

# MINING AND GAS AND OIL PRODUCTION

## CHAPTER 347

HOUSE BILL NO. 1261  
(Hilleboe, Metzger, Gerl, Glaspey)

### MINE SAFETY AND INSPECTION

AN ACT to create and enact subsection 8 of section 38-03-07 of the North Dakota Century Code, relating to inspector's powers and duties relating to mine inspections; and to amend and reenact sections 38-03-03, 38-03-04, 38-03-06, subsection 5 of section 38-03-07, subsection 7 of section 38-03-07, sections 38-03-11, 38-03-17, 38-04-04, 38-05-01, 38-06-01, 38-06-02, 38-06-03, 38-07-01, 38-07-03, 38-07-04, 38-07-06, 38-07-07, and 38-07-08 of the North Dakota Century Code, relating to bond of inspector; salary of inspector; vacancy in office; inspector's powers and duties relating to mine inspections; posting inspection statement of mine and posting regulations governing carriage of men posted; inspector to order immediate compliance when provision or rule violated and failure to comply; license fee collections to workmen's compensation bureau; board of examiners for mine foreman; safety rules and regulations may be promulgated and enforced by state coal mine inspector; employment of mine foreman; inability of mine foreman to act and substitutes; map or plan of coal mine; map of seams; maps to include surface description; survey of active mines to be made annually and results of survey shown on map; refusal to furnish map, plan, or extension of mine and inspector to order survey and cost; operator of worked out, abandoned, or indefinitely closed mine to make survey and extension of maps; and to repeal sections 38-01-02, 38-01-03, 38-01-04, 38-01-05, 38-01-09, 38-03-15, 38-03-16, 38-05-02, 38-05-03, 38-05-04, 38-05-05, 38-05-06, 38-05-08, 38-05-09, 38-05-10, 38-05-11, 38-06-04, 38-06-05, 38-06-06, 38-06-07, 38-06-08, 38-06-09, 38-06-10, 38-06-11, 38-06-12, 38-06-13, 38-06-14, 38-06-15, 38-06-16, 38-06-17, 38-06-18, 38-06-19, 38-06-20, 38-06-21, 38-06-22, 38-06-23, 38-06-24, 38-06-25, 38-06-26, 38-06-27, 38-06-28, 38-06-29, 38-06-30, 38-06-31, 38-06-32, 38-06-33, 38-06-34, 38-06-35, 38-06-36, 38-06-37, 38-06-38, 38-06-39, 38-06-40, 38-06-41, 38-06-42, 38-06-43, 38-06-44, 38-06-45, 38-06-46, 38-06-47, 38-06-48, 38-06-49, 38-06-50, 38-06-51, 38-06-52, 38-06-53, 38-06-54, 38-06-58, and 38-06-59 of the North Dakota Century Code, and sections 38-03-12 and 38-05-07 of the 1969 supplement to the North Dakota Century Code are hereby repealed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Subsection 8 of section 38-03-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

8. The inspector shall make a biennial report to the workmen's compensation bureau. The information contained in said report shall be included by the bureau in its report as provided under 65-02-09.

SECTION 2. AMENDMENT.) Section 38-03-03 of the 1969 supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-03. BOND OF INSPECTOR.) Before entering upon the duties of his office, the inspector shall furnish a bond in the penal sum of five thousand dollars.

SECTION 3. AMENDMENT.) Section 38-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-04. SALARY OF INSPECTOR - COST OF OFFICE - PAID BY WORKMEN'S COMPENSATION BUREAU.) The entire cost of the office of the inspector including his salary, travel expenses, clerical help and other expenses necessary for carrying out the duties of his office shall be provided for in the budget of the workmen's compensation bureau and paid from the bureau's appropriation.

SECTION 4. AMENDMENT.) Section 38-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-06. TEMPORARY OR PERMANENT VACANCY IN OFFICE OF INSPECTOR - HOW FILLED.) If the inspector becomes incapacitated and cannot perform the duties of his office, the workmen's compensation bureau may depute a competent person who possesses the qualifications provided for in this chapter to perform the duties of the inspector until he resumes his duties.

SECTION 5. AMENDMENT.) Subsection 5 of section 38-03-07 of the 1969 supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Examine all the coal mines in operation in this state annually, and all mines having an annual output of twelve hundred tons or more, at least every three months, and oftener, if necessary, to see that every precaution is taken to insure the safety of all the working men that may be engaged in such coal mine;

SECTION 6. AMENDMENT.) Subsection 7 of section 38-03-07 of the 1969 supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. Cooperate and assist in all accident prevention programs sponsored by the workmen's compensation bureau;

SECTION 7. AMENDMENT.) Section 38-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-11. INSPECTION STATEMENT OF UNDERGROUND MINE POSTED AT TOP OF MINE - REGULATIONS GOVERNING CARRIAGE OF MEN POSTED.) The inspector shall post in a conspicuous place at the top of each underground mine inspected by him a statement of the conditions of such mine, stating what is necessary for the better protection of the lives and health of persons employed therein. Such statement shall give the date of inspection and shall be signed by the inspector. He also shall post at the landing used by the men a notice stating the number of men permitted to ride on the cage, car, or cars at one time and the rate of speed men may be hoisted and lowered therein. The inspector shall observe especially that the code of signals between engineer and top men and bottom men is conspicuously posted for the information of all employees.

SECTION 8. AMENDMENT.) Section 38-03-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-03-17. INSPECTOR TO ORDER IMMEDIATE COMPLIANCE WHEN PROVISION OR RULE VIOLATED - FAILURE TO COMPLY.) If the inspector finds that any provision of this title or rule promulgated in accordance thereof relating to coal mines and the operation thereof is being neglected or violated, he shall order immediate compliance therewith, and in case of a continued failure to comply, he may stop the operation of the mine or remove any offending person or persons from the mine until the provision or rule is complied with.

SECTION 9. AMENDMENT.) Section 38-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-04-04. LICENSE FEE COLLECTIONS TO BE PAID TO WORKMEN'S COMPENSATION BUREAU.) The fees collected for coal mine licenses shall be paid to the workmen's compensation bureau.

SECTION 10. AMENDMENT.) Section 38-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 38-05-01. MINE FOREMEN - RULES REGARDING.) The workmen's

compensation bureau may promulgate, issue, and enforce all necessary and proper rules for the qualification, examination, and certification of mine foremen.

SECTION 11. AMENDMENT.) Section 38-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-06-01. SAFETY RULES AND REGULATIONS MAY BE PROMULGATED AND ENFORCED BY STATE COAL MINE INSPECTOR.) The inspector may promulgate, issue, and enforce all necessary and proper rules and safety regulations relative to any operation over which he has jurisdiction.

SECTION 12. AMENDMENT.) Section 38-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-06-02. MINE FOREMAN TO BE EMPLOYED - DUTIES.) The operator or superintendent of a coal mine shall employ a mine foreman. The mine foreman shall devote all of his time to his duties at the mine when it is in operation. He shall be responsible for the supervision of necessary and proper safety regulations.

SECTION 13. AMENDMENT.) Section 38-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-06-03. INABILITY OF MINE FOREMAN TO ACT - SUBSTITUTE APPOINTED.) If the mine foreman personally is unable to carry out his duties as provided in this chapter, on account of sickness or other unavoidable condition, a competent person shall be appointed to act in his place.

SECTION 14. AMENDMENT.) Section 38-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-01. MAP OR PLAN OF UNDERGROUND COAL MINE TO BE MADE BY OPERATOR - CONTENTS - SURFACE MINE MAPS - RULES REGARDING.) Every operator of an underground coal mine in this state shall make or shall cause to be made an accurate map or plan of such mine, which map or plan shall be drawn to a scale of not less than one inch to two hundred feet or to as much larger a scale as may be practicable. Such map or plan shall contain:

1. The name of the state, county, and township in which the mine is located;
2. The designation of the mine;
3. The name of the company or owner thereof;

4. The certificate of the mining engineer or surveyor as to the accuracy and date of the survey; and
5. The north point and the scale to which the drawing is made.

The coal mine inspector may promulgate, issue and enforce necessary and proper rules regarding the requirement and content of surface mine maps.

SECTION 15. AMENDMENT.) Section 38-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-03. MAP OF SEAMS TO BE DRAWN - CONTENTS.) A separate and similar map drawn to the same scale as the map provided for in section 38-07-01 shall be made of each and every seam which shall be worked in any underground mine. The map of each such seam shall show the shafts, drifts, tunnels, incline planes, or other passageways connecting the same to other seams or mining operations.

SECTION 16. AMENDMENT.) Section 38-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-04. MAPS TO INCLUDE SURFACE DESCRIPTION - SEPARATE SURFACE MAPS MAY BE DRAWN.) Every map or plan of an underground mine drawn by the operator, or at his option a separate map, shall show:

1. The surface boundary lines contiguous to the workings and pertaining to each mine; and
2. All section or quarter section lines and corners, town lots and streets, the tracks and side tracks of all railroads, the location of all wagon roads, rivers, streams, ponds, buildings, landmarks, and principal objects on the surface within such boundary lines.

If the map giving such data is a separate surface map, it shall be drawn on a transparent cloth or paper so that it can be laid upon the map of the underground workings and thus truly indicate the relative location of the lines and objects on the surface to the excavations of the mine.

SECTION 17. AMENDMENT.) Section 38-07-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-06. SURVEY OF ACTIVE MINES TO BE MADE ANNUALLY - RESULTS OF SURVEY SHOWN ON MAP.) On or before July first of each year, a survey of every underground mine in active operation

shall be made by the operator thereof. The results of such survey, with the date thereof, shall be entered promptly and extended accurately upon the original map of the mine to show all changes in plat and all new work in the mine and to show all the extensions of the workings which have been made since the preceding survey to the most advanced face or boundary thereof. The changes and extensions either shall be entered upon the copies of the maps in the hands of the inspector, or new copies of the map with such changes and extensions noted thereon shall be furnished to the inspector within thirty days after the completion of the survey.

SECTION 18. AMENDMENT.) Section 38-07-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-07. REFUSAL TO FURNISH MAP, PLAN, OR EXTENSION OF MINE - INSPECTOR TO ORDER SURVEY - COST.) If the operator of any underground mine neglects or refuses, or for any reason unsatisfactory to the inspector fails for a period of three months to furnish the inspector with a copy of a required map or with a plan of the mine or of the extension thereof, the inspector may make or cause to be made an accurate map or plan of such mine at the expense of the owner, operator, or lessee thereof.

SECTION 19. AMENDMENT.) Section 38-07-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-07-08. OPERATOR OF WORKED OUT, ABANDONED, OR INDEFINITELY CLOSED MINE TO MAKE SURVEY - EXTENSION OF MAPS.) The operator of any underground coal mine which is worked out or about to be abandoned or closed indefinitely shall make, or cause to be made, a final survey of all available parts of such mine. The results of such survey shall be extended on all maps and copies of maps of the mine to show all excavations and the most advanced workings of the mine and their exact relations to the boundary or section lines on the surface.

SECTION 20. REPEAL.) Section 38-01-02, 38-01-03, 38-01-04, 38-01-05, 38-01-09, 38-03-15, 38-03-16, 38-05-02, 38-05-03, 38-05-04, 38-05-05, 38-05-06, 38-05-08, 38-05-09, 38-05-10, 38-05-11, 38-06-04, 38-06-05, 38-06-06, 38-06-07, 38-06-08, 38-06-09, 38-06-10, 38-06-11, 38-06-12, 38-06-13, 38-06-14, 38-06-15, 38-06-16, 38-06-17, 38-06-18, 38-06-19, 38-06-20, 38-06-21, 38-06-22, 38-06-23, 38-06-24, 38-06-25, 38-06-26, 38-06-27, 38-06-28, 38-06-29, 38-06-30, 38-06-31, 38-06-32, 38-06-33, 38-06-34, 38-06-35, 38-06-36, 38-06-37, 38-06-38, 38-06-39, 38-06-40, 38-06-41, 38-06-42, 38-06-43, 38-06-44, 38-06-45, 38-06-46, 38-06-47, 38-06-48, 38-06-49, 38-06-50, 38-06-51, 38-06-52, 38-06-53, 38-06-54, 38-06-58, and 38-06-59 of the North Dakota Century Code, and sections 38-03-12 and 38-05-07 of the 1969 supplement to the North Dakota Century Code are hereby repealed.

Approved March 27, 1971

## CHAPTER 348

SENATE BILL NO. 2269  
(Wilhite, Christensen)

LIABILITY FOR UNITIZED  
OIL AND GAS FIELD EXPENSES

AN ACT to amend and reenact section 38-08-09.7 of the North Dakota Century Code, relating to the liability for expenses in unitized oil and gas fields.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 38-08-09.7 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-08-09.7. STATUS AND POWERS OF UNIT - LIABILITY FOR EXPENSES - LIENS.) Each unit created under the provisions of sections 38-08-09.1 through 38-08-09.16 shall be a body politic and corporate, capable of suing, being sued, and contracting as such in its own name. Each such unit shall be authorized on behalf and for the account of all the owners of the oil and gas rights within the unit area, without profit to the unit, to supervise, manage, and conduct the further development and operations for the production of oil and gas from the unit area, pursuant to the powers conferred, and subject to the limitations imposed by the provisions of sections 38-08-09.1 through 38-08-09.16 and by the plan of unitization.

The obligation or liability of the lessee or other owners of the oil and gas rights in the several separately owned tracts for the payment of unit expense shall at all times be several and not joint or collective and in no event shall a lessee or other owner of the oil and gas rights in the separately owned tract be chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to his interest in such separately owned tract pursuant to the plan of unitization and then only to the extent of the lien provided for within sections 38-08-09.1 through 38-08-09.16.

Any nonsigning working interest owner may withdraw from the unit to which his interest is committed by transferring, without warranty of title, either express or implied, to the unit operator on the behalf of the other working interest owners, all of his working interest in all unit equipment and in all wells used in unit operations. The instrument of transfer shall be delivered to the unit operator. Such transfer shall relieve

the withdrawing working interest owner from any liability for unit operations except any incurred pursuant to sections 38-08-09.1 through 38-08-09.16. The interest so transferred shall be owned by the other working interest owners in proportion to their respective participation in the unit. The unit operator, on the behalf of the other working interest owners, in proportion to their respective interests so acquired, shall pay the transferor for his interest in unit equipment and wells the net salvage value thereof as determined by agreement between the transferor and the unit operator. In the event such net salvage value is not agreed upon within sixty days after such transfer, then either party may request a hearing of the matter before the commission, and, after notice and hearing, the commission shall determine such value.

Subject to such reasonable limitations as may be set out in the plan of unitization, the unit shall have a first and prior lien upon the leasehold production (exclusive of such interests which are free of costs, such as royalties, overriding royalties, and production payments) in and to each separately owned tract, the interest of the owners thereof in and to the unit production in the possession of the unit, to secure the payment of the amount of the unit expense charged to and assessed against such separately owned tract. The interest of the lessee or other persons who by lease, contract, or otherwise are obligated or responsible for the cost and expense of developing and operating a separately owned tract for oil and gas in the absence of unitization, shall, however, be primarily responsible for and charged with any assessment for unit expense made against such tract. Any landowner royalty or any overriding royalty, or any production payment which is a part of the unit production allocated to each separately owned tract shall in all events be regarded as royalty to be distributed to and among, or the proceeds thereof paid to the royalty owners free and clear of all unit expense and free of any lien thereof.

Approved March 19, 1971



## CHAPTER 349

SENATE BILL NO. 2391  
(Wilhite, Wenstrom)

## UNITIZING MORE THAN ONE POOL

AN ACT to create and enact section 38-08-09.17 of the North Dakota Century Code, to provide for the unitized management, operation, and development of two or more pools or parts thereof separated vertically in one field; defining the term "unit source of supply".

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 38-08-09.17 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-08-09.17. UNIT OF MORE THAN ONE POOL - UNIT SOURCE OF SUPPLY.) The commission upon its own motion may, and upon petition of any interested person shall, after notice therefor, hold a hearing to consider the need for the operation as a unit of two or more pools or parts thereof separated vertically in one field, and shall have the power to create such a unit and provide for the unitization and unitized operation of the unit source of supply. "Unit source of supply" shall mean those pools or parts thereof to be produced by such unit operation as designated by order of the industrial commission. The petition, the hearing, the commission's findings and order and all other matters shall be in the form and manner and in accordance with the procedure and requirements hereinabove set forth in sections 38-08-09.1 through 38-08-09.16, provided however, whenever and wherever the words "common source of supply" appear in said sections the words "unit source of supply" shall be substituted in lieu thereof and all other provisions of the sections shall otherwise apply.

Approved March 30, 1971

## CHAPTER 350

SENATE BILL NO. 2378  
(Roen, Stroup, Rait, Swedlund)

## STRIP MINE RECLAMATION

AN ACT to amend and reenact sections 38-14-05 and 38-14-07 of the North Dakota Century Code, relating to duties of an operator and bonding of an operator under the Strip Mining Reclamation Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 38-14-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-14-05. DUTIES OF OPERATOR.) Every operator to whom a permit is issued pursuant to the provisions of this chapter may engage in surface mining during the permit term upon the lands described in the permit upon the performance of and subject to the following requirements with respect to such lands:

1. On all affected land which is to be used for crops, including hay, the operator shall grade peaks and ridges to a slope of not more than twenty percent and fill valleys in such manner that the area can be traversed with farm machinery reasonably necessary for such use.
2. On all affected land which is to be seeded to pasture, the operator shall strike off all peaks or ridges to a minimum width of thirty-five feet at the top.
3. All ridges and peaks to be afforested shall be struck off to a minimum width of thirty-five feet at the top. On all affected land which is to be afforested, the operator shall construct access roads through the areas, such roads to be not less than twenty-five feet in width and constructed so that the right-of-way limits are not more than four hundred forty yards apart, with road grades not to exceed twenty percent.
4. The operator shall construct earth dams, where lakes may be formed, in accordance with sound engineering practices if necessary to impound water, provided the formation of the lakes or ponds will not interfere with underground or other mining operations.

5. All ridges and peaks of land affected by surface mining within six hundred sixty feet and which are visible from any public road maintained with public funds, public building, or cemetery that is being maintained in a usable condition, shall be graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use, with slopes having no more than twenty percent grade; but such slopes need not be reduced to less than the original grade of the overburden of that area prior to mining.
6. Surface mining operations that remove and do not replace the lateral support, unless mutually agreed upon by the operator and the adjacent property owner, shall not approach property lines, established right-of-way lines of any public roads, streets, or highways closer than distance equal to ten feet plus one and one-half times the depth of the excavation, except where consolidated material or materials of sufficient hardness or ability to resist weathering and to inhibit erosion or sloughing exists in the high wall, in which case the distance from the property line or any established right-of-way line, unless mutually agreed, shall not be closer than a distance equal to ten feet plus one and one-half times the depth from the natural ground surface to the top of the consolidated material or materials.
7. The operator shall submit to the commission no later than the first day of September during each year of the permit term, a map in a form acceptable to the commission showing the location of the pit or pits by section, township, range, and county, with such other description as will identify the land which the operator has affected by surface mining during such permit term and has completed mining operations thereon, with a legend upon such map showing the number of acres of affected land.
8. A reclamation plan and map acceptable to the commission shall be submitted by the operator not later than the first day of December following the date of issue of the permit. The operator's reclamation plan and the commission's approval or modification thereof shall be based upon the advice and technical assistance of the state soil conservation committee, the state game and fish department, the state forester, and other agencies or individuals having experience in foresting and reclaiming surface-mined lands with forest or agronomic or horticultural species, based upon scientific knowledge from research into reclaiming and utilizing forest and agronomic species on

surface-mined lands. In addition, the operator and the commission shall have the landowner designate his preference for a reclamation plan covering his affected land. The operator's plan shall designate which parts of the affected land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational, industrial, or other uses including food, shelter, and ground cover for wildlife, and shall show the same by appropriate designation on the reclamation map. Any operator feeling aggrieved by the plan approved by the commission may request a hearing which shall be conducted in accordance with the provisions of chapter 28-32 of the North Dakota Century Code. The operator shall have the right of appeal in the manner prescribed therein.

9. The operator shall sow, set out, or plant upon the affected land described in the reclamation plan and map or maps, seeds, plants, cuttings of trees, shrubs, grasses, or legumes as shall be approved in writing by the commission.
10. All reclamation provided for hereunder shall be carried to completion by the operator prior to the expiration of three years after termination of the permit term, except that no planting of any kind shall be required to be made within depressed haulage roads or final cuts or any other area where pools or lakes may be formed by rainfall or drainage runoff from adjoining land. Where natural weathering and leaching of any of such affected land fails to support plant growth at the end of three years, the commission shall, at the request of the operator, extend the reclamation period from year to year for a period of five years from the termination of the permit term on the land in question. If further extension of the reclamation period is necessary to accomplish acceptable reclamation, such extension shall be made at the discretion of the commission, or the commission shall declare forfeiture of the surety bond or security on such land not satisfactorily reclaimed; however, after the second seeding or planting of any affected area, the area shall be deemed reclaimed.
11. If the operator is unable to acquire sufficient planting stock of desired tree species from state nurseries or any nursery within the state, or acquire such tree species elsewhere at comparable prices, the commission shall grant the operator an extension of time until planting stock is available to plant such land as originally planned, or shall permit the operator to select an alternate method of reclamation in keeping with the provisions of this chapter.

12. Upon the application of the operator, the commission in its discretion may allow the modification of an approved reclamation plan, provided that justice requires the modification, and the modified plan will carry out the purposes of this chapter.

SECTION 2. AMENDMENT.) Section 38-14-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-14-07. BOND OF OPERATOR - AMOUNT - SUFFICIENCY OF SURETY - VIOLATIONS - COMPLIANCE.) Any bond herein provided to be filed with the department by the operator shall be in such form as the commission shall prescribe, payable to the state of North Dakota, conditioned that the operator shall faithfully perform all requirements of this chapter and comply with all rules of the commission made in accordance with the provisions of this chapter. Such bond shall be signed by the operator as principal, and by a good and sufficient corporate surety, licensed to do business in North Dakota, as surety. The penalty of such bond shall be two hundred dollars for each acre or portion thereof of land to be affected by surface mining in an area where the overburden shall exceed ten feet in depth, for the ensuing permit term. In lieu of such bonds, the operator may deposit cash or government securities or both with the commission in an amount equal to that of the required surety bond on conditions as above prescribed. The penalty of the bond or amount of cash and securities shall be increased or reduced from time to time as provided in this chapter. Such bond or security shall be in effect and subject to forfeiture in accordance with this chapter from and after the time a permit is granted by the commission until the mined acreages have been reclaimed, approved, and released.

A bond filed as above-prescribed shall not be canceled by the surety unless it shall give not less than ninety days' notice to the commission, and in no event shall a bond be canceled on lands that at the time of cancellation have become affected lands under the provisions of this chapter.

If the license to do business in North Dakota of any surety upon a bond filed with the commission pursuant to this chapter shall be suspended or revoked, the operator, within thirty days after receiving notice thereof from the commission, shall substitute for such surety a good and sufficient corporate surety licensed to do business in North Dakota. Upon failure of the operator to make substitution of surety as herein provided, the commission shall have the right to suspend the permit of the operator until such substitution has been made.

The commission shall give written notice to the operator of any violation of this chapter or noncompliance with any of the rules and regulations promulgated by the commission hereunder and if corrective measures, approved by the commission, are not

commenced, or agreed to within ninety days, the commission may proceed as provided in section 38-14-09 to request forfeiture of the bond or security. The amount of forfeiture shall be two hundred dollars for each acre or portion thereof of affected land. Such forfeiture shall fully satisfy all obligations of the operator to reclaim the affected land under the provisions of this chapter. However, any operator who refuses or willfully fails to comply with the provisions of this chapter shall be ineligible for any further mining permits, and shall cease all mining operations in this state within thirty days after the forfeiture.

The commission shall have the power to reclaim, in keeping with the provisions of this chapter, any affected land with respect to which a bond has been forfeited.

Whenever an operator shall have completed all requirements under the provisions of this chapter as to any affected land, he shall notify the commission thereof. If the commission determines that the operator has completed reclamation requirements and achieved results appropriate to the use for which the area was reclaimed, the commission shall release the operator from further obligations regarding such affected land and the penalty of the bond shall be reduced proportionately.

Approved March 19, 1971

## CHAPTER 351

SENATE BILL NO. 2364  
(Stroup, Jacobson, Christensen, Page)

RESOLUTION OF CONFLICTS IN  
SUBSURFACE MINERAL PRODUCTION

AN ACT to provide for the resolution of conflicting interests in the production of oil and gas, subsurface minerals, and coal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. POLICY.) It is hereby declared to be in the public interest to foster, encourage, and promote the development, production, and utilization of all natural resources of coal, oil, gas, and subsurface minerals in a manner as will prevent waste and allow a greater ultimate recovery of the natural resources, and to protect the rights of all owners so that the greatest possible economic recovery of natural resources be obtained in the state, to the end that landowners, royalty owners, producers, and the general public realize and enjoy the greatest possible good from these vital natural resources.

SECTION 2. DEFINITIONS.) As used in this Act, unless the context otherwise requires:

1. "Commission" means the industrial commission.
2. "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, instrumentality, or political subdivision of the state. The masculine gender, in referring to a person, includes the feminine and the neuter genders.
3. "Oil" means 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.
4. "Gas" means all natural gas and other fluid hydrocarbons not hereinabove defined as oil.

5. "Subsurface minerals" means all naturally occurring elements and their compounds, and natural mineral salts of boron, bromine, calcium, fluorine, helium, iodine, lithium, magnesium, nitrogen, phosphorus, potassium, sodium, and sulfur, and their compounds, occurring more than five hundred feet below the surface of the land.
6. "Coal" means all kinds of coal, and shall include what is known as lignite coal, unless a contrary intention plainly appears.
7. "Producer" means the owner of a well or wells, or mine or mines, capable of producing coal, oil, gas, or subsurface minerals.
8. "Conflicting interests" means those interests of producers which are in conflict, so that full production and utilization by one producer is prohibited or impeded by the interests of another producer of a separate natural resource.
9. "Owner" means the person who has the right to produce natural resources either for himself or others.
10. "Natural resources" means coal, oil, gas, and subsurface minerals as defined herein.
11. "Waste" means the inefficient utilization of reserves of oil, gas, subsurface minerals, or coal, as the case may be.

SECTION 3. JURISDICTION OF COMMISSION.) The commission has continuing 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 enforcing the regulations and orders of the commission applicable to the provisions of this Act. The commission has authority to make investigations it deems proper to determine whether facts exist which justify action by the commission. The commission has the authority:

1. To require the furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this Act, and the rules and regulations of the industrial commission prescribed to govern, satisfy, and resolve conflicting interests among producers within North Dakota.
2. To resolve conflicting interests of producers of natural resources which cannot be voluntarily concluded by them in the public interest to eliminate



waste, to the end that the producer, landowner, and mineral owner realize the greatest possible economic advantage.

3. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and intent of this Act.

SECTION 4. PROCEDURE.) The administrative procedure involved in the adoption of any rules or regulations, or the issuance of any orders, by the commission under the provisions of this Act shall be in accordance with the provisions of chapter 38-08 governing the procedure in the administration of the Oil and Gas Conservation Act; provided, however, that in the event of any emergencies found to exist by the commission which in its judgment requires the making, revoking, changing, amending, modifying, altering, enlarging, renewal or extension of renewal, regulation, or order without first having a hearing, the emergency rule, regulation, or order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation, or order permitted by this section shall remain in force no longer than fifteen days from its effective date, and in any event shall expire when the rule, regulation, or order, made after due notice and hearing with respect to the subject matter of the emergency rule, regulation, or order becomes effective.

SECTION 5. PENALTY - INJUNCTION - PROVISIONS APPLICABLE.) The provisions of sections 38-08-16 and 38-08-17 shall be applicable to the provisions of this Act and to the rules, regulations, and orders of the commission promulgated hereunder.

Approved March 24, 1971