## FIRST ENGROSSMENT

Sixty-sixth Legislative Assembly of North Dakota

## **ENGROSSED SENATE BILL NO. 2212**

Introduced by

Senators Bekkedahl, Patten, Unruh

Representatives Hatlestad, Jones, Steiner

- 1 A BILL for an Act to amend and reenact section 47-16-39.2 of the North Dakota Century Code,
- 2 relating to authorization for the board of university and schools lands to impose a civil penalty
- 3 for failure to produce records; and to provide a penalty.

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

5 SECTION 1. AMENDMENT. Section 47-16-39.2 of the North Dakota Century Code is

6 amended and reenacted as follows:

- 7 47-16-39.2. Inspection of production and royalty payment records <u>- Penalty</u>.
- 8 1. A royalty owner, a royalty owner's assignee, or a designated representative, upon 9 written notice, is entitled to inspect and copy the oil and gas production and royalty 10 payment records for the lease of the person obligated to pay royalties under the lease 11 or division order. The person obligated to pay royalties under the lease shall make that 12 person's oil and gas royalty payment and production records available for inspection 13 and copying at that person's usual and customary place of business within the United 14 States. A royalty owner may bring an action to compel the person obligated to pay 15 royalties to allow inspection and copying of oil and gas production royalty payment 16 records. In order for the royalty owner to prevail in such an action, the royalty owner 17 must establish that:
- 18 <u>1.</u> <u>a.</u> The royalty owner or the royalty owner's assignee complied with notice
  19 requirements of this section;
- 20 2. b. The notice specified the lease involved, the time period under review and the
   21 records requested;
- 3. <u>c.</u> The royalty owner notified the person obligated to pay royalties at the address
   printed on the information statement as prescribed by rules adopted by the
   industrial commission pursuant to section 38-08-06.3; and

Sixty-sixth Legislative Assembly

- 14.d.The person obligated to pay royalties denied inspection of the records or failed to2respond within thirty days of service of notice.
- 3 <u>2.</u> The district court for the county in which the oil or gas well is located has jurisdiction 4 over all proceedings brought pursuant to this section. If the royalty owner or the royalty 5 owner's assignee is successful in any proceeding brought pursuant to this section, the 6 district court shall allow the royalty owner or the royalty owner's assignee to recover 7 court costs; reasonable costs, fees, disbursements, and expenses incurred by the 8 royalty owner or the royalty owner's assignee or a designated representative in 9 inspecting and copying the oil and gas production and royalty payment records of the 10 person obligated to pay royalties under the lease; and reasonable attorney's fees.
- 113.If a royalty owner, a royalty owner's assignee, or a designated representative is the12board of university and school lands, the board shall send a letter to the person
- 13 <u>obligated to pay royalties requesting the information necessary to conduct the board's</u>

14 <u>audit together with the information outlined in subsection 1. The letter must be sent by</u>

- 15 registered mail, return receipt requested. If the requested information is not received
- 16 by the board within ninety days of the date of receipt of the letter, the board may
- 17 impose a civil penalty of up to one thousand dollars per day, as determined by the
- 18 board pursuant to board policies, until the records are made available. Each day's
- 19 violation is a separate offense. The board, for good cause shown, may waive all or any
- 20 part of the penalty provided by this subsection. A penalty paid under this section must
- 21 <u>be deposited in the common schools trust fund.</u>