

HOUSE BILL NO. 1080

Introduced by

Representative Dockter

1 A BILL for an Act to amend and reenact sections 15-05-10 and 47-16-39.1 of the North Dakota
2 Century Code, relating to the obligation to pay oil and gas royalties on leases owned and
3 managed by the board of university and school lands.

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

5 **SECTION 1. AMENDMENT.** Section 15-05-10 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **15-05-10. Royalties from oil leases - Obligation to pay - Rents from other leases -**
8 **Breach - Rules.**

9 1. Oil leases must be made by the board of university and school lands at such annual
10 minimum payments as are determined by the board, but the royalty ~~shall be~~ may not
11 be less than twelve and one-half percent of the gross output of oil from the lands
12 leased. Oil leases made by the board may authorize a royalty of less than twelve and
13 one-half percent for production from stripper well properties or individual stripper wells
14 and qualifying secondary recovery and qualifying tertiary recovery projects as defined
15 in section 57-51.1-01. Leases for gas, coal, cement materials, sodium sulfate, sand
16 and gravel, road material, building stone, chemical substances, metallic ores, or
17 colloidal or other clays must be made by the board in such annual payments as are
18 determined by the board.

19 2. The obligation arising under an oil and gas lease to pay oil or gas royalties to the
20 board of university and school lands or the board's assignee, to deliver oil or gas to a
21 purchaser to the credit of the board or the board's assignee, or to pay the market
22 value thereof is of the essence in the lease contract, and breach of the obligation may
23 constitute grounds for the cancellation of the lease in any case in which it is
24 determined by the court that the equities of the case require cancellation. If the

1 operator under an oil and gas lease fails to pay oil or gas royalties to the board or the
2 board's assignee within one hundred fifty days after oil or gas produced under the
3 lease is marketed and cancellation of the lease is not sought, the operator thereafter
4 shall pay interest and penalties on the unpaid royalties at a rate to be no greater than
5 the prime rate as established by the Bank of North Dakota plus four percent per
6 annum, without the requirement that the board or the board's assignee request the
7 payment of interest and penalties. If the aggregate amount is less than fifty dollars, the
8 operator may remit semiannually to the board the aggregate of six months' monthly
9 royalties. The district court for the county in which an oil or gas well is located has
10 jurisdiction over any proceeding brought under this section. The prevailing party in a
11 proceeding brought under this section is entitled to recover court costs and reasonable
12 attorney's fees.

- 13 3. The board may adopt rules regarding annual payments and royalties under this
14 section.

15 **SECTION 2. AMENDMENT.** Section 47-16-39.1 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **47-16-39.1. Obligation to pay royalties - Breach.**

18 1. The obligation arising under an oil and gas lease to pay oil or gas royalties to the
19 mineral owner or the mineral owner's assignee, or to deliver oil or gas to a purchaser
20 to the credit of the mineral owner or the mineral owner's assignee, or to pay the
21 market value thereof is of the essence in the lease contract, and breach of the
22 obligation may constitute grounds for the cancellation of the lease in cases wherein
23 which it is determined by the court that the equities of the case require cancellation. If
24 the operator under an oil and gas lease fails to pay oil or gas royalties to the mineral
25 owner or the mineral owner's assignee within one hundred fifty days after oil or gas
26 produced under the lease is marketed and cancellation of the lease is not sought or if
27 the operator fails to pay oil or gas royalties to an unleased mineral interest owner
28 within one hundred fifty days after oil or gas production is marketed from the unleased
29 mineral interest owner's mineral interest, the operator thereafter shall pay interest on
30 the unpaid royalties, without the requirement that the mineral owner or the mineral
31 owner's assignee request the payment of interest, at the rate of eighteen percent per

1 annum until paid, ~~except that the commissioner of university and school lands may~~
2 negotiate a rate to be no less than the prime rate as established by the Bank of North
3 Dakota plus four percent per annum with a maximum of eighteen percent per annum,
4 for unpaid royalties on minerals owned or managed by the board of university and
5 school lands. ~~Provided, that~~If the aggregate amount is less than fifty dollars, the
6 operator may remit semiannually to a person entitled to royalties the aggregate of six
7 months' monthly royalties ~~where the aggregate amount is less than fifty dollars.~~ The
8 district court for the county in which the oil or gas well is located has jurisdiction over
9 ~~all proceedings~~any proceeding brought ~~pursuant to~~under this section. The prevailing
10 party in any proceeding brought ~~pursuant to~~under this section is entitled to recover
11 any court costs and reasonable attorney's fees. This section does not apply ~~whenif~~if
12 mineral owners or their assignees elect to take their proportionate share of production
13 in kind, in the event of a dispute of title existing that would affect distribution of royalty
14 payments, or ~~whenif~~if a mineral owner cannot be located after reasonable inquiry by the
15 operator; however, the operator shall make royalty payments to those mineral owners
16 whose title and ownership interest is not in dispute.

17 2. This section does not apply to obligations to pay oil and gas royalties under an oil and
18 gas lease on minerals owned or managed by the board of university and school lands.