Sixty-ninth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT
with Senate Amendments

ENGROSSED HOUSE BILL NO. 1459

Introduced by

Representatives D. Anderson, Berg, Bosch, Mitskog, Novak, O'Brien, J. Olson, Porter, Lefor

Senators Hogue, Marcellais, Patten

A BILL for an Act to create and enact two new sections to chapter 38-12 of the North Dakota Century Code, relating to critical minerals and rare earth minerals; to amend and reenact section 38-12-01 of the North Dakota Century Code, relating to the definitions of critical minerals and rare earth minerals; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new sections to chapter 38-12 of the North Dakota Century Code are created and enacted as follows:

Declaration of policy for critical minerals and rare earth minerals.

1. It is in the public interest to encourage, accelerate, and promote the development, production, and utilization of critical minerals and rare earth minerals in a manner that prevents waste, allows a greater ultimate recovery of these natural resources, and protects the rights of owners so the greatest possible economic recovery of these resources may be obtained in the state, and landowners, producers, and the general public may enjoy the greatest possible good from these resources.
2. As reflected in federal policy, the legislative assembly recognizes critical minerals and rare earth minerals are fundamental to the economy, competitiveness, and security of the United States. The United States relies on foreign nations to supply these critical minerals and rare earth minerals to develop and manufacture medical devices, information technology, and equipment and technology for national defense, energy infrastructure, and other critical items. Domestic development and production of critical minerals and rare earth minerals is inadequate to meet the nation's needs. The United States must have a reliable, diversified, and affordable supply to drive the medical

manufacturing, transportation, agriculture, and defense industries and to sustain military preparedness, national security, and economic security.

3. Development of critical minerals and rare earth minerals also may lead to significant economic benefits for owners; new jobs in mining, processing, and related industries; and contributions to the state economy. Many critical minerals and rare earth minerals are broadly and irregularly disseminated and chemically bound, embedded, commingled, included, or contained within coal. It is necessary to fulfill the public policy of the state by clarifying law related to this policy and for the development of critical minerals and rare earth minerals.

Title to critical minerals and rare earth minerals.

Title to critical and rare earth minerals is vested in the owner of the mineral estate.

SECTION 2. AMENDMENT. Section 38-12-01 of the North Dakota Century Code is amended and reenacted as follows:

38-12-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Commission" means the industrial commission of the state of North Dakota.
2. "Critical mineral" means a nonfuel mineral or mineral material essential to the economic or national security of the United States and which has a supply chain vulnerable to disruption. The term includes aluminum, antimony, arsenic, barite, bauxite, beryllium, bismuth, cesium, chromium, cobalt, fluorspar, gallium, geranium, graphite, hafnium, helium, indium, lithium, magnesium, manganese, niobium, platinum group metals, potash, the rare earth elements group, rhenium, rubidium, scandium, strontium tantalum, tellurium, tin, titanium, tungsten, uranium, vanadium, and zirconium.

~~2.~~3. "Extraction facility" means any well or mine or other extractive process operated for the purpose of recovering subsurface minerals.

~~3.~~4. "Operator" means any person who, duly authorized, is in charge of the development of a lease or the operation of a producing property.

~~4.~~5. "Owner" means the person who has the right to explore for, develop, and produce subsurface minerals and to appropriate the subsurface minerals the owner produces either for the owner or for the owner and others.

~~5.~~6. "Person" means and includes any natural person, corporation, limited liability company, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental subdivision thereof; the masculine gender, in referring to a person, includes the feminine and the neuter genders.

~~6.~~7. "Producer" means the owner of an extraction facility which is or has been capable of producing subsurface minerals.

8. "Rare earth minerals" means any of a series of metallic elements of which the oxides are classed as rare earths and which include the elements of the lanthanide series, yttrium, and scandium.

~~7.~~9. "Subsurface minerals" means all naturally occurring elements and their compounds, volcanic ash, precious metals, carbonates, and natural mineral salts of boron, bromine, calcium, fluorine, iodine, lithium, magnesium, phosphorus, potassium, sodium, thorium, uranium, and sulfur, and their compounds, but does not include sand and gravel and rocks crushed for sand and gravel.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - LEGAL AND TECHNICAL ISSUES RELATED TO UNITIZING AND POOLING CRITICAL MINERALS AND RARE EARTH MINERALS.

1. During the 2025-26 interim, the legislative management shall study the feasibility and desirability of the unitization and pooling of critical minerals and rare earth minerals. The study must include consideration of:
   a. Any technical and legal barriers to the extraction and development of critical minerals and rare earth minerals;
   b. Current state laws on ownership and development of critical minerals and rare earth minerals;
   c. Appropriate royalty payments if critical minerals and rare earth minerals are unitized and pooled, taking into consideration the value chain of the minerals;
   d. The relative rights and risks of landowners, owners of mineral rights, extraction companies, and processors; and
   e. The appropriate regulatory framework for unitized and pooled critical minerals and rare earth minerals.

2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the seventieth legislative assembly.