

Sixtieth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1257

Introduced by

Representative Skarphol

1 A BILL for an Act to amend and reenact section 47-16-39.1 of the North Dakota Century Code,  
2 relating to the payment of oil and gas royalties when title to the property producing the oil and  
3 gas is in dispute.

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

5 **SECTION 1. AMENDMENT.** Section 47-16-39.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **47-16-39.1. Obligation to pay royalties - Breach.** The obligation arising under an oil  
8 and gas lease to pay oil or gas royalties to the mineral owner or the mineral owner's assignee,  
9 or to deliver oil or gas to a purchaser to the credit of the mineral owner or the mineral owner's  
10 assignee, or to pay the market value thereof is of the essence in the lease contract, and breach  
11 of the obligation may constitute grounds for the cancellation of the lease in cases where it is  
12 determined by the court that the equities of the case require cancellation. If the operator under  
13 an oil and gas lease fails to pay oil or gas royalties to the mineral owner or the mineral owner's  
14 assignee within one hundred fifty days after oil or gas produced under the lease is marketed  
15 and cancellation of the lease is not sought, the operator shall pay interest on the unpaid  
16 royalties shall thereafter bear interest calculated at the rate of eighteen percent per annum until  
17 paid, except that the commissioner of university and school lands may negotiate a rate to be no  
18 less than the prime rate as established by the Bank of North Dakota plus four percent per  
19 annum with a maximum of eighteen percent per annum, for unpaid royalties on minerals owned  
20 or managed by the board of university and school lands. Provided, that the operator may remit  
21 semiannually to a person entitled to royalties the aggregate of six months' monthly royalties  
22 where the aggregate amount is less than fifty dollars. The district court for the county in which  
23 the oil or gas well is located has jurisdiction over all proceedings brought pursuant to this  
24 section. The prevailing party in any proceeding brought pursuant to this section is entitled to

- 1 recover any court costs and reasonable attorney's fees. This section does not apply when
- 2 mineral owners or their assignees elect to take their proportionate share of production in kind;
- 3 or in the event of a dispute of title existing that would affect distribution of royalty payments;
- 4 however, the operator shall make royalty payments to those mineral owners whose title and
- 5 ownership interest is not in dispute.