

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2139

Introduced by

Natural Resources Committee

(At the request of the Industrial Commission)

1 A BILL for an Act to create and enact a new chapter to title 47 of the North Dakota Century
2 Code, relating to ownership of subsurface pore space; to provide for application; and to declare
3 an emergency.

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

5 **SECTION 1.** A new chapter to title 47 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Policy.** Undivided estates in land and clarity in land titles reduce litigation, enhance
8 comprehensive management, and promote the security and stability useful for economic
9 development, environmental protection, and government operations.

10 **Pore space defined.** In this chapter "pore space" means a cavity or void, whether
11 natural or artificially created, in a subsurface sedimentary stratum.

12 **Title to pore space.** Title to pore space in all strata underlying the surface of lands and
13 waters is vested in the owner of the overlying surface estate.

14 **Conveyance of real property conveys pore space.** A conveyance of title to the
15 surface of real property conveys the pore space in all strata underlying the surface of the real
16 property.

17 **Severing pore space prohibited.** Title to pore space may not be severed from title to
18 the surface of the real property overlying the pore space. An instrument or arrangement that
19 seeks to sever title to pore space from title to the surface is void.

20 **Transactions allowed.** Leasing pore space is not a severance prohibited by this
21 chapter.

22 **Application.** This chapter does not affect transactions before the effective date of this
23 chapter that severed pore space from title to the surface estate.

1 **Mineral and pore space estates - Relationship.** In the relationship between a
2 severed mineral owner and a pore space estate, this chapter does not change or alter the
3 common law as of the effective date of this chapter as it relates to the rights belonging to, or the
4 dominance of, the mineral estate.

5 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.