators or liquid processing companies, etc.

19:52 Representative Froseth: I don't believe six months is enough time to do what needs to be done.

Lynn Helms: We often get asked why we have the one year time periods in North Dakota. It is largely due to our weather. The ultimate solution is to bring a gathering line in and collecting the gas and getting it into a processing plant.

22:35 Representative Drovdal: Our goal is to reduce flaring and I think both the House and the Senate want to make sure we do this right.

26:21 Senator Lyson: I'd like to have two things. You get together and say what can we live with and what can't we live with. We will do the same and then get together again.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1134
April 17, 2013
Job #21201

☒ Conference Committee

Committee Clerk Signature

Minutes:

Members: Rep. David Drovdal, Chair.; Rep. Froseth, Rep. S. Kelsh; Senator Lyson, Senator Unruh; Senator Triplett

Representative Drovdal: 50% of the flaring comes from wells that are already hooked up. Mr. Helms indicated that a correct statement. Does the Senate want to make a presentation on where they would accept in this bill?

Senator Lyson: I thought since you were the chairman you would come up with your ideas first and then we could go from there.

Representative Drovdal: There are five changes in here; the first is six months but we would like to go to one year.

Senator Lyson: Is the 6000 version the one with your amendments on them?

Representative Drovdal: I am looking at 5005 and that includes the seven amendments. Page 1 line 16 and line 18 where time period in Subsection 1 were crossed out and for six months was added. We would like to go back to a year. The second part of the bill that is different is on page 2, line 8, 9 & 10 the House would agree to those amendments

Senator Triplett: I have the 5000 and 6000 version so if you could talk about concepts instead of page numbers. In section 1 we had some discussion with Mr. Helms and he is agreement with your decision that the 90 days.

Representative Drovdal: On line 8, 9 & 10 of page 2 the language is equipped with other value added process as approved by the Industrial Commission which reduces the volume and intensity of the flare by more than 60%; we would agree to that amendment. Going down to lines 21 & 22, page 2 to have the language where the exemption is filed before 90 days from the date of the first production from the well. The producer shows no satisfaction of the entire industrial commission; we do not agree with that language. Section 2 we do not agree with that section at all and that has to do with property tax. Section 4, page 5 that we feel is a duplicate of Section 5 and that is the section where you added 30 days onto the period of time that the exemption goes for gas production.

Senator Triplett: Section 1 Mr. Helms agreed that the 90 days is too soon for that kind of an analysis to be made; but he does think it could be done within the 6 months. If we get rid of the 90 days and just say the analysis had to be done by the 6 month period it could move that timeframe up so that at least there would be some incentive for people to try to get these third party venders on site if possible. Mr. Helms suggested we consider the notion of having companies file an information form with the Industrial Commission and they could prescribe the form that would provide information about the volume of gas to be produced and the length of time they expect the gas gathering line to be in place and the location of their facilities and other information that maybe necessary. That could be made part of the well file so it would be on the website and public information. That would be a pre request for getting tax breaks they would have to make that information filing with the Industrial Commission. We don't have amendments written up but we could have them drafted if they seem feasible.

Representative Froseth: I believe that if that was a necessary procedure they could do that now I believe if that is necessary to put into statue.

Senator Triplett: I suppose a lot of things could be done by legislative rule but sometimes the legislature needs to say what they think the problems are. I think this continued flaring if an issue that needs to be resolved. The detail should be in administrative rule.

Representative Drovdal: I think we've indicated by allowing that now. Is the position of the Senate Conference committee then?

Senator Triplett: We were working on a consensus?

Senator Lyson: I think we can work on this and get to some sort of agreement. Let's take a look at the 6000 version. Is there anything wrong with the first paragraph?

Representative Drovdal: The first disagreement we have is on the 6 month or year period and that is a good place to start.

Senator Unruh: I think for the most part the senate is happy with what you've proposed. The biggest discussion is on the six months to a year; we don't have a problem with that at all. We agree on Subsection E; you would like to remove the 90 day thing and we would as well. Section 2 we do not have a problem removing that from the bill and Section 4 as well. We agree with the Section 5 changes that you proposed so I think the biggest discussion we need to have is whether or not we need to include that report every 6 months in code.

Senator Triplett: The we is not unanimous on the removal of Section 2.

Representative Froseth: If you read on line 16 page 1, it doesn't say the Industrial Commission has the authority to shut that flare down if for some reason it needed to be closed down before the one year period is over. It gives them permission in there now? I think we should leave it for the one year period. I am saying with the may in there it is permissive to probably shut it down sooner than 6 months if there is some problem with the location or complaints about the flare being obstructive to a residence or something like that. They have the right to do that now.

Senator Lyson: I think that is a really good point to make that the Industrial Commission does retain that authority to make recommendations on the flaring of any individual well before that one year period is up.

Senator Triplett: If a well blew up or something of course they will cap it and order it closed, but the reality is that as long as there is a producing well out there the Industrial Commission has for the entire time we have had this bakken boom going has simply allowed flaring and they do it because our law allows it. They can get an exemption from the Industrial Commission and they can continue to flare for the life of the well if they give them that exemption without paying taxes. If they are denied that exemption at the one year standpoint the only penalty in our current law is that they have to pay taxes to the state and the royalty owners as though they were collecting that gas and give them the very low price of gas right now Mr. Helms reported to our small group that many of them simply chose to pay the taxes rather than even bothering with the hearing to ask for an exemption. Right now there are no exemptions for getting the flaring under control except for the value of the gas, which in the center of the bakken so the industrial should be commended in doing what they can in areas where it is economically feasible for them to do that, but there has been nothing done to push the process in terms of the wells that are further out and stranded and lots of gas coming off of them, but maybe some miles from the gas gathering pipelines. Maybe the flaring will get caught up in 6-10 years and we won't have a significant problem with it. We need to find a way to encourage third party venders to step in and do the processes we are describing here. I think we agree we need to require the Industrial Commission to gather up this information about where things are that are not going to be signed up for gas soon and get it into the public record so at least there is information available for people who may have ideas about how to gather it.

Representative Drovdal: We are trying to do something to encourage it. I don't understand the facts the Industrial Commission has before them when they make decisions. I do know they are hooking up wells and half of that flaring is already hooked up. I see those pipelines going in pretty fast.

Representative Forseth: We have incentives now that have been pushing the issues so I don't know if any other method will work either if we want to keep this oil industry going in North Dakota and giving us about $4 B worth of revenue to work with every biennium also.

Senator Triplett: Nobody is suggesting the oil wells be shut down. Everybody understands the gas gathering lines are the best solution and that people are working hard to make that happen. We are trying to fill a gap here. Part of the gap seems to be in information. I would like to have one more meeting so I could have an amendment drawn up to look at the actual language.

Representative Drovdal: We will leave that up to the other amendments. The amendment I passed out does what we suggested. It goes back to the Senate version of 5000 in order to make it work and it would result in the correction we suggested and it is up to the Senate if they want to vote on this or wait?

Senator Unruh: I would like to hear what your thoughts are on the six month report.

Representative Drovdal: Without calling any more people to testify I think they have or should have that information now. We allow our commissioners and boards to have a lot of leeway and obtain the information that they need so I think it is excess language that would go into the Century Code that is not necessary.

Senator Lyson: The amendments you handed out were for version 5000.

Representative Drovdal: The amendments are 5006 but it goes with the bill 5000.

Representative Kelsh: I think we want to turn out the best product we can so I would support Senator Triplett's proposal to postpone this until another meeting so we can make a good decision.

Representative Drovdal: Recessed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1134
April 17, 2013
Job #21225

☒ Conference Committee

Committee Clerk Signature	Mary Brucker

Minutes: *Attached amendments #1 (13.0257.05007)*

Representative Drovdal: Called meeting to order.

Senator Triplett: Distributed amendments 13.0257.05007 and explained. See attached amendments #1.

Senator Triplett moved the amendment.

Representative Kelsh: Motion seconded.

Representative Drovdal: Discussion?

Roll call vote on adoption of amendment. YES 2 NO 4 ABSENT 0 Motion failed.

Representative Froseth: Moved amendment 5006. **Motion** is that the Senate recedes from its amendments and that the engrossed House bill be amended as follows. We reviewed that amendment this morning.

Motion seconded by Senator Unruh.

Representative Drovdal: Reviewed amendment 5006.

Representative Kelsch: Asked for clarification of which version of the bill is impacted by amendment 5006.

Roll call vote on adoption of amendment 5006. **Amendment passes**.
Yes = 4 No = 2

Carriers identified as Senator Unruh and Representative Drovdal.

Conference committee excused.

13.0257.07000

FISCAL NOTE
Requested by Legislative Council
04/18/2013

Amendment to: HB 1134

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$(14,100,000)		
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		$(1,900,000)	
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1134 with Conference Committee Amendments creates oil and gas incentives to encourage use of gas that might otherwise be flared.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Engrossed HB 1134 with Conference Committee Amendments creates incentives that will encourage the collection and use of natural gas that would otherwise be flared. Section 2 expands a sales tax exemption to include tangible personal property used to construct or expand gas collection systems. Section 3 creates a gross production tax exemption for certain gas collected and used at the well site. Section 4 creates an oil extraction tax exemption for the liquids produced in association with a collection system.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, engrossed HB 1134 with Conference Committee Amendments will reduce oil extraction, gross production, and sales tax revenues, all in amounts that cannot be determined because it is not known how many gas collection and gathering systems will be put in place. Only the broad-based gross production tax exemption contained in Section 3 can be estimated, and is expected to reduce oil and gas gross production tax revenues by an estimated $16 million in the 2013-15 biennium. This reduction in oil and gas gross production tax revenues affects county distributions as well as the legacy and strategic investment and improvements funds, as shown above.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 04/19/2013

13.0257.06000

FISCAL NOTE

Requested by Legislative Council
04/05/2013

Amendment to: HB 1134

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$(14,100,000)		
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		$(1,900,000)	
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1134 with Senate Amendments creates a gross production tax exemption, a property tax exemption, a sales tax exemption, and an oil extraction tax exemption for the collecting and processing of natural gas that would otherwise be flared.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Engrossed HB 1134 with Senate Amendments creates incentives that will encourage the collection and use of natural gas that would otherwise be flared. Section 2 creates a new property tax exemption for natural gas gathering and collection systems. Section 3 expands a sales tax exemption to include tangible personal property used to construct or expand gas collection systems. Section 4 creates a one-year exemption from the oil and gas gross production tax for gas gathered from a qualifying new gathering system. Section 5 creates an additional gross production tax exemption for certain gas collected and used at the well site. Section 6 creates an oil extraction tax exemption for the liquids produced in association with a collection system.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, engrossed HB 1134 with Senate Amendments will reduce oil extraction, gross production, and sales tax revenues, and cause property tax shifts, all in amounts that cannot be determined because it is not known how many gas collection and gathering systems will be put in place. Only the broad-based gross production tax exemption contained in Section 4 can be estimated, and is expected to reduce oil and gas gross production tax revenues by an estimated $16 million in the 2013-15 biennium. This reduction in oil and gas gross production tax revenues affects county distributions as well as the legacy and strategic investment and improvements funds, as shown above.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck
Agency: Office of Tax Commissioner
Telephone: 328-3402
Date Prepared: 04/08/2013

FISCAL NOTE

Requested by Legislative Council
02/14/2013

Amendment to: HB 1134

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1134 creates a gross production tax exemption for natural gas that would otherwise be flared, and a sales tax exemption for property used to process natural gas that would otherwise be flared.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Engrossed HB 1134 creates incentives that will encourage the use of natural gas that would otherwise be flared. The fiscal impact cannot be estimated but is likely small because flared gas is not a significant source of gross production tax revenue.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck
Agency: Office of Tax Commissioner
Telephone: 328-3402
Date Prepared: 02/20/2013

FISCAL NOTE
Requested by Legislative Council
01/09/2013

Bill/Resolution No.: HB 1134

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$(28,160,000)		
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties		$(3,840,000)	
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1134 deals with natural gas at the well site that would otherwise be flared and provides a gross production tax exemption. It also provides a sales tax exemption for equipment used in qualifying gas collection systems.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1134 adds a new "gas collection system" option for gas that would otherwise be flared, and allows the gas to be covered by a new, broadened gross production tax exemption contained in Section 3. Section 2 of HB 1134 broadens the existing sales tax exemption to include gas collection systems. It is not known what additional sales might be exempted by this provision. Section 3 creates a 2-year gross production tax exemption for gas gathered at the well site.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The fiscal impact of the 2-year exemption in Section 3 relative to existing gas production that is subject to gross production tax is estimated to be -$32 million for the 2013-15 biennium. The expansion to include gas collection systems cannot be determined. This gross production exemption is expected to reduce county revenue by an estimated $3.84 million and "other funds" by $28.16 million in the 2013-15 biennium. The "other funds" include the legacy and strategic investment and improvements funds.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/14/2013

YK
4/17/13

13.0257.05006
Title.07000

Prepared by the Legislative Council staff for
Representative Drovdal
April 16, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1134

That the Senate recede from its amendments as printed on pages 1258-1260 of the House Journal and pages 1144 and 1145 of the Senate Journal and that Engrossed House Bill No. 1134 be amended as follows:

Page 1, line 22, remove "or"

Page 2, line 3, replace the underscored comma with an underscored semicolon

Page 2, line 3, after "or" insert:

"e. Equipped with"

Page 2, line 4, after "commission" insert "which reduce the volume or intensity of the flare by more than sixty percent"

Page 2, line 15, overstrike "and a showing" and insert immediately thereafter "that shows to the satisfaction of the industrial commission"

Page 3, line 23, after "years" insert "and thirty days"

Page 4, line 9, after "years" insert "and thirty days"

Renumber accordingly

2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Finance + Tax

Bill/Resolution No. 1134 as (re) engrossed

Date: 4-17-13

Roll Call Vote #: 1

Action Taken

- [ ] HOUSE accede to Senate amendments
- [ ] HOUSE accede to Senate amendments and further amend
- [ ] SENATE recede from Senate amendments
- [ ] SENATE recede from Senate amendments and amend as follows

Move AMENDMENTS 13.0257.05007

House/Senate Amendments on HJ/SJ page(s) --

- [ ] Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) ______________ was placed on the Seventh order of business on the calendar

Motion Made by: Sen. Triplett Seconded by: Rep. Kelsh

Representatives	4-16-13	4-17	4-17 PM	Yes	No		Senators	4-16-13	4-17	4-17 PM	Yes	No
Chair Drovdal	✓	✓	✓		✓		Senator Lyson	✓	✓	✓		✓
Rep. Froseth	✓	✓	✓		✓		Senator Unruh	✓	✓	✓		✓
Rep. Kelsh	✓	✓	✓	✓			Senator Triplett	✓	✓	✓	✓	

Vote Count Yes: 2 No: 4 Absent: 0

House Carrier ______________ Senate Carrier ______________

LC Number ______________ . ______________ of amendment

LC Number ______________ . ______________ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

AMENDMENT FAILED.

2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Finance + Tax

Bill/Resolution No. 1134 as (re) engrossed

Date: 4-17-13

Roll Call Vote #: 2

Action Taken

- ☐ HOUSE accede to Senate amendments
- ☐ HOUSE accede to Senate amendments and further amend
- ☐ SENATE recede from Senate amendments
- ☒ SENATE recede from Senate amendments and amend as follows

~~1258 1260~~ .5006

House/Senate Amendments on HJ/SJ page(s) 1258 - 1260

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) ______ was placed on the Seventh order of business on the calendar

.5006 amendments

Motion Made by: Rep. Froseth Seconded by: Senator Unruh

Representatives	4/17			Yes	No		Senators	4/17			Yes	No
Chairman Drovdal				√			Senator Luson				√	
Rep Froseth				√			Senator Unruh				√	
Rep Kelsh					√		Senator Triplett					√

Vote Count Yes: 4 No: 2 Absent: 0

House Carrier Drovdal Senate Carrier Unruh

LC Number ______ . ______ of amendment

LC Number ______ . ______ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Reverts back to 1 yr. flaring
Removes 90 day clause
Eliminates section 2 + 4

REPORT OF CONFERENCE COMMITTEE

HB 1134, as engrossed: Your conference committee (Sens. Lyson, Unruh, Triplett and Reps. Drovdal, Froseth, S. Kelsh) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1258-1260, adopt amendments as follows, and place HB 1134 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1258-1260 of the House Journal and pages 1144 and 1145 of the Senate Journal and that Engrossed House Bill No. 1134 be amended as follows:

Page 1, line 22, remove "or"

Page 2, line 3, replace the underscored comma with an underscored semicolon

Page 2, line 3, after "or" insert:

"e. Equipped with"

Page 2, line 4, after "commission" insert "which reduce the volume or intensity of the flare by more than sixty percent"

Page 2, line 15, overstrike "and a showing" and insert immediately thereafter "that shows to the satisfaction of the industrial commission"

Page 3, line 23, after "years" insert "and thirty days"

Page 4, line 9, after "years" insert "and thirty days"

Renumber accordingly

Engrossed HB 1134 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

HB 1134

#1

13.0257.03001
Title.

Prepared by the Legislative Council staff for
Representative Porter
January 14, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1134

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "57-51-02.6" insert "and 57-51.1-02.1"

Page 2, line 6, remove "and for gas flared from a well connected"

Page 2, line 7, remove "to a gas gathering line"

Page 2, line 10, replace "a gas gathering line," with "an"

Page 2, line 11, remove the underscored comma

Page 2, line 11, after "or" insert "to a"

Page 2, line 11, remove "from the time of first"

Page 2, line 12, remove the first "production"

Page 2, line 12, replace the first "production" with "or for gas flared from a well connected to a gas gathering line"

Page 3, line 23, replace "**Exemption**" with "**Temporary exemption**"

Page 3, line 23, after "**for**" insert "**oil and**"

Page 3, line 24, replace "by a gas gathering line," with "for an"

Page 3, line 24, remove the second comma

Page 3, line 24, after "or" insert "for a"

Page 3, line 25, replace "from the time of first production" with "shall be reported as used on site and"

Page 3, after line 27, insert:

"**SECTION 4.** Section 57-51.1-02.1 of the North Dakota Century Code is created and enacted as follows:

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

Liquids produced from a collection system described in subsection 2 of section 38-08-06.4 utilizing absorption, adsorption, or refrigeration are exempt from the tax under section 57-51.1-02 for a period of two years from the time of first production."

Renumber accordingly

#2

HB 1134
North Dakota Flaring Reduction Incentives

House Finance and Taxation

January 15, 2013

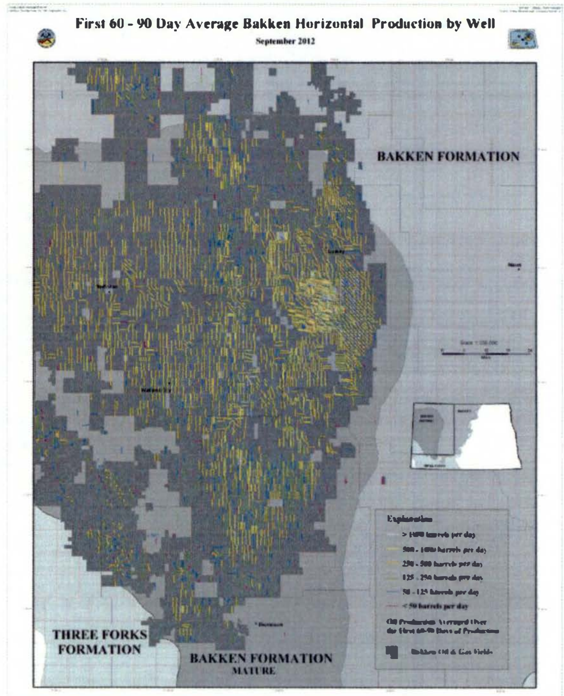
Lynn D. Helms, Director
Department of Mineral Resources
North Dakota Industrial Commission

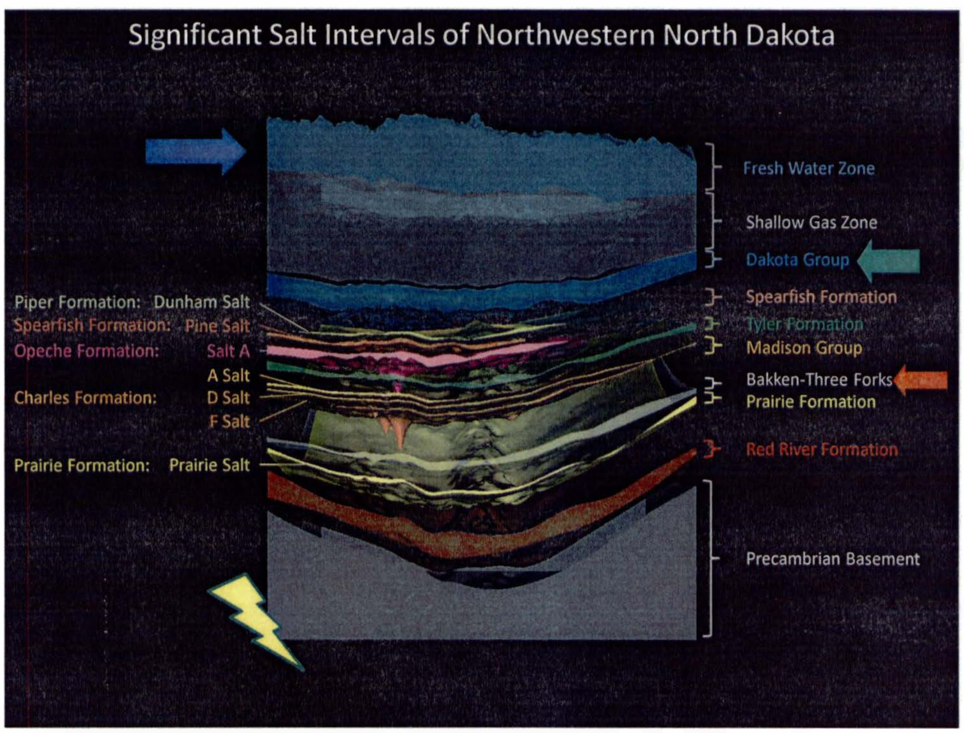
Flaring Facts

- Regulatory, processing, and tax system designed for conventional oil fields
  - Bakken is largest oil field (in square miles) in the world
  - Natural gas from the source rock is different
  - Gas is dissolved in oil in the reservoir – can't produce oil without gas
  - Oil can be stored in tanks and hauled in trucks – gas is much more difficult
  - Gas value is 1/30 oil value – liquids in the gas value is 1/15 oil value
  - Gas production expected to reach 2.5 billion cubic feet per day even with flaring down to 5% = 125 million cubic feet per day > one gas plant stranded
  - Strict enforcement of oil production restrictions would reduce the cash flow of a well 5 fold and net present value 25%
  - During phase 1 drilling companies re-invest 1.25-1.50 cash flow

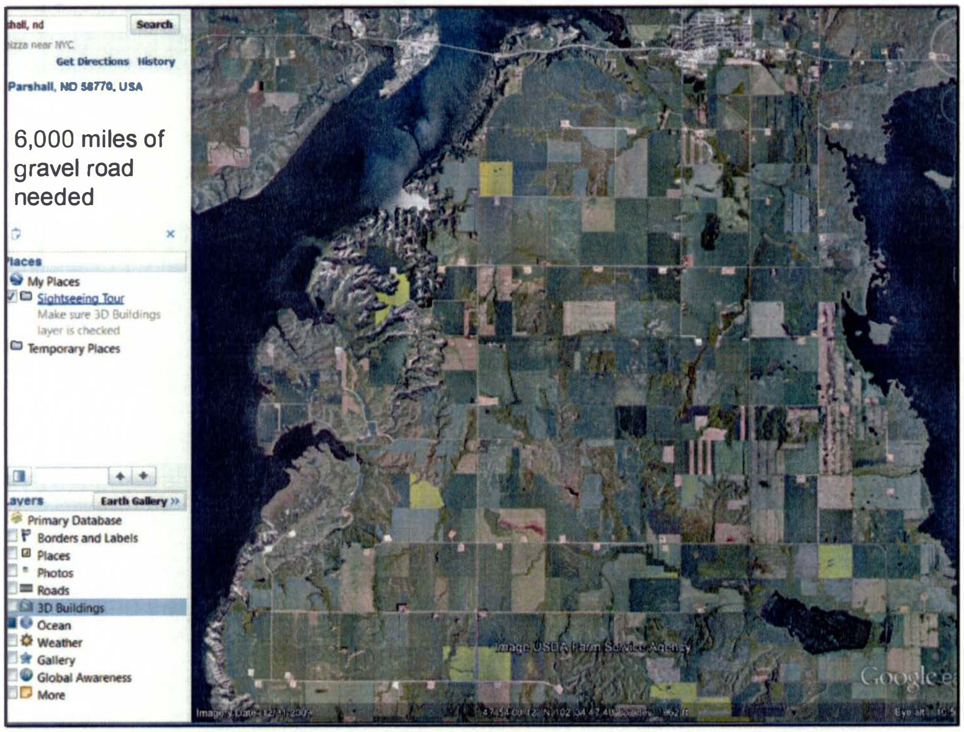
#2

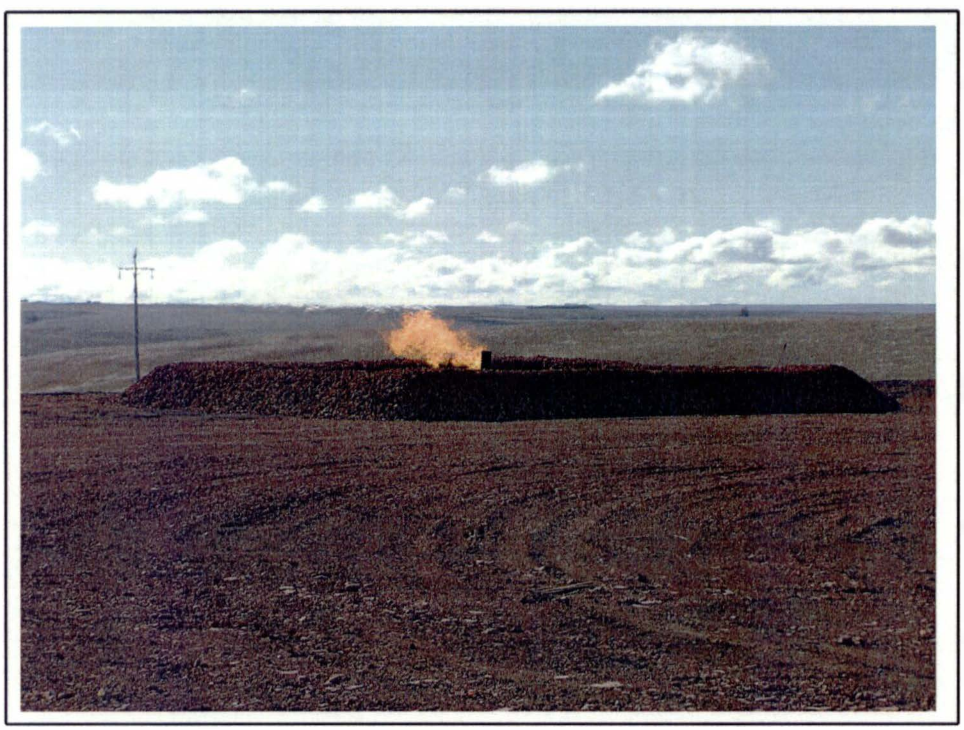
Development area
> 15,000 sq mi
Size of West Virginia



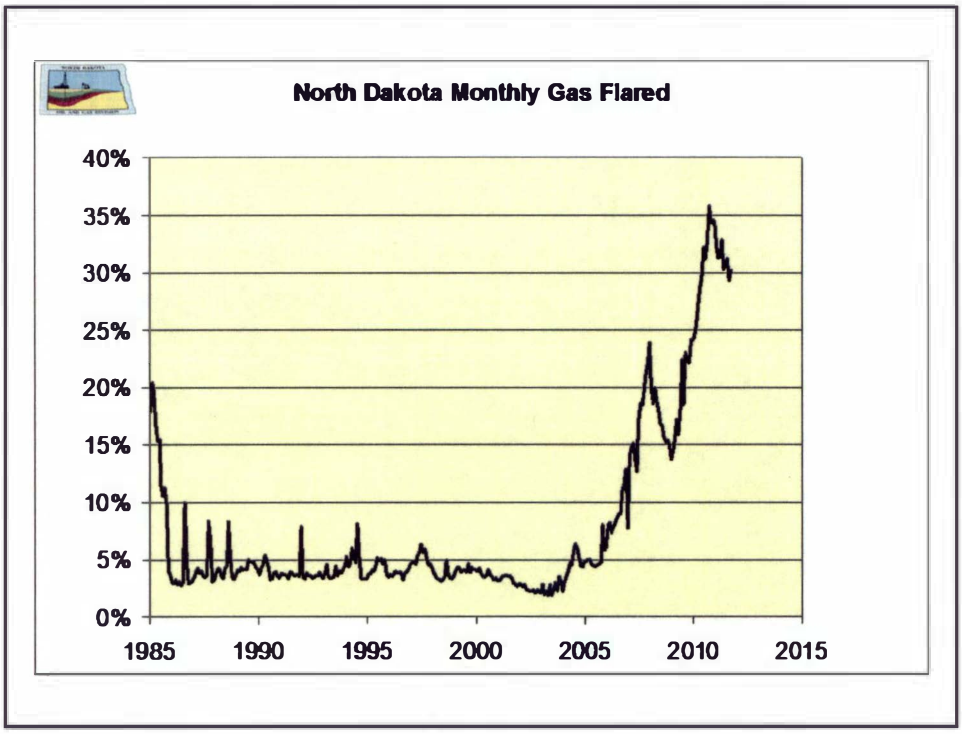


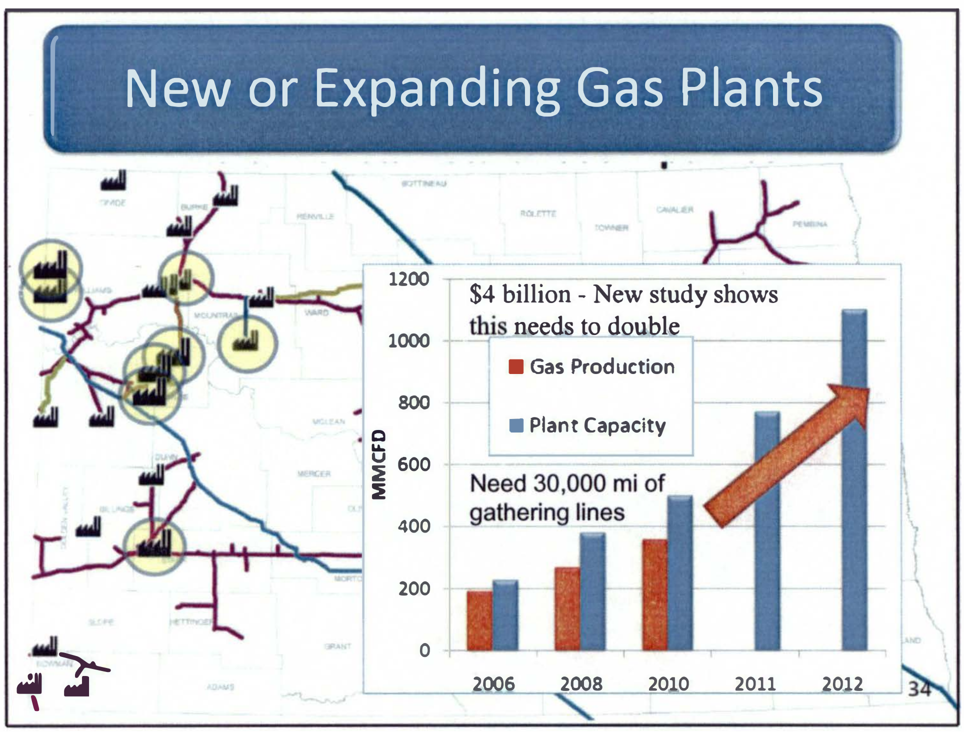
#2


hall, nd
Search
Get Directions History
Parshall, ND 58770, USA
6,000 miles of gravel road needed
Places
My Places
Sightseeing Tour
Make sure 3D Buildings layer is checked
Temporary Places
Layers
Earth Gallery
Primary Database
Borders and Labels
Places
Photos
Roads
3D Buildings
Ocean
Weather
Gallery
Global Awareness
More



#2


North Dakota Monthly Gas Flared
40%
35%
30%
25%
20%
15%
10%
5%
0%
1985
1990
1995
2000
2005
2010
2015


New or Expanding Gas Plants
$4 billion - New study shows this needs to double
Gas Production
Plant Capacity
Need 30,000 mi of gathering lines
MMCFD
1200
1000
800
600
400
200
0
2006
2008
2010
2011
2012
34

13.0257.03002
Title.

Prepared by the Legislative Council staff for
Representative Headland
January 21, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1134

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "57-51-02.6" insert "and 57-51.1-02.1"

Page 1, line 22, replace "collects" with "intakes"

Page 1, line 23, after "liquids" insert "volume"

Page 1, line 23, after "for" insert "beneficial consumption by means of"

Page 1, line 23, replace "or" with an underscored comma

Page 2, line 1, remove the second "or"

Page 2, line 2, after "fuels" insert ", separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission"

Page 2, line 6, remove "and for gas flared from a well connected"

Page 2, line 7, remove "to a gas gathering line"

Page 2, line 10, replace "a gas gathering line," with "an"

Page 2, line 11, remove the underscored comma

Page 2, line 11, after "or" insert "to a"

Page 2, line 11, remove "from the time of first"

Page 2, line 12, replace the first "production" with "or for gas flared from a well connected to a gas gathering line"

Page 3, line 23, replace "**Exemption**" with "**Temporary exemption**"

Page 3, line 23, after "**for**" insert "**oil and**"

Page 3, line 24, after "collected" insert "and utilized"

Page 3, line 24, replace "a gas gathering line," with "an"

Page 3, line 24, remove the second comma

Page 3, line 24, after "or" insert "a"

Page 3, line 25, replace "from the time of first production" with "must be reported as used on site and"

Page 3, after line 27, insert:

"**SECTION 4.** Section 57-51.1-02.1 of the North Dakota Century Code is created and enacted as follows:

#1 p.2

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

Liquids produced from a collection system described in subsection 2 of section 38-08-06.4 utilizing absorption, adsorption, or refrigeration are exempt from the tax under section 57-51.1-02 for a period of two years from the time of first production."

Renumber accordingly

#2

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1134

Introduced by

Representatives Porter, Carlson, Drovdal

Senators Armstrong, Lyson, Wardner

A BILL for an Act to create and enact ~~section~~sections 57-51-02.6 and 57-51.1-02.1 of the North Dakota Century Code, relating to oil and gas gross production tax exemption for natural gas to encourage use of gas that might otherwise be flared; to amend and reenact sections 38-08-06.4 and 57-39.2-04.5 of the North Dakota Century Code, relating to flaring restrictions for natural gas and sales tax exemption for property used to process natural gas to encourage use of gas that might otherwise be flared; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. As permitted under rules of the industrial commission, gas produced with crude oil from an oil well may be flared during a one-year period from the date of first production from the well. ~~Thereafter,~~
2. After the time period in subsection 1, flaring of gas from the well must cease and the well must be ~~capped, connected to a gas gathering line, or equipped with an electrical generator that consumes at least seventy-five percent of the gas from the well.~~:
   a. Capped;
   b. Connected to a gas gathering line;
   c. Equipped with an electrical generator that consumes at least seventy-five percent of the gas from the well; or
   d. Equipped with a system that ~~collects~~intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel ~~or~~, transport to a processing

facility, production of petrochemicals or fertilizer, ~~or~~ conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission.

3. An electrical generator and its attachment units to produce electricity from gas and a collection system described in subdivision d of subsection 2 must be considered to be personal property for all purposes.

4. For a well operated in violation of this section ~~and for gas flared from a well connected to a gas gathering line~~, the producer shall pay royalties to royalty owners upon the value of the flared gas and shall also pay gross production tax on the flared gas at the rate imposed under section 57-51-02.2.

5. Gas production from a well that is connected to ~~a gas gathering line,~~ an electrical generator~~,~~ or to a collection system described in subsection 2 ~~from the time of first production~~ or for gas flared from a well connected to a gas gathering line is exempt from gross production taxes as provided in section 57-51-02.6.

6. The industrial commission may enforce this section and, for each well operator found to be in violation of this section, may determine the value of flared gas for purposes of payment of royalties under this section and its determination is final.

7. A producer may obtain an exemption from this section from the industrial commission upon application and a showing that connection of the well to a natural gas gathering line is economically infeasible at the time of the application or in the foreseeable future or that a market for the gas is not available and that equipping the well with an electrical generator to produce electricity from gas or employing a collection system described in subdivision d of subsection 2 is economically infeasible.

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

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

1. Gross receipts from sales of tangible personal property used to construct or expand a system used to compress, process, gather, collect, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas processing facility in this state

are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated into a system used to compress, process, gather, collect, or refine gas. Tangible personal property used to replace an existing system to compress, process, gather, collect, or refine gas does not qualify for exemption under this section unless the replacement creates an expansion of the system.

2. To receive the exemption under this section at the time of purchase, the owner of the gas compressing, processing, gathering, collecting, or refining system must receive from the tax commissioner a certificate that the tangible personal property used to construct or expand a system used to compress, process, gather, collect, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas processing facility in this state which the owner intends to purchase qualifies for exemption. If a certificate is not received before the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.

3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner of the gas compressing, processing, gathering, collecting, or refining system may apply to the tax commissioner for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.

4. For purposes of this section, a gas collecting system means a collection system described in subdivision d of subsection 2 of section 38-08-06.4.

SECTION 3. Section 57-51-02.6 of the North Dakota Century Code is created and enacted as follows:

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

Gas collected and utilized at the well site by ~~a gas gathering line,~~an electrical generator~~,~~ or a collection system described in subsection 2 of section 38-08-06.4 ~~from the time of first production~~must be reported as used on site and is exempt from the tax under section 57-51-02.2 for a period of two years from the time of first production.

SECTION 4. Section 57-51.1-02.1 of the North Dakota Century Code is created and enacted as follows:

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

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

SECTION 5. EFFECTIVE DATE. This Act becomes effective July 1, 2013.

#1

HB 1134 Amendments

Page 3 line 24 after the words "two years" insert the words "<u>and thirty days</u>"

Renumber Accordingly

Prepared by the Office of
State Tax Commissioner for the
House Finance and Taxation Committee
February 12, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1134

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "57-51-02.6" insert "and 57-51.1-02.1"

Page 2, line 6, remove "<u>and for gas flared from a well connected</u>"

Page 2, line 7, remove "<u>to a gas gathering line</u>"

Page 2, line 10, replace "<u>a gas gathering line,</u>" with "<u>an</u>"

Page 2, line 11, remove the underscored comma

Page 2, line 11, after "<u>or</u>" insert "<u>to a</u>"

Page 2, line 11, remove "<u>from the time of first</u>"

Page 2, line 12, remove the first "<u>production</u>"

Page 2, line 12, replace the first "<u>production</u>" with "<u>or for gas flared from a well connected to a gas gathering line</u>"

Page 2, line 12, replace "<u>section</u>" with "<u>sections 57-51-02.5 and</u>"

Page 3, line 23, replace "**<u>Exemption</u>**" with "**<u>Temporary exemption</u>**"

Page 3, line 23, after "**<u>for</u>**" insert "**<u>oil and</u>**"

Page 3, line 24, remove "<u>gas gathering line, electrical generator, or</u>"

Page 3, line 25, after "<u>in</u>" insert "<u>subdivision d of</u>"

Page 3, line 25, replace "<u>from the time of first production</u>" with "<u>shall be reported as used on site and</u>"

Page 3, after line 27, insert:

"**SECTION 4.** Section 57-51.1-02.1 of the North Dakota Century Code is created and enacted as follows:

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

Liquid hydrocarbons produced from a collection system described in subdivision d of subsection 2 of section 38-08-06.4 utilizing absorption, adsorption, or refrigeration are exempt from the taxes under sections 57-51-02 and 57-51.1-02 for a period of two years from the time of first production."

Renumber accordingly

Engrossed HB 1134
North Dakota Flaring Reduction Incentives

House Finance and Taxation

March 8, 2013

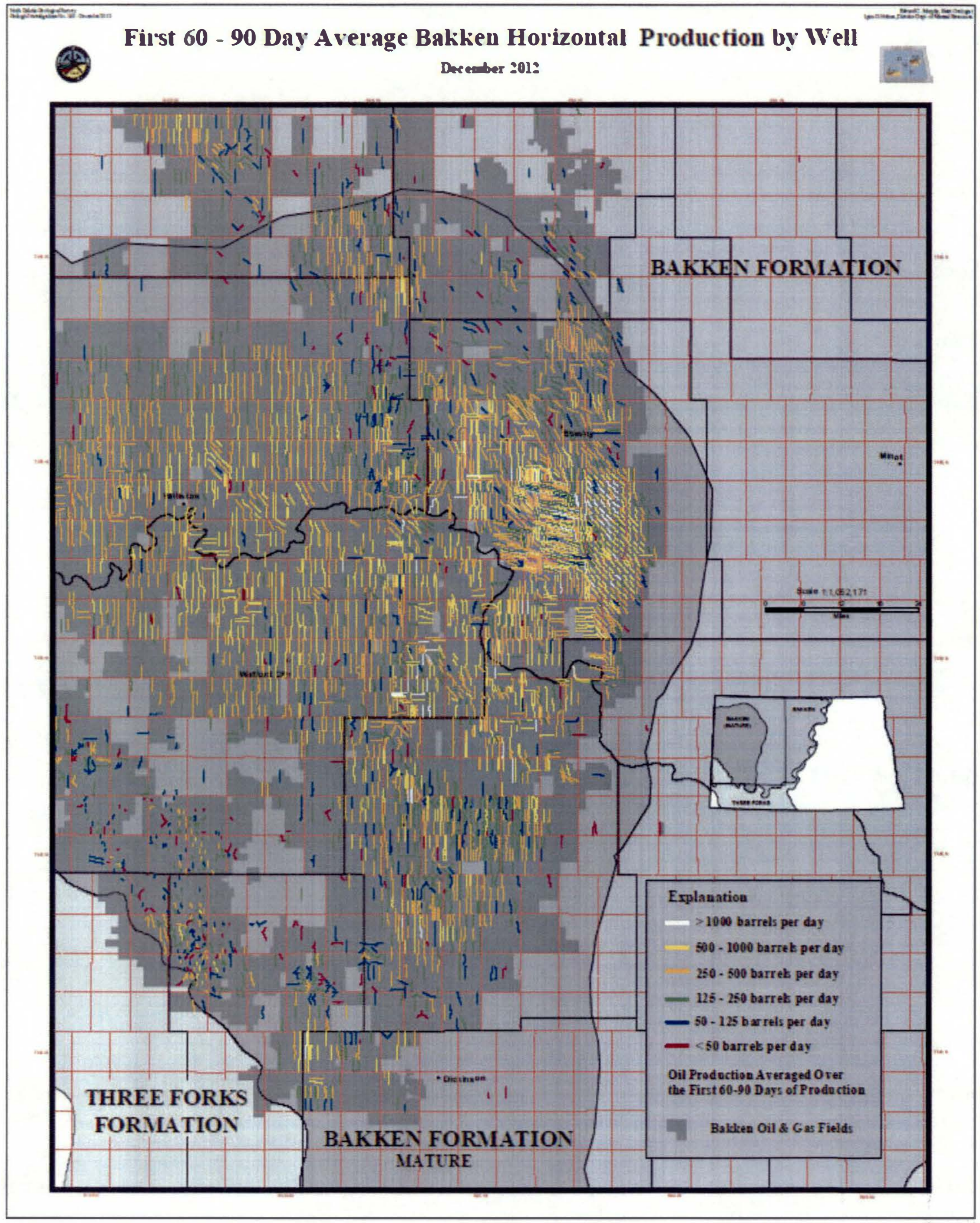
Lynn D. Helms, Director
Department of Mineral Resources
North Dakota Industrial Commission

Flaring Facts

- Regulatory, processing, and tax system designed for conventional oil fields
  - Bakken is largest oil field (in square miles) in the world
    - We are currently tackling a 2013 problem with 1986 tools
  - Strict enforcement of oil production restrictions would reduce the cash flow of a well 5 fold and net present value of the investment 25%
  - During phase 1 drilling companies re-invest 125-150% of cash flow
    - Darkest shade of gray now in Phase 2
    - Portions of Divide, Billings, Burke, and McKenzie Counties still in Phase 1

Total Development Area
> 15,000 sq mi
Size of West Virginia

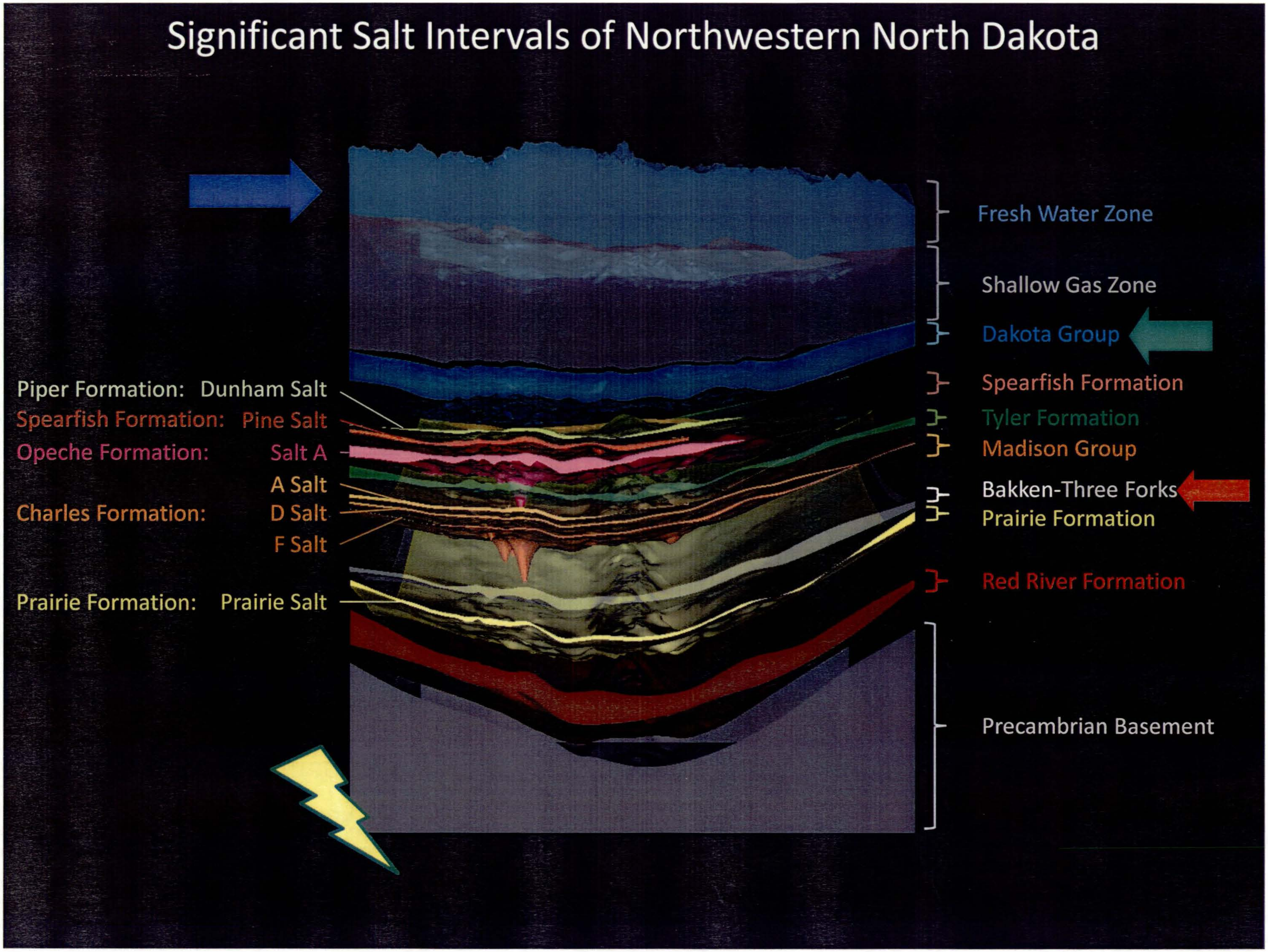
Total gas gathering system needed is 5,000-8,000 miles



page 3

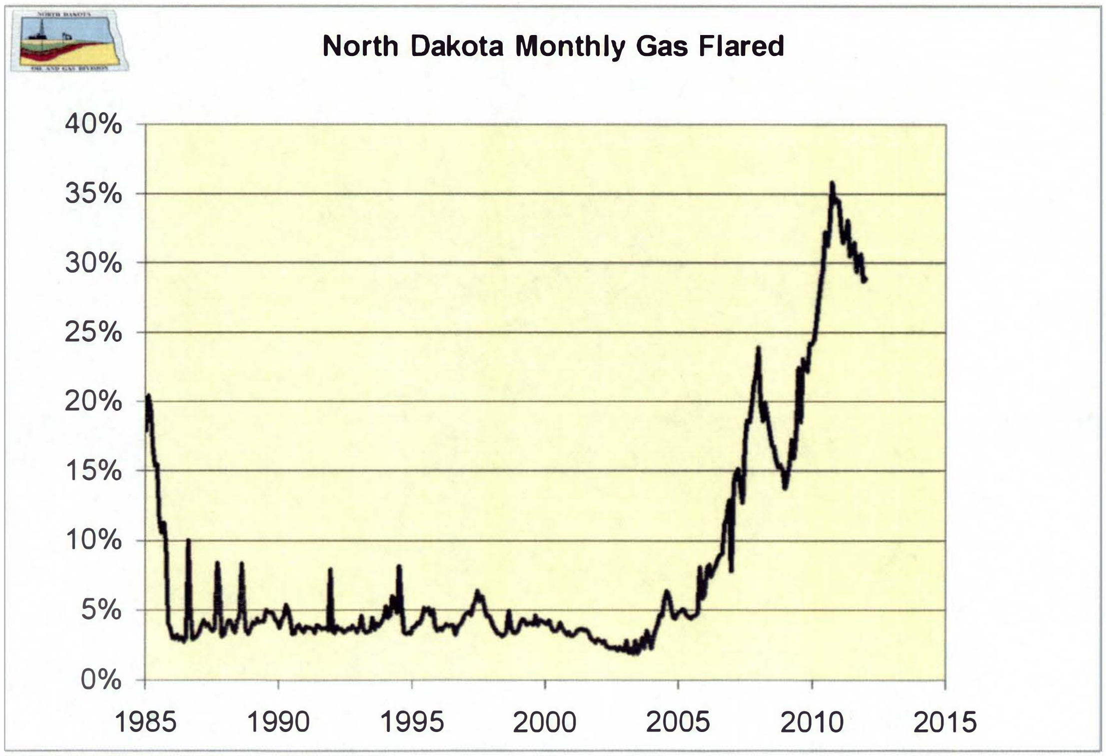
Flaring Facts

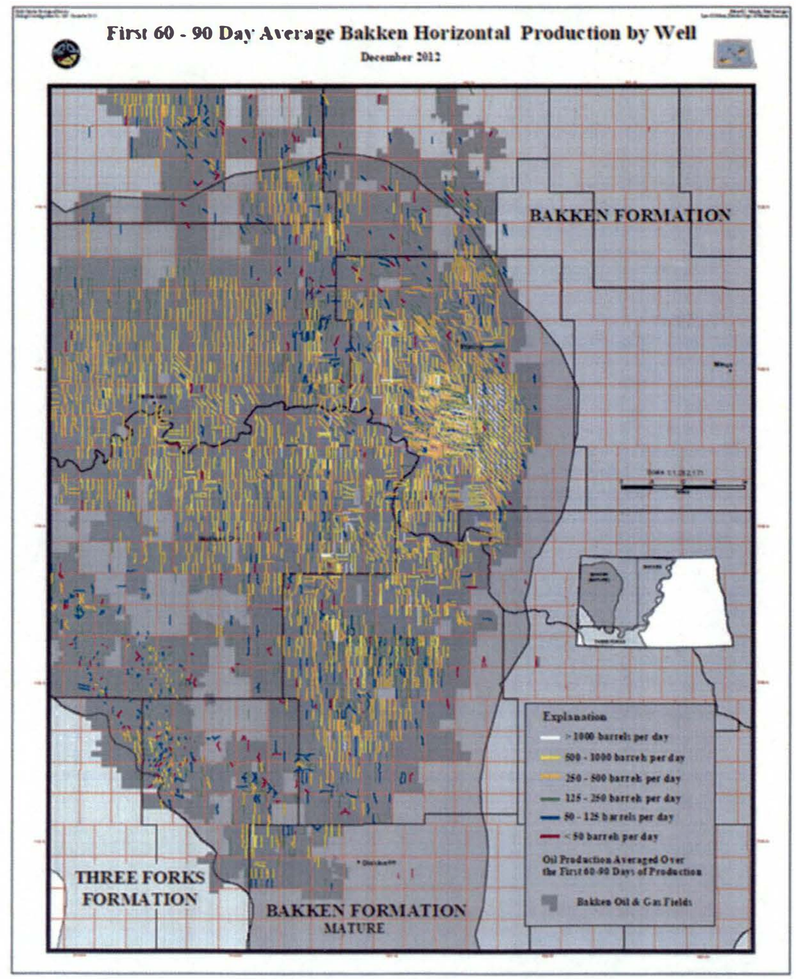
- Gas is dissolved in the oil – can't produce oil without producing gas
- Gas produced from source rocks is different
  - Hearing room would hold about 10,000 cubic feet of gas
    - Compressed, dried, and processed for high pressure transmission it would be reduced to about the volume of this podium
    - Very difficult to store in tanks and move to market
    - Value currently about ~~$3.00~~ $30.00
    - Enough to heat the average home for 1 month
    - Would yield 80-120 gallons of natural gas liquids worth $4.00 - $8.00
  - Generated from 10 barrels of oil or about the volume of 10 people
    - Value of about $850
    - Can be stored in tanks and hauled in trucks or rail cars


Significant Salt Intervals of Northwestern North Dakota
Fresh Water Zone
Shallow Gas Zone
Dakota Group
Spearfish Formation
Tyler Formation
Madison Group
Bakken-Three Forks
Prairie Formation
Red River Formation
Precambrian Basement
Piper Formation: Dunham Salt
Spearfish Formation: Pine Salt
Opeche Formation: Salt A
A Salt
Charles Formation: D Salt
F Salt
Prairie Formation: Prairie Salt

Flaring Facts

- Current gas production is 806 million cubic feet per day
  - Flared volume is 233 million cubic feet per day or 29%
- Gas production is expected to reach 2.5 billion cubic feet per day
  - Even with flaring reduced to 5% = 125 million cubic feet per day > one gas plant stranded





Engrossed HB 1134 provides a temporary two year abatement from taxes and royalties on gas production if the well utilizes some form of on-site process to eliminate or greatly reduce flaring.

If the well is connected to a pipeline the exemptions end.

The North Dakota Industrial Commissions urges a do pass recommendation on engrossed HB 1134.

#3

THE HARMS GROUP

March 8, 2013

Senate
Natural Resources Committee
ND Legislature

SUPPORT HB 1134

Chairman Lyson and Members of the Committee:

My name is Robert Harms. I am a mineral owner and a life-long resident of North Dakota—born and raised in Tioga—the heart of the oil industry. Most of my family (mother, brother, sister, aunts, uncles cousins, second-cousins, etc.) still live and work in Williams and McKenzie County. I've worked in or with the oil industry for much of the last 30 years. I offer these comments in SUPPORT of HB 1134.

As you know, North Dakota burns approximately 30% of the natural gas being produced today—a waste that we as a State should do as much as possible to reduce or eliminate. HB 1134 is a step in the right direction. As a lawyer, and consultant I have worked with a number of companies that have attempted to help solve this problem, such as Bakken Express and Blaise Energy---both of whom testified before the Legislature in 2011 in an effort to address this problem. (I am not speaking on their behalf by the way). I have spoken to and met with a number of companies and organizations who have a common goal of reducing flaring in North Dakota (we have formed a non-profit corporation to begin a more collaborative effort to reach that goal). One of the products of those discussions was support for the concepts contained in HB 1134.

Some metrics of the problem might be useful as you work to solve this issue.

Why is flaring of this magnitude happening in our State?

- -state policy (no royalty or tax is paid on flared gas—before or after 1 year)
  - Economic infeasibility at end of year, rather than near the front
- -capital directed towards drilling oil wells (greater economic value)
- -urgency to secure leases by establishing production on existing oil and gas leases
- -geographic size of the Bakken resource (wells are often far from transmission lines).

Value of flared gas:

Produce approximately 13,000,000 mcf @ mo.—flare approximately 30%.
Flared Gas: 3,900,000 mcf @ mo. = 46.8 million annually
Value:
Dry gas: 46.8 million mcf x $3.50 mcf (NYMEX) =$163.8 million annually
(Flared gas includes "dry" gas and liquids---both being flared)
Liquids (ethane, propane, etc.) which are 2-3 times the value of dry natural gas.
Estimate 2 x value of flared gas = $300 million annually

Total Annual value of flared gas: Estimate $450 million annually.

Estimated value of 1/6th royalty, if we captured 50% of the gas: $37.5 million annually
Estimated tax @ $.1143 @ mcf of 50% captured gas: $2.7 million annually

This is certainly an issue we all should be interested in solving. HB 1134 is one tool that begins a process to help move us in the right direction. The bill—offers a couple of modest incentives to direct capital towards building systems to utilize or capture gas that is now being flared. However, I would ask you to hold the bill for further work, and consider some amendments to make the bill as strong as possible in addressing flaring in North Dakota. I'd like to discuss some of those ideas this morning.

In short, I SUPPORT HB 1134, and believe it moves us in the right direction. Thank you and I look forward to working with you to craft thoughtful a creative solutions to this challenge in our State.

Robert W. Harms, JD
The Harms Group
815 N. Mandan St.
Bismarck, ND 58501

Senate Natural Resources Committee March 8, 2013

AMENDMENTS TO SB 1134:

P.1, Line 14---remove "one-year period", replace with "one-hundred-eighty day"

P. 2, after line 19 Insert,

"In determining economic infeasibility, the commission shall:

1. Consider the location and access to existing gathering lines, other producing wells, gas plants, or other facilities available to utilize gas being considered for exemption from flaring.
2. The calculation of economic infeasibility must be based on the combined production from the well beginning with the first date of production and ending with the date of the application under this subsection.
3. Review within six months, any exemption granted under this section.

Section 2. Effective date

Above amendments to be effective on December 31, 2013.

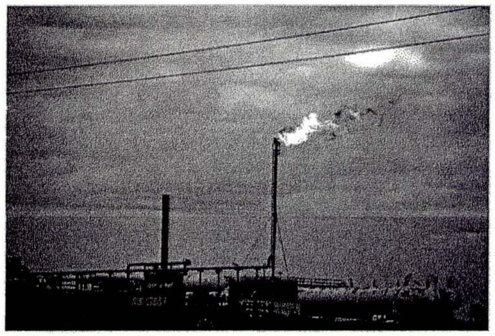
#4

MIDWEST ENERGY NEWS

Bakken's top producer wants to snuff out natural gas flaring

Posted on 03/04/2013 by EnergyWire

By Saqib Rahim



(Photo by Craig Hennecke via Creative Commons)

Continental Resources Inc., the top producer in the Bakken Shale, plans to reduce natural gas flaring from its well sites to "as close to zero percent flaring as possible," the company said Thursday.

That announcement may have been lost behind the company's towering profit numbers; Continental reported net income of $739 million for 2012, a 72 percent gain versus 2011.

But buried in its annual report, Continental said it has halved its 2011 rate of flaring, a common practice in the Bakken Shale that has lit up environmentalists' radar.

Continental joins other Bakken operators that say they are getting a handle on flaring and can drive it toward the zero mark in the coming years.

"Setting a goal to as close to zero percent flaring as possible, and also disclosing it to investors, is a big step in the right direction," said Ryan Salmon, manager of the oil and gas program at Ceres, a group that has organized investors to pressure industry on the issue. "This really demonstrates that it's possible to reduce flaring and to do so quite quickly."

It is no secret what brings drillers to the Bakken, and it's not natural gas. But as companies draw oil from the Bakken's huge reserves, gas bubbles up, too. In the remoteness of the Williston Basin, drillers often have nowhere to put this otherwise valuable commodity. So they burn it, lighting up the North Dakota sky.

Environmentalists have become increasingly irked by the practice over the past two years, especially when satellite data showed a new burst of light coming from typically black North Dakota. Flaring in the Bakken, analysts at the World Bank said, had vaulted the United States into the bad-boy club of global flaring, beside Russia, Nigeria, Iran and Iraq (*EnergyWire*, May 4, 2012).

With the addition of infrastructure, the rate of flaring has eased. In September 2011, 36 percent of produced gas was flared, according to the North Dakota Industrial Commission. As of this month, the figure is 29 percent.

Midstream companies have committed some $4 billion in pipeline and processing projects, to collect, modify and move gas. And some operators are using technology that gathers gas more efficiently or even burns it for electricity on-site.

Rules may be tightened

Under current regulations, drillers can flare a well's gas for up to a year without penalty. After that, they have to control the gas somehow, whether by capping the well, burning it for power or connecting it to a pipe. Operators can apply for an exemption if these paths are impractical. But critics charge that this exemption is too easy to get.

Alison Ritter, a spokeswoman for the North Dakota Industrial Commission's Department of Mineral Resources, said the point of the rules is to give companies a year to study a well and make a business decision about the gas.

North Dakota lawmakers are considering tightening the regulations, but they remain at odds on how to do so. Earlier this month, the state Senate rejected a Democrat's proposal to end exemptions for flaring, for example. Another idea is to offer tax breaks for measures to reduce flaring.

"Everyone agrees that the rate at which flaring is going on in North Dakota is too high," Ritter said. "We want to capture it; we don't like seeing it flared."

#5

FOR IMMEDIATE RELEASE

After Investor Pressure, Continental Resources Sets Strong Goal to Reduce Natural Gas Flaring

Bakken's Largest Oil Producer Commits to 'as Close to Zero Percent Flaring as Possible' As Industry Continues to Flare 30 Percent of Produced Gas

For more information, contact

- Peyton Fleming— Ceres | fleming@ceres.org | phone: 617-247-0700 x 120 | cell: 617-733-6660

BOSTON, MA Mar 01, 2013

Continental Resources, Inc., the largest oil producers in North Dakota's Bakken region, has committed to reduce natural gas flaring from its operated well sites to "as close to zero percent flaring as possible."

This goal announced in Continental's annual 10-K report follows a shareholder resolution filed by Mercy Investment Services requesting that the firm "adopt quantitative, company-wide goals, based on current technologies, for reducing or eliminating flaring in all operations and facilities under the company's financial or operational control."

The resolution was withdrawn in early 2013 after productive dialogue between Continental Resources and its investors.

"While our concerns over the environmental impacts of unconventional oil and gas development remain, we see Continental's increasing disclosure and goal-setting as a clear step in the right direction," said **Pat Zerega, director of shareholder advocacy at Mercy Investment Services**, the lead filer of the flaring resolution. "Continental's strong goal shows that there is agreement between the domestic oil industry, investors and advocates that allowing billions of cubic feet of natural gas to go up in flames is not good for business."

In its 10-K filings, Continental reported that it had met an internal goal to reduce flaring of natural gas from its North Dakota wells by 50 percent between December 2011 and December 2012. "During December 2012, the percentage of our natural gas production flared in North Dakota Bakken was approximately 10 percent," the company reported, "compared to approximately 20 percent in December 2011."

Continental also noted that the percentage of gas it flares is significantly less than that of its industry peers in the Bakken play. "According to data published by the North Dakota

#1

13.0257.05002
Title.

Prepared by the Legislative Council staff for
Senator Triplett
March 29, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1134

Page 1, line 14, overstrike "one-year"

Page 1, line 14, after "period" insert "of six months"

Page 2, line 15, overstrike "upon" and insert immediately thereafter "if an"

Page 2, line 15, after "application" insert "for the exemption is filed within ninety days from the date of first production from the well"

Page 2, line 15, overstrike "a showing" and insert immediately thereafter "the producer shows to the satisfaction of the industrial commission"

Renumber accordingly

#2

13.0257.05003
Title.

Prepared by the Legislative Council staff for
Senator Triplett
March 29, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1134

Page 1, line 22, remove "or"

Page 2, line 3, replace the underscored comma with an underscored semicolon

Page 2, line 3, after "or" insert:

"e. Equipped with"

Page 2, line 4, after "commission" insert "which reduce the volume or intensity of the flare by more than sixty percent"

Renumber accordingly

Prepared by the Legislative Council staff for
Senator Triplett
March 29, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1134

Page 1, line 1, after "enact" insert "section 57-06-17.5, a new subsection to section 57-51-02.2, and"

Page 1, line 2, after "to" insert "a new natural gas gathering and collection system property tax exemption,"

Page 2, after line 19, insert:

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

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

A natural gas gathering pipeline, and its associated equipment, or a natural gas or natural gas liquids collection system which is initially placed in service on or between January 1, 2013, and December 31, 2017, is exempt from property taxes for the first taxable year after the line is initially placed in service, and the taxable valuation as otherwise determined by law on the gathering pipeline or collection system and the associated equipment must be reduced by:

1. Seventy-five percent for the second taxable year of operation of the gathering pipeline or collection system.

2. Fifty percent for the third taxable year of operation of the gathering pipeline or collection system.

3. Twenty-five percent for the fourth taxable year of operation of the gathering pipeline or collection system.

After the fourth taxable year of operation the gathering or collection system is no longer exempt, in any way, from payment of full property taxes as otherwise determined by law. For purposes of this section, "natural gas gathering pipeline" means an underground gas or liquid pipeline that is designed for or capable of transporting natural gas produced in association with oil and which is not subject to public service commission jurisdiction as a gas or liquid transmission line under chapter 49-22. For purposes of this section, "initially placed in service" includes both new construction and substantial expansion of a preexisting gathering or collection system, and "substantial expansion" means a capacity increase of twenty percent or more. Associated equipment includes compression, liquid separation facilities, and any other equipment absolutely necessary to gather or collect natural gas and natural gas liquids. A "collection system" is a system that collects at least seventy-five percent of the gas and natural gas liquids from the well for compression to liquid or dense phase fluid for use as fuel or transport to a processing facility, production of petrochemicals or fertilizer, or conversion to liquid fuels. Natural gas processing and other natural gas liquid refining plants or facilities are expressly excluded from this section."

Page 3, after line 18, insert:

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

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

Renumber accordingly

#/

13.0257.05007
Title.

Prepared by the Legislative Council staff for
Senator Triplett
April 17, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1134

That the Senate recede from its amendments as printed on pages 1258-1260 of the House Journal and pages 1144 and 1145 of the Senate Journal and that Engrossed House Bill No. 1134 be amended as follows:

Page 1, line 22, remove "or"

Page 2, line 3, replace the underscored comma with an underscored semicolon

Page 2, after line 3, after "or" insert:

"e. Equipped with"

Page 2, line 4, after "commission" insert "which reduce the volume or intensity of the flare by more than sixty percent"

Page 2, line 15, overstrike "that connection of the well to a natural gas gathering"

Page 2, overstrike lines 16 and 17

Page 2, line 18, overstrike "electrical generator to produce electricity from gas"

Page 2, line 18, remove "or employing a collection system"

Page 2, line 19, remove "described in subdivision d of subsection 2"

Page 2, line 19, overstrike "is economically infeasible." and insert immediately thereafter "provided:

a. A gas collection plan as a prerequisite to the exemption is filed with the commission within six months of initial gas production on forms provided by the commission showing:

(1) The prospective date of connecting to a gas collection system, or other beneficial use described in subsection 2.

(2) The volume of gas to be produced between the filing date and prospective date of being connected to a collection system or other beneficial use.

(3) The producer's plan for addressing natural gas for the well or the field.

b. Thereafter an exemption may be granted by the commission upon a showing that connection of the well to a natural gas gathering line is economically infeasible at the time of the application or in the foreseeable future or that a market for the gas is not available and that equipping the well with an electrical generator to produce electricity from gas, or other uses described in subsection 2, is economically infeasible.

c. An exemption granted under this section shall be subject to periodic review by the commission.

d. This subsection applies to any well completed after January 1, 2010."

Page 3, line 23, after "years" insert "and thirty days"

Page 4, line 9, after "years" insert "and thirty days"

Renumber accordingly