

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1241

Introduced by

Representatives Kempenich, Drovdal, Steiner

Senators Andrist, Wardner

1 A BILL for an Act to amend and reenact section 38-11.1-04 of the North Dakota Century Code,
2 relating to minimum damage and disruption payments for oil and gas surface damages.

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

4 **SECTION 1. AMENDMENT.** Section 38-11.1-04 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **38-11.1-04. Damage and disruption payments.**

7 TheSubject to minimum damage and disruption payments, the mineral developer shall pay
8 the surface owner a sum of money equal to the amount of damages sustained by the surface
9 owner and the surface owner's tenant, if any, for loss of agricultural production and income, lost
10 land value, lost use of and access to the surface owner's land, and lost value of improvements
11 caused by drilling operations. The amount of damages may be determined by any formula
12 mutually agreeable between the surface owner and the mineral developer, but the minimum
13 amount of damages payable to the surface owner is twenty-five times the appraised value per
14 acre of the property as determined by the most recent appraisal. When determining damages,
15 consideration must be given to the period of time during which the loss occurs and the surface
16 owner may elect to be paid damages in annual installments over a period of time; except that
17 the surface owner must be compensated for harm caused by exploration only by a single sum
18 payment. The payments contemplated by this section only cover land directly affected by drilling
19 operations. Payments under this section are intended to compensate the surface owner for
20 damage and disruption; any reservation or assignment of such compensation apart from the
21 surface estate except to a tenant of the surface estate is prohibited. In the absence of an
22 agreement between the surface owner and a tenant as to the division of compensation payable
23 under this section, the tenant is entitled to recover from the surface owner that portion of the
24 compensation attributable to the tenant's share of the damages sustained.

