

# MINING, GAS AND OIL PRODUCTION

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## CHAPTER 226

S. B. No. 105  
(Solberg)

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### NOTICE TO UNDERGROUND MINE OWNERS AND OPERATORS OF USE OF EXPLOSIVES FOR GEOPHYSICAL TESTS

#### AN ACT

Providing that persons making geophysical tests using explosives shall give notice to underground mine owners and operators and providing for no limitation of civil liability, providing for a penalty and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1.) Any person who carries on any activity in this state requiring the use of explosives detonated beneath the surface of the earth shall give notice to any underground mine owner or underground mine operator, the location of whose mine is filed in the office of the state coal mine inspector, at least twenty-four hours before any such activity using explosives is carried on providing such activity is to be carried on within a one mile radius of any such underground mine.

§ 2.) Compliance with section one of this Act shall not be construed to limit civil liability that may arise as a result of such use of explosives.

§ 3.) Any person who shall fail to give the notice required in section one of this Act shall be guilty of a misdemeanor.

§ 4.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 6, 1953.

## CHAPTER 227

S. B. 32  
(Legislative Research Committee)

## CONTROL OF GAS AND OIL RESOURCES

## AN ACT

To repeal chapter 38-08 of the North Dakota Revised Code of 1943 and to provide for the development, production, and utilization of natural resources of oil and gas in the state in such a manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas properties in such a manner that a greater ultimate recovery of oil and gas be had and that the correlative rights of all owners be fully protected; and to encourage and authorize cycling, re-cycling, pressure maintenance, and secondary recovery operations in order that the greatest possible economic recovery of oil and gas be obtained within the state to the end that the land owners, royalty owners, producers, and the general public realize the greatest possible good from these natural resources.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. REPEAL.) Chapter 38-08 of the North Dakota Revised Code of 1943 is hereby repealed.

§ 2. DECLARATION OF POLICY.) It is hereby declared to be in the public interest to foster, to encourage, and to promote the development, production, and utilization of natural resources of oil and gas in the state in such a manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas properties in such a manner that a greater ultimate recovery of oil and gas be had and that the correlative rights of all owners be fully protected; and to encourage and to authorize cycling, re-cycling, pressure maintenance, and secondary recovery operations in order that the greatest possible economic recovery of oil and gas be obtained within the state to the end that the land owners, the royalty owners, the producers, and the general public realize and enjoy the greatest possible good from these vital natural resources.

§ 3. DEFINITIONS.) As used in this Act, unless the context otherwise requires:

1. "Waste" means and includes
  - a. Physical waste, as that term is generally understood in the oil and gas industry,

- b. The inefficient, excessive, or improper use of, or the unnecessary dissipation of reservoir energy,
  - c. The locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes, or tends to cause, reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas,
  - d. The inefficient storing of oil, and
  - e. The production of oil or gas in excess of transportation or marketing facilities or in excess of reasonable market demand.
2. "Commission" means the industrial commission.
  3. "Person" means and includes any natural person, corporation, 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.
  4. "Oil" means and includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas.
  5. "Gas" means and includes all natural gas and all other fluid hydrocarbons not hereinabove defined as oil.
  6. "Pool" means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure which is completely separated from any other zone in the same structure is a pool, as that term is used in this Act.
  7. "Field" means the general area underlaid by one or more pools.
  8. "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produces therefrom either for himself or others or for himself and others.

9. "Producer" means the owner of a well or wells capable of producing oil or gas or both.
10. "Product" means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residium, gas oil, casinghead gasoline, natural-gas gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether hereinabove enumerated or not.
11. "Reasonable market demand" means the demand for oil or gas for reasonable current requirements for consumption and use within and without the state, together with such quantities as are reasonably necessary for building up or maintaining reasonable working stocks and reasonable reserves of oil or gas or product.
12. "Illegal oil" means oil which has been produced from any well within the state in excess of the quantity permitted by any rule, regulation, or order of the commission.
13. "Illegal gas" means gas which has been produced from any well within this state in excess of the quantity permitted by any rule, regulation, or order of the commission.
14. "Illegal product" means any product derived in whole or in part from illegal oil or illegal gas.
15. "Certificate of clearance" means a permit prescribed by the commission for the transportation or the delivery of oil or gas or product and issued or registered in accordance with the rule, regulation, or order requiring such permit,
16. The word "and" includes the word "or" and the use of the word "or" includes the word "and". The use of the plural includes the singular and the use of the singular includes the plural.

§ 4. WASTE PROHIBITED.) Waste of oil and gas is prohibited.

§ 5. JURISDICTION OF COMMISSION.) The commission has jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of this Act. The state geologist shall act as a supervisor charged with the duty of enforcing the regulations and orders of the

commission applicable to the crude petroleum oil and natural gas resources of this state and the provisions of this chapter. The commission has authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the commission. The commission acting through the office of the state geologist has the authority:

1. To require:
  - a. identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas;
  - b. the making and filing of all mechanical well logs and the filing of directional surveys if taken, and the filing of reports on well location, drilling and production, and the filing free of charge of samples and core chips and of complete cores when requested in the office of the state geologist within six months after the completion or abandonment of the well;
  - c. the drilling, casing, operation, and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas stratum, the pollution of fresh water supplies by oil, gas, or salt water, and to prevent blow-outs, cavings, seepages, and fires;
  - d. the furnishing of a reasonable bond with good and sufficient surety, conditioned for the performance of the duty to plug each dry or abandoned well;
  - e. that the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured by such means and upon such standards as may be prescribed by the commission;
  - f. the operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios;
  - g. certificates of clearance in connection with the transportation or delivery of oil, gas, or any product;
  - h. metering or other measuring of oil, gas, or product in pipe lines, gathering systems, barge terminals, loading racks, refineries, or other places; and
  - i. that every person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas in this state shall keep and maintain within this state complete and accurate records of the quan-

tities thereof, which records shall be available for examination by the commission or its agents at all reasonable times, and that every such person file with the commission such reports as it may prescribe with respect to such oil or gas or the products thereof.

2. To regulate:
  - a. the drilling, producing, and plugging of wells, and all other operations for the production of oil or gas;
  - b. the shooting and chemical treatment of wells;
  - c. the spacing of wells;
  - d. operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; and
  - e. disposal of salt water and oil field wastes.
3. To limit and to allocate the production of oil and gas from any field, pool, or area.
4. To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this Act.
5. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of this Act.

§ 6. DRILLING PERMIT REQUIRED.) It shall be unlawful to commence operations for the drilling of a well for oil or gas without first giving to the state geologist notice of intention to drill, or without first obtaining a permit from the state geologist, under such rules and regulations as may be prescribed by the commission and paying to the commission a fee of twenty-five dollars for each such well.

§ 7. COMMISSION SHALL DETERMINE MARKET DEMAND AND REGULATE THE AMOUNT OF PRODUCTION.) The commission shall determine market demand and regulate the amount of production as follows:

1. The commission shall limit the production of oil and gas to that amount which can be produced without waste, and which does not exceed the reasonable market demand.
2. Whenever the commission limits the total amount of oil or gas which may be produced in the state, the commission shall allocate or distribute the allowable production

among the pools therein on a reasonable basis, giving, where reasonable under the circumstances to each pool with small wells of settled production, an allowable production which prevents the general premature abandonment of the wells in the pool.

3. Whenever the commission limits the total amount of oil or gas which may be produced in any pool in this state to an amount less than that amount which the pool could produce if no restriction was imposed, which limitation is imposed either incidental to, or without, a limitation of the total amount of oil or gas produced in the state, the commission shall allocate or distribute the allowable production among the several wells or producing properties in the pool on a reasonable basis, preventing or minimizing reasonable avoidable drainage, so that each property will have the opportunity to produce or to receive its just and equitable share, subject to the reasonable necessities for the prevention of waste.
4. In allocating the market demand for gas as between pools, the commission shall give due regard to the fact that gas produced from oil pools is to be regulated in a manner as will protect the reasonable use of its energy for oil production.
5. The commission shall not be required to determine the reasonable market demand applicable to any single pool, except in relation to all other pools, and in relation to the demand applicable to the state. In allocating allowables to pools, the commission may consider, but shall not be bound by, nominations of purchasers to purchase from particular fields, pools, or portions thereof. The commission shall allocate the allowable for the state in such manner as prevents undue discrimination between fields, pools, or portions thereof resulting from selective buying or nomination by purchasers.

§ 8. COMMISSION SHALL SET SPACING UNITS.) The commission shall set spacing units as follows:

1. When necessary to prevent waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the commission shall establish spacing units for a pool. Spacing units when established shall be of uniform size and shape for the entire pool, except that when found to be necessary for any of the purposes above mentioned, the commission is authorized to divide any pool into zones and establish spacing units for each zone, which units may differ in size and shape from those established in any other zone.

2. The size and shape of spacing units are to be such as will result in the efficient and economical development of the pool as a whole.
3. An order establishing spacing units for a pool shall specify the size and shape of each unit and the location of the permitted well thereon in accordance with a reasonably uniform spacing plan. Upon application, if the state geologist finds that a well drilled at the prescribed location would not produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, the state geologist is authorized to enter an order permitting the well to be drilled at a location other than that prescribed by such spacing order; however, the state geologist shall include in the order suitable provisions to prevent the production from the spacing unit of more than its just and equitable share of the oil and gas in the pool. Any such order of the state geologist allowing exceptions to the established spacing pattern may be appealed within a reasonable time to the commission by filing such an appeal with the commission. Upon the filing of such an appeal and after a due hearing, the commission may affirm or repeal the order of the state geologist.
4. An order establishing units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the commission from time to time to include additional areas determined to be underlaid by such pool. When found necessary for the prevention of waste, or to avoid the drilling of unnecessary wells, or to protect correlative rights, an order establishing spacing units in a pool may be modified by the commission to increase the size of spacing units in the pool or any zone thereof, or to permit the drilling of additional wells on a reasonably uniform plan in the pool, or any zone thereof.

§ 9. INTEGRATION OF FRACTIONAL TRACTS.)

1. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners and royalty owners thereof may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling the commission upon the application of any interested person, shall enter an order pooling all interests in the spacing unit for the development and operations thereof. Each such pooling order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reason-

able, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, his just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed, for all purposes, the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon.

2. Each such pooling order shall make provision for the drilling and operation of a well on the spacing unit, and for the payment of the reasonable actual cost thereof by the owners of interests in the spacing unit, plus a reasonable charge for supervision. In the event of any dispute as to such costs the commission shall determine the proper costs. If one or more of the owners shall drill and operate, or pay the expenses of drilling and operating the well for the benefit of others, then, the owner or owners so drilling or operating shall, upon complying with the terms of section eleven, have a lien on the share of production from the spacing unit accruing to the interest of each of the other owners for the payment of his proportionate share of such expenses. All the oil and gas subject to the lien shall be marketed and sold and the proceeds applied in payment of the expenses secured by such lien as provided for in section eleven.

§ 10. VOLUNTARY AGREEMENTS FOR UNIT OPERATION VALID.)

An agreement for the unit or cooperative development and operation of a field or pool, in connection with the conduct of re-pressuring or pressure maintenance operations, cycling or re-cycling operations, including the extraction and separation of liquid hydrocarbons from natural gas in connection therewith, or any other method of operation, including water floods, is authorized and may be performed and shall not be held or construed to violate any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is approved by the commission as being in the public interest, protective of correlative rights, and reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas. Such agreements bind only the persons who execute them, and their heirs, successors, assigns, and legal representatives.

§ 11. DEVELOPMENT AND OPERATING COSTS OF INTEGRATED

FRACTIONAL TRACTS.) A person to whom another is indebted for expenses incurred in drilling and operating a well on a drilling unit required to be formed as provided for in section nine, may, in order to secure payment of the amount due, fix a lien upon the interest of the debtor in the production from the drilling unit or the unit area, as the case may be, by filing for record, with the register of deeds of the county where the property involved, or any part thereof, is located, an affidavit setting forth the amount due and the interest of the debtor in such production. The person to whom the amount is payable may, at the expense of the debtor, store all or any part of the production upon which the lien exists until the total amount due, including reasonable storage charges, is paid or the commodity is sold at foreclosure sale and delivery is made to the purchaser. The lien may be foreclosed as provided for with respect to foreclosure of a lien on chattels.

§ 12. RULES COVERING PRACTICE BEFORE COMMISSION.)

1. The commission shall prescribe rules and regulations governing the practice and procedure before the commission.
2. No rule, regulation, or order, or amendment thereof, except in an emergency, shall be made by the commission without a public hearing upon at least ten days notice. The public hearing shall be held at such time and place as may be prescribed by the commission, and any interested person shall be entitled to be heard.
3. When an emergency requiring immediate action is found to exist, the commission is authorized to issue an emergency order without notice or hearing, which shall be effective upon promulgation. No emergency order shall remain effective for more than fifteen days.
4. Any notice required by this Act shall be given at the election of the commission either by personal service or by one publication in a newspaper of general circulation in the state capital and in a newspaper of general circulation in the county where the land affected, or some part thereof, is situated. The notice shall issue in the name of the state, shall be signed by the chairman or secretary of the commission, and shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. Should the commission elect to give notice by personal service, such service may be made by any officer authorized to serve process, or by any agent of the commission, in the same manner as is provided by law for the service of

summons in civil actions in the courts of the state. Proof of the service by such agent shall be by the affidavit of the person making personal service.

5. All rules, regulations, and orders issued by the commission shall be in writing, shall be entered in full and indexed in books to be kept by the commission for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of any rule, regulation, or order certified by any member of the commission, or its secretary, under its seal, shall be received in evidence in all courts of this state with the same effect as the original.
6. The commission may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the commission, the commission shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The commission shall enter its order within thirty days after the hearing.

**§ 13. COMMISSION SHALL HAVE POWER TO SUMMON WITNESSES, ADMINISTER OATHS, AND TO REQUIRE PRODUCTION OF RECORDS.)**

1. The commission shall have the power to summon witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by it. No person shall be excused from attending and testifying, or from producing books, papers, and records before the commission or a court, or from obedience to the subpoena of the commission or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; provided, that nothing herein contained shall be construed as requiring any person to produce any books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before such commission or court for determination. No natural person shall be subjected to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of his objection, he may be required to testify or produce evidence, documentary or otherwise, before the commission or court, or in obedience to its subpoena; provided, that no person testifying shall be exempted from prosecution and punishment for perjury committed in so testifying.

2. In case of failure or refusal on the part of any person to comply with the subpoena issued by the commission, or in case of the refusal of any witness to testify as to any matter regarding which he may be interrogated, any court in the state, upon the application of the commission, may in term time or vacation issue an attachment for such person and compel him to comply with such subpoena, and to attend before the commission and produce such records, books, and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

§ 14. PERSON ADVERSELY AFFECTED MAY APPLY FOR REHEARING.) Any person adversely affected by any rule, regulation, or order of the commission may within thirty days after its effective date apply to the commission in writing for a rehearing. The application for rehearing shall be acted upon within fifteen days after its filing, and if granted, the rehearing shall be held without undue delay.

§ 15. PERSON ADVERSELY AFFECTED MAY APPEAL TO DISTRICT COURT; PROCEDURE OF APPEAL.)

Any person adversely affected by an order entered by the commission may appeal from such order to the district court of Burleigh County. Notice of appeal must be filed by such person with the commission within thirty days after the entry of the order complained of by the appellant, or within thirty days, following the order over-ruling the motion for rehearing or sustaining the original order in the event a motion for rehearing has been filed. The notice of appeal must identify the order and the grounds of appeal, and reasonably specify that portion of the record which the appellant desires included in the transcript upon appeal. Immediately upon the filing of the notice of appeal the commission shall certify to the appellant the estimated cost of preparing the transcript of appeal of the proceedings upon which the order complained of was entered. The amount of the estimated cost must be deposited with the commission within ten days after the mailing of the certification of the costs to the appellant. Upon the deposit of the costs the commission shall prepare and certify under its seal the transcript. The transcript shall be delivered to the appellant, or his designated attorney, within sixty days after the filing of the notice of appeal.

2. Within ninety days after the filing of the notice of appeal, the appellant must file in the district court the transcript of the proceedings before the commission, together with a petition for review which states briefly the grounds for the appeal. An appeal shall be perfected by filing the notice of appeal within the specified thirty day period. The appeal may be dismissed by the district court for failure of the appellant to make the required cost deposit or to file the transcript and petition for review within the time specified, unless for good cause shown the time is extended by order of the district court. If the district court deems the transcript insufficient, the court may dismiss the appeal or return the transcript to the appellant for proper additions, and thereafter assess such further costs against the appellant as the court in its discretion deems sufficient.
3. At the time of filing of the notice of appeal, if an application for the suspension of the order is filed, the commission shall enter an order fixing the amount of the supersedeas bond. Within ten days after the entry of an order by the commission which fixes the amount of the bond, the appellant must file with the commission a supersedeas bond in the required amount and with proper surety; upon approval of the bond, the commission shall suspend the order complained of until its final disposition upon appeal. The bond shall run in favor of the commission for the use and benefit of any person, who may suffer damage by reason of the suspension of the order in the event the same is affirmed by the district court. If the order of the commission is not superseded, it shall continue in force and effect as if no appeal was pending.
4. The district court shall, insofar as is practicable, give precedence to appeals from orders of the commission. Upon the appeal of such an order the district court shall review the proceedings before the commission as disclosed by the transcript upon appeal, and thereafter enter its judgment affirming or reversing the order appealed. Orders of the commission shall be sustained if the commission has regularly pursued its authority and its findings and conclusions are sustained by the law and by substantial and credible evidence.
5. No court other than the district court, or the supreme court upon appeal from the final judgment or order entered in the district court, shall have jurisdiction to review the rules, regulations, or orders of the commission,

or to enjoin or otherwise interfere with the commission in the exercise of the authority conferred upon it by this Act.

**§ 16. ACQUISITION AND HANDLING ILLEGAL OIL AND GAS PROHIBITED; SEIZURE OF ILLEGAL OIL AND GAS AND SALE THEREOF.)**

1. The sale, purchase, acquisition, transportation, refining, processing, or handling of illegal oil, illegal gas, or illegal product is hereby prohibited. However, no penalty by way of fine shall be imposed upon a person who sells, purchases, acquires, transports, refines, processes, or handles illegal oil, illegal gas, or illegal product unless
  - a. Such person knows, or is put on notice, of facts indicating that illegal oil, illegal gas, or illegal product is involved, or
  - b. Such person fails to obtain a certificate of clearance with respect to such oil, gas, or product where prescribed by order of the commission, or fails to follow any other method prescribed by an order of the commission for the identification of such oil, gas, or product.
2. Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale as herein provided; seizure and sale to be in addition to any and all other remedies and penalties provided in this Act for violations relating to illegal oil, illegal gas, or illegal product. Whenever the commission believes that any oil, gas, or product is illegal, the commission acting by the attorney general, shall bring a civil action in rem in the district court of the county where such oil, gas, or product is found, to seize and sell the same, or the commission may include such an action in rem for the seizure and sale of illegal oil, illegal gas, or illegal product in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming an interest in oil, gas, or product affected by any such action in rem shall have the right to intervene as an interested party in such action.
3. Actions for the seizure and sale of illegal oil, illegal gas, or illegal product shall be strictly in rem, and shall proceed in the name of the state as plaintiff against the illegal oil, illegal gas, or illegal products as defendant. No bond or similar undertaking shall be required of the plaintiff. Upon the filing of the petition for seizure and sale, the attorney general shall issue a summons, with a copy of the complaint attached thereto, which shall be

served in the manner provided for service in civil actions, upon any and all persons having or claiming any interest in the illegal oil, illegal gas, or illegal product described in the petition. Service shall be completed by the filing of an affidavit by the person making the service, stating the time and manner of making such service. Any person who fails to appear and answer within the period of thirty days shall be forever barred by the judgment based on such service. The posting of copies of the summons and petition as above provided shall operate to place the state in constructive possession of the oil, gas, or product described in the petition. In addition, if the court, on a properly verified petition, or affidavits, or oral testimony, finds that grounds for seizure and for sale exist, the court shall issue an immediate order of seizure, describing the oil, gas, or product to be seized and directing the sheriff of the county to take such oil, gas, or product into his custody, actual or constructive, and to hold the same subject to the further order of the court. The court, in such order of seizure, may direct the sheriff to deliver the oil, gas, or product seized by him under the order to an agent appointed by the court, as the agent of the court; such agent to give bond in an amount and with such surety as the court may direct, conditioned upon his compliance with the orders of the court concerning the custody and disposition of such oil, gas, or product.

4. Any person having an interest in oil, gas, or product described in an order of seizure and contesting the right of the state to the seizure and sale thereof may, prior to the sale thereof as herein provided, obtain the release thereof, upon furnishing bond to the sheriff approved by the court, in an amount equal to one hundred fifty per cent of the market value of the oil, gas, or product to be released, and conditioned as the court may direct upon redelivery to the sheriff of such product released or upon payment to the sheriff of the market value thereof as the court may direct, if and when ordered by the court, and upon full compliance with the further orders of the court.
5. If the court, after a hearing upon a petition for the seizure and sale of oil, gas, or product, finds that such oil, gas, or product is contraband, the court shall order the sale thereof by the sheriff in the same manner and upon the same notice of sale as provided by law for the sale of personal property on execution of judgment entered in a civil action, except that the court may order that the

illegal oil, illegal gas, or illegal product be sold in specified lots or portions and at specified intervals. Upon such sale, title to the oil, gas, or product sold shall vest in the purchaser free of the claims of any and all persons having any title thereto or interest therein at or prior to the seizure thereof, and the same shall be legal oil, legal gas, or legal product, as the case may be, in the hands of the purchaser.

6. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as above provided, after payment of costs of suit and expenses incident to the sale and all amounts paid as penalties provided for by this Act shall be paid to the state treasurer and credited to the general fund.

§ 17. PENALTY.)

1. Any person who violates any provision of this Act, or any rule, regulation, or order of the commission shall be subject to a penalty of not more than one thousand dollars for each act of violation and for each day that such violation continues, unless the penalty for such violation is otherwise specifically provided for and made exclusive in this Act.
2. If any person, for the purpose of evading this Act, or any rule, regulation, or order of the commission, shall make or cause to be made any false entry or statement in a report required by this Act or by any such rule, regulation, or order, or shall make or cause to be made any false entry in any record, account, or memorandum required by this Act, or by any such rule, regulation, or order, or shall omit, or cause to be omitted, from any such record, account, or memorandum, full, true, and correct entries as required by this Act, or by any such rule, regulation, or order, or shall remove from this state or destroy, mutilate, alter or falsify any such record, account, or memorandum, such person shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than five thousand dollars or imprisonment for a term not exceeding six months, or to both such fine and imprisonment.
3. Any person knowingly aiding or abetting any other person in the violation of any provision of this Act, or any rule, regulation, or order of the commission shall be subject to the same penalty as that prescribed by this Act for the violation by such other person.

4. The penalties provided in this section shall be recoverable by suit filed by the attorney general in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there be more than one defendant, or in the district court of any county in which the violation occurred. The payment of any such penalty shall not operate to legalize any illegal oil, illegal gas, or illegal product involved in the violation for which the penalty is imposed, or to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of such violation.

**§ 18. ACTION TO RESTRAIN VIOLATION OR THREATENED VIOLATION.)**

1. Whenever it appears that any person is violating or threatening to violate any provision of this Act, or any rule, regulation, or order of the commission, the commission shall bring suit against such person in the district court of any county where the violation occurs or is threatened, to restrain such person from continuing such violation or from carrying out the threat of violation. In any such suit, the court shall have jurisdiction to grant to the commission, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, preliminary injunctions, temporary, preliminary, or final orders restraining the movement or disposition of any illegal oil, illegal gas, or illegal product, any of which the court may order to be impounded or placed in the custody of an agent appointed by the court.
2. If the commission shall fail to bring suit to enjoin a violation or threatened violation of any provision of this Act, or any rule, regulation, or order of the commission, within ten days after receipt of written request to do so by any person who is or will be adversely affected by such violation, the person making such request may bring suit in his own behalf to restrain such violation or threatened violation in any court in which the commission might have brought suit. The commission shall be made a party defendant in such suit in addition to the person violating or threatening to violate a provision of this Act, or a rule, regulation, or order of the commission, and the action shall proceed and injunctive relief may be granted to the commission without bond in the same manner as if suit had been brought by the commission.

§ 19. EXISTING REGULATIONS STILL IN FORCE.) All rules, regulations or orders, made pursuant to chapter 38-08 prior to its repeal in this Act, as may be in force at the effective date of this Act shall continue in full force and effect until modified, amended or repealed by the commission.

Approved March 13, 1953.

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CHAPTER 228

S. B. No. 38  
(Legislative Research Committee)

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OIL AND GAS LEASES ON PUBLIC LANDS VOID, WHEN  
AN ACT

To amend and reenact section 6 of chapter 232 of the 1951 Session Laws of North Dakota, relating to the leasing of public lands for oil and gas exploration and production.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.) Section 6 of chapter 232 of the 1951 session laws of North Dakota is hereby amended and reenacted to read as follows:

§ 6. LEASES VOID IF NOT LET AS PROVIDED HEREIN; EXCEPTIONS.) No lease of public land for exploration or development of oil and gas production shall be valid unless advertised and let as hereinbefore provided, except:

1. Where the acreage or mineral rights owned by the state or its departments and agencies or political subdivisions is less than the minimum drilling unit under well spacing regulations, non-operative oil and gas leases may be executed through private negotiation upon the same terms as provided in section five of this Act, plus a reasonable bonus payment and a sum sufficient to pay all costs involved; and
2. The state or its departments and agencies or its political subdivisions shall have power to ratify all oil and gas leases executed by the purchaser of state lands under a contract for deed or other land purchase contract. In such instances, if all taxes upon the property and contract payments are current, all bonus, delayed rental or other

lease payments under such leases shall be paid to the purchaser under the land purchase contract. Where such purchaser has delinquent payments upon the land purchase contract or where there are delinquent taxes upon the property, all delinquent payments and taxes shall be paid prior to the ratification of the oil and gas lease upon the premises.

3. All unexpired non-operative oil and gas leases heretofore executed by the state, or its departments or agencies or political subdivisions are hereby ratified.

Approved March 9, 1953.

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## CHAPTER 229

S. B. No. 271  
(Delayed Bills Committee)

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### APPROVAL OF OIL AND GAS LEASES BY BANK OF NORTH DAKOTA AS AGENT FOR THE STATE TREASURER AND TRUSTEE FOR THE STATE OF NORTH DAKOTA

#### AN ACT

Confirming all oil and gas mining leases made and executed prior to March 13, 1951, by the Bank of North Dakota, through its manager, as agent for the state treasurer, as trustee for the State of North Dakota on lands or mineral interests acquired by the state treasurer as trustee for the State of North Dakota and declaring such leases fully effective.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. APPROVAL OF OIL AND GAS LEASES.) That all oil and gas mining leases made and executed prior to March 13, 1951, by the Bank of North Dakota, through its manager, as agent for the state treasurer, as trustee for the state of North Dakota on lands or mineral interests acquired by the state treasurer, as trustee for the state of North Dakota, except such leases as have been released or have expired or have been forfeited, are hereby validated, and said leases are hereby confirmed and declared to be fully effective and operative to vest in the lessees of said leases, their successors or assigns, all of the estates, rights, titles, privileges and interests therein set forth.

Approved March 14, 1953.

## CHAPTER 230

S. B. No. 37  
(Legislative Research Committee)

LEASE OF MINERAL OR OIL RIGHTS BY  
PERSONAL REPRESENTATIVES

## AN ACT

To amend and reenact section 38-1003 of the North Dakota Revised Code of 1943, relating to lease of mineral or oil rights by personal representatives.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.) Section 38-1003 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

38-1003. TERM OF LEASE FOR PRODUCTION; CONDITIONS AND LIMITATIONS IN LEASE.) A lease for production made by a personal representative may be made subject to the confirmation of the county court, for a period of not more than ten years, and it may be extended thereafter as long as oil or gas is produced from such land by the lessee or his assigns or the lessee or his assigns is engaged in continuous drilling or reworking operations. Such a lease shall be made upon such terms and in consideration of such bonuses, royalties, rentals, and payments as may be agreed upon except that in no case shall the royalty be:

1. Less than equal to a one-eighth part of all oil produced and saved from the leased premises;
2. Less than equal to a one-eighth part of the gross proceeds at the prevailing market rate at the well for all gas used off the premises, when gas only is found on the leased premises; nor
3. Less than one-eighth of the gross proceeds at the prevailing market rate at the well for gas, during all times that such gas is used, when gas is produced from any oil well and used off the premises or for the manufacture of casinghead gasoline or dry commercial gas.

No lease for production shall be effective for a period of more than two years from its date unless mining or a well is commenced on such land within such time, except that the lease

may provide that the lessee may pay a delay rental in an amount that may be specified in the lease. Such payment shall operate as a rental and shall cover the privilege of deferring the commencement of mining or of a well for one year. A lease may provide for the payment of successive delay rentals which shall defer the commencement of mining or of a well for like successive periods. Any lease made by a personal representative under the authority of this section may provide for the pooling or unitization of the leased land, or any part or parts thereof, and of any mineral or royalty interest therein, with land adjoining or in the vicinity of the leased land, or any mineral or royalty interest therein, so as to form a unit for development and purpose of operation. Operations or production on any such unitized area shall have the same effect as operations or production on the leased land. The lease may provide for payment of a proportionate part of the royalties on production from any such unitized area to the personal representative in lieu of the royalties provided in the lease as to the area so unitized. A personal representative, upon compliance with the provisions of this chapter, may also enter into agreements pooling or unitizing existing leases. Upon the execution, approval, and delivery of a production lease, all persons interested in the estate shall be bound thereby during the entire period thereof.

Approved March 17, 1953.

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## CHAPTER 231

S. B. No. 34  
(Legislative Research Committee)

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### EXECUTION OF OIL AND GAS LEASES INVOLVING CONTINGENT FUTURE INTERESTS

#### AN ACT

To provide a method for the execution of oil and gas leases involving contingent future interests.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. APPOINTMENT OF TRUSTEE TO EXECUTE MINERAL LEASE WHERE CONTINGENT FUTURE INTERESTS ARE INVOLVED.) Where lands, or any estate or interest therein, are subject to any con-

tingent future interest, legal or equitable, by way of remainder, reversion, or possibility of reverter, upon the happening of a condition subsequent, or otherwise, created by deed, will, or otherwise, and whether a trust is involved or not, and it is made to appear that it will be advantageous to the present and ultimate owners of said lands or estate or interest therein, the district court of the county in which the land or a portion thereof is situated shall have the power, pending the happening of any contingency and the vesting of such future interest or interests, to declare a trust in said lands or estate or interest therein, appoint a trustee therefor, and to authorize such trustee to sell, on such terms and containing such conditions as the court may prescribe, execute and deliver a valid oil, gas, coal or other mineral lease covering said lands or estate or interest therein. Where a trust is in existence and there is a trustee serving under the trust, the trustee appointed by the court under this section shall be the same trustee or trustees as are serving under the existing trust. All proceedings shall substantially comply with that provided for the administration of trusts in chapter 59-04.

§ 2. WHO MAY INSTITUTE PROCEEDINGS.) The proceedings provided for by section one of this Act may be instituted upon the petition of any one or more of the parties who have a present interest or a contingent interest in the land or estate or interest therein.

§ 3. DISPOSITION OF INCOME AND ROYALTIES.) All bonuses, rental payments and royalties from such leases shall be paid to the trustee until the lessee is furnished with notice of the termination of the trust. Any bonuses or rental payments shall be distributed by the trustee to the life tenant or other persons entitled thereto. The trustee shall be authorized to invest royalties from such leases in such investments as may appear to be in the best interests of the life tenant and remaindermen. Income from investments shall be paid to the life tenant or other person entitled thereto.

Approved March 6, 1953.