

Fifty-seventh  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2120**

Introduced by

Natural Resources Committee

(At the request of the Attorney General)

1 A BILL for an Act to amend and reenact section 38-08-09.5 of the North Dakota Century Code,  
2 relating to the industrial commission's oversight of the creation of units for the further  
3 development of oil and gas and changing ratification requirements for these units.

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

5 **SECTION 1. AMENDMENT.** Section 38-08-09.5 of the 1999 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7 **38-08-09.5. Ratification or approval of plan by lessees and owners.** At the time of  
8 filing of the petition for the approval of a unit agreement and the filing of the unit agreement, the  
9 commission shall ~~set a time and place for the~~ schedule a hearing. At least forty-five days prior  
10 to the hearing, the applicant ~~or someone under his direction and control,~~ shall give notice of the  
11 ~~time and place of said~~ hearing and shall mail, postage prepaid, a copy of the application and  
12 the proposed plan of unitization to each affected person owning an interest of record in the unit  
13 outline, at such person's last-known post-office address. In addition, ~~such~~ the applicant shall  
14 file with the commission engineering, geological, and all other technical exhibits to be used at  
15 ~~said the~~ hearing, and further, the notice must ~~so~~ specify that such material is filed and is  
16 available for inspection. Service is complete in the mailing of the notice of hearing and unit  
17 agreement to each interest owner as ~~hereinbefore prescribed at his last known address~~  
18 described in this section and the filing of an affidavit of mailing with the commission. No order  
19 of the commission creating a unit and prescribing ~~the its~~ plan of unitization ~~applicable thereto~~  
20 becomes effective ~~unless and~~ until the plan of unitization has been signed, or in writing ratified  
21 or approved by those persons who, under the commission's order, will be required to pay at  
22 least seventy percent of the costs of the unit operation and ~~also~~ by the owners of at least  
23 seventy percent of the royalty interests ~~under the commission's order,~~ excluding overriding  
24 royalties, production payments, and other interests carved out of the working interest, and in

1 addition it ~~shall be~~ is required that when there is more than one person who will be obligated to  
2 pay costs of the unit operation, at least two nonaffiliated such persons and at least two royalty  
3 interest owners, ~~shall be~~ are required as voluntary parties, and the commission has made a  
4 finding either in the order creating the unit or in a supplemental order that the plan of unitization  
5 has been so signed, ratified, or approved by lessees and royalty owners owning the required  
6 percentage interest ~~in and to the unit area~~. Where the plan of unitization has not been ~~so~~  
7 signed, ratified, or approved by lessees and royalty owners owning the required percentage  
8 interest ~~in and to the unit area~~ at the time the order creating the unit is made, the commission  
9 shall, upon petition and notice, hold such additional ~~and supplemental~~ hearings as may be  
10 requested or required to determine if and when the plan of unitization has been so signed,  
11 ratified, or approved by lessees and royalty owners owning the required percentage interest ~~in~~  
12 ~~and to the unit area~~ and shall, in respect to such hearings, ~~make and~~ enter a finding of its  
13 determination in such regard. In the event lessees and royalty owners, or either, owning the  
14 required percentage interest ~~in and to the unit area~~ have not ~~so~~ signed, ratified, or approved the  
15 plan of unitization within ~~a period of~~ six months from ~~and after~~ the date on which the order  
16 creating the unit is made, the order ~~creating the unit~~ ceases to be of further force and effect and  
17 shall be revoked by the commission.

18 If it appears unlikely that seventy percent of the lessees will approve the plan of  
19 unitization, the commission, upon petition and hearing, may reduce the percentage of the  
20 required lessee approvals to less than seventy percent but no less than fifty-five percent. In  
21 making its decision, the commission is to be guided by the legislative policies set forth in  
22 section 38-08-09.1. If the commission reduces the percentage of required approvals, it may  
23 also extend the six-month approval period by no more than three additional months.