

Fifty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1218

Introduced by

Representatives Skarphol, Grande, Rennerfeldt, Wald

Senators Lyson, Wardner

1 A BILL for an Act to amend and reenact subsection 3 of section 38-08-08 and subsection 3 of  
2 section 38-08-09.4 of the North Dakota Century Code, relating to carrying or otherwise  
3 financing nonparticipating lessees in the development of oil and gas interests in spacing units  
4 and plans of unitization.

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

6 **SECTION 1. AMENDMENT.** Subsection 3 of section 38-08-08 of the North Dakota  
7 Century Code is amended and reenacted as follows:

8 3. In addition to any costs and charges recoverable under subsections 1 and 2, if a  
9 lessee owning an interest in a spacing unit elects not to participate in the risk and  
10 cost of drilling a well thereon, the owner paying for the nonparticipating lessee's  
11 share of the drilling and operation of a well may recover from the nonparticipating  
12 lessee a risk penalty for the risk involved in drilling the well. ~~The~~ If the  
13 nonparticipating lessee's interest in the spacing unit is derived from a lease or  
14 other contract for development, the risk penalty is one two hundred percent of the  
15 nonparticipating lessee's share of the reasonable actual costs of drilling and  
16 completing the well and may be recovered out of, and only out of, production from  
17 the pooled spacing unit, as provided by section 38-08-10, exclusive of any royalty  
18 or overriding royalty. No risk penalty may be assessed against an unleased  
19 mineral interest.

20 **SECTION 2. AMENDMENT.** Subsection 3 of section 38-08-09.4 of the North Dakota  
21 Century Code is amended and reenacted as follows:

22 3. The manner in which the unit and the further development and operation of the unit  
23 area shall or may be financed and the basis, terms, and conditions on which the  
24 cost and expense thereof shall be apportioned among and assessed against the

1 tracts and interests made chargeable therewith, including a detailed accounting  
2 procedure governing all charges and credits incident to such operations. Upon  
3 and subject to such terms and conditions as to time and legal rate of interest as  
4 may be fair to all concerned, reasonable provision must be made in the plan of  
5 unitization for carrying or otherwise financing lessees who are unable to promptly  
6 meet their financial obligations in connection with the unit and, in addition to the  
7 unit expense assessed against each tract and chargeable to each lessee, the  
8 recovery of a risk penalty from each lessee electing not to participate in the unit  
9 expense. If the nonparticipating lessee's interest in the unit is derived from a lease  
10 or other contract for development, the risk penalty is two hundred percent of the  
11 nonparticipating lessee's share of the unit expense and may be recovered out of,  
12 and only out of, production from the unit, exclusive of any royalty or overriding  
13 royalty.