

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2014

Page 1, line 2, after the semicolon insert "to create and enact a new section to chapter 38-08, a new subsection to section 54-09-02, and two new sections to chapter 54-18 of the North Dakota Century Code, relating to duties of the director of mineral resources and secretary of state and North Dakota mill and elevator association profits and gain sharing;"

Page 1, line 3, replace "section" with "sections 47-16-39.1 and" and after "to" insert "remedies for nonpayment of oil and gas royalties and"

Page 1, line 7, remove "and" and after "transfers" insert "; and to declare an emergency"

Page 1, line 19, replace "2,733,761" with "2,138,453" and replace "9,941,305" with "9,345,997"

Page 1, line 20, replace "609,886" with "459,886" and replace "2,865,576" with "2,715,576"

Page 1, line 24, replace the first "1,000,000" with "200,000" and replace the second "1,000,000" with "200,000"

Page 2, line 5, replace "(15,000,000)" with "(20,000,000)" and replace "5,000,000" with "0"

Page 2, line 6, replace "(\$14,399,304)" with "(\$20,944,612)" and replace "66,269,046" with "59,723,738"

Page 2, line 7, replace "(20,071,262)" with "(20,083,862)" and replace "49,321,084" with "49,308,484"

Page 2, line 8, replace "\$5,671,958" with "(\$860,750)" and replace "16,947,962" with "10,415,254"

Page 2, line 14, replace "6,698,389" with "6,490,407" and replace "41,970,256" with "41,762,274"

Page 2, line 17, replace "6,253,389" with "6,045,407" and replace "43,425,256" with "43,217,274"

Page 2, line 29, replace the first "1,400,000" with "700,000" and replace the second "1,400,000" with "700,000"

Page 3, line 2, replace "1,400,000" with "700,000" and replace "11,750,000" with "11,050,000"

Page 3, line 5, replace "1,400,000" with "700,000" and replace "10,800,000" with "10,100,000"

Page 3, line 20, replace "1,533,535" with "1,151,836" and replace "6,230,247" with "5,848,548"

Page 3, line 25, replace "(\$297,102)" with "(\$678,801)" and replace "41,232,188" with "40,850,489"

Page 3, line 27, replace "4.00" with "2.00" and replace "47.00" with "45.00"

Page 4, line 1, replace "\$7,071,958" with "(\$160,750)" and replace "27,747,962" with "20,515,254"

Page 4, line 2, replace "(10,823,342)" with "21,934,951" and replace "174,985,770" with "207,744,063"

Page 4, line 3, replace "(\$3,751,384)" with "\$21,774,201" and replace "202,733,732" with "228,259,317"

Page 4, line 9, replace "1,400,000" with "700,000"

Page 4, line 12, replace "1,000,000" with "200,000"

Page 4, remove line 14

Page 4, line 16, replace "7,493,152" with "993,152"

Page 7, after line 3, insert:

"SECTION 11. A new section to chapter 38-08 of the North Dakota Century Code is created and enacted as follows:

Failure to pay oil and gas royalties. The director of mineral resources may recommend that the secretary of state revoke or suspend the privilege of a person to do business in this state for the failure to pay oil and gas royalties as required by section 47-16-39.1.

SECTION 12. AMENDMENT. Section 47-16-39.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-39.1. Obligation to pay royalties - Breach. The obligation arising under an oil and gas lease to pay oil or gas royalties to the mineral owner or the mineral owner's assignee, or to deliver oil or gas to a purchaser to the credit of the mineral owner or the mineral owner's assignee, or to pay the market value thereof is of the essence in the lease contract, and breach of the obligation may constitute grounds for the cancellation of the lease in cases where it is determined by the court that the equities of the case require cancellation or require revocation or suspension of the operator's privilege to do business in this state. If the operator under an oil and gas lease fails to pay oil or gas royalties to the mineral owner or the mineral owner's assignee within one hundred fifty days after oil or gas produced under the lease is marketed and cancellation of the lease is not sought, the operator shall pay interest on the unpaid royalties at the rate of eighteen percent per annum until paid and the director of mineral resources may recommend that the secretary of state revoke or suspend the privilege of the operator to do business in this state, except that the commissioner of university and school lands may negotiate a rate to be no less than the prime rate as established by the Bank of North Dakota plus four percent per annum with a maximum of eighteen percent per annum, for unpaid royalties on minerals owned or managed by the board of university and school lands. Provided, that the operator may remit semiannually to a person entitled to royalties the aggregate of six months' monthly royalties where the aggregate amount is less than fifty dollars. The district court for the county in which the oil or gas well is located has jurisdiction over all proceedings brought pursuant to this section. The prevailing party in any proceeding brought pursuant to this section is entitled to recover any court costs and reasonable attorney's fees. This section does not apply when mineral owners or their assignees elect to take their proportionate share of production in kind or in the event of a dispute of title existing that would affect distribution of royalty payments; however, the operator shall make

royalty payments to those mineral owners whose title and ownership interest is not in dispute.

SECTION 13. A new subsection to section 54-09-02 of the North Dakota Century Code is created and enacted as follows:

Upon recommendation of the director of mineral resources, suspend or revoke the privilege of a person to do business in this state."

Page 7, line 29, replace "\$1,000,000" with "\$200,000"

Page 7, line 31, after the period insert "The use of funds provided for in this section must be approved by the lignite research council.

SECTION 16. MILL AND ELEVATOR - EVALUATION. The industrial commission shall obtain the services of a consultant to evaluate the state mill and elevator association. The evaluation must include a comparison to industry standards of:

1. Financial data reflected on balance sheets and income statements;
2. Cashflow data;
3. Ratio analyses of working capital, operating efficiency, marketing, and other ratios;
4. Liquidity ratios to determine appropriate working capital needed for the mill;
5. Pretax income levels;
6. Capital investment levels; and
7. Officer and employee compensation guidelines, including gain sharing programs.

The industrial commission shall report to the budget section on the results of the evaluation during the 2009-10 interim.

SECTION 17. HOUSING FINANCE AGENCY FINANCING - PILOT PROJECT. The housing finance agency may establish a pilot project using funds available in subdivision 5 of section 1 of this Act to provide incentives for private sector investment in single-family residential dwelling units and multifamily housing facilities in difficult-to-develop areas of the state, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 18. LEGISLATIVE INTENT - LAND PURCHASE. It is the intent of the sixty-first legislative assembly that to the best of its ability the Bank of North Dakota ensure that properties adjacent to Bank of North Dakota property northwest of west street are developed for uses that are consistent with the mission and purpose of the Bank of North Dakota.

SECTION 19. LEGISLATIVE INTENT - COLLEGE SAVE PROGRAM INCENTIVE. It is the intent of the sixty-first legislative assembly that the Bank of North Dakota use administrative fee collections associated with the Bank's college SAVE program to provide incentives to establish 529 college savings plans under the Bank's college SAVE program.

SECTION 20. Two new sections to chapter 54-18 of the North Dakota Century Code are created and enacted as follows:

Transfer of North Dakota mill and elevator profits to general fund. The industrial commission shall transfer to the state general fund seventy percent of the annual earnings and undivided profits of the North Dakota mill and elevator association. The moneys must be transferred in the amounts and at the times requested by the director of the office of management and budget. A transfer must be made under this section if the total net assets balance of the mill and elevator is at least twenty-five percent of the mill and elevator's total annual operating budget for that same year.

Gain-sharing program. The industrial commission may not approve a gain-sharing program for North Dakota mill and elevator association employees from mill and elevator profits unless the total net assets balance of the mill and elevator is at least twenty-five percent of the mill and elevator's total annual operating budget for that same year. Any legislatively authorized transfers to the state general fund must be made before a gain-sharing program is approved. The goals and participation criteria for the gain-sharing program must be designated in policy established by the industrial commission. The industrial commission shall report to the budget section regarding any approved gain-sharing program at the first meeting after August thirty-first of each year. For the purpose of this section, "gain-sharing program" means a program approved annually by the industrial commission with provisions that promote profitability, productivity, and safety.

SECTION 21. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the industrial commission, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Renewable energy development	\$3,000,000
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The industrial commission may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

SECTION 22. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the housing finance agency, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

HOME tax credit assistance program	\$4,860,574
Housing tax credit exchange program	<u>25,500,000</u>
Total federal funds	\$30,360,574

The housing finance agency may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be

replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available."

Page 8, after line 2, insert:

"SECTION 24. EMERGENCY. Sections 21 and 22 of this Act are declared to be an emergency measure."

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98033.0319 FN 6

A copy of the statement of purpose of amendment is attached.