

**FIRST ENGROSSMENT  
with Senate Amendments**

Sixty-first  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1253**

Introduced by

Representatives Skarphol, Froseth, Wald

Senators Lyson, Wardner

1 A BILL for an Act to amend and reenact section 47-16-39.1 of the North Dakota Century Code,  
2 relating to payment of oil and gas royalties.

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

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

6 **47-16-39.1. Obligation to pay royalties - Breach.** The obligation arising under an oil  
7 and gas lease to pay oil or gas royalties to the mineral owner or the mineral owner's assignee,  
8 or to deliver oil or gas to a purchaser to the credit of the mineral owner or the mineral owner's  
9 assignee, or to pay the market value thereof is of the essence in the lease contract, and breach  
10 of the obligation may constitute grounds for the cancellation of the lease in cases where it is  
11 determined by the court that the equities of the case require cancellation. If the operator under  
12 an oil and gas lease fails to pay oil or gas royalties to the mineral owner or the mineral owner's  
13 assignee within one hundred fifty days after oil or gas produced under the lease is marketed  
14 and cancellation of the lease is not sought, the operator shall pay interest on the unpaid  
15 royalties at the rate of eighteen percent per annum from the one hundred fifty-first day after  
16 marketing until paid, except that the commissioner of university and school lands may negotiate  
17 a rate to be no less than the prime rate as established by the Bank of North Dakota plus four  
18 percent per annum with a maximum of eighteen percent per annum, for unpaid royalties on  
19 minerals owned or managed by the board of university and school lands. Provided, that the  
20 operator may remit semiannually to a person entitled to royalties the aggregate of six months'  
21 monthly royalties where the aggregate amount is less than fifty dollars. The district court for the  
22 county in which the oil or gas well is located has jurisdiction over all proceedings brought  
23 pursuant to this section. The prevailing party in any proceeding brought pursuant to this  
24 section is entitled to recover any court costs and reasonable attorney's fees. This section does

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1 not apply when mineral owners or their assignees elect to take their proportionate share of  
2 production in kind or in the event of a dispute of title existing that would affect distribution of  
3 royalty payments; however, ~~the~~ if the operator withholds royalty payments due to a dispute of  
4 title, the operator shall inform, upon request, the royalty owner of the title issue and the reason  
5 for withholding royalty payments. The operator shall make royalty payments to those mineral  
6 owners whose title and ownership interest is not in dispute.