

SENATE BILL NO. 2366

Introduced by

Senators Triplett, Schneider

Representatives Onstad, Oversen

1 A BILL for an Act to amend and reenact sections 38-08-01, 54-17.6-01, 54-17.6-03, 54-17.6-04,
2 subsection 5 of section 54-17.6-05, and sections 54-17.6-06 and 54-60-03 of the North Dakota
3 Century Code, relating to regulation of the oil industry by the industrial commission and
4 promotion of the oil industry by the department of commerce.

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

6 **SECTION 1. AMENDMENT.** Section 38-08-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **38-08-01. ~~Declaration of policy~~Oil and gas promotion and regulation.**

9 1. It is hereby declared to be in the public interest to foster, to encourage, and to promote
10 the development, production, and utilization of natural resources of oil and gas in the
11 state in such a manner as will prevent waste; to authorize and to provide for the
12 operation and development of oil and gas properties in such a manner that a greater
13 ultimate recovery of oil and gas be had and that the correlative rights of all owners be
14 fully protected; and to encourage and to authorize cycling, recycling, pressure
15 maintenance, and secondary recovery operations in order that the greatest possible
16 economic recovery of oil and gas be obtained within the state to the end that the
17 landowners, the royalty owners, the producers, and the general public realize and
18 enjoy the greatest possible good from these vital natural resources.

19 2. ~~The commission may not foster, encourage, and promote the development,~~
20 ~~production, and utilization of natural resources of oil and gas in this state. The~~
21 ~~commission may regulate the development, production, and utilization of natural~~
22 ~~resources of oil and gas in this state. The department of commerce shall foster,~~
23 ~~encourage, and promote the development, production, and utilization of natural~~
24 ~~resources of oil and gas in this state.~~

1 **SECTION 2. AMENDMENT.** Section 54-17.6-01 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-17.6-01. Definitions.**

- 4 1. ~~"Commission" means the North Dakota industrial commission~~"Commissioner" means
5 the commissioner of the department of commerce.
6 2. "Council" means the oil and gas research council.

7 **SECTION 3. AMENDMENT.** Section 54-17.6-03 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **54-17.6-03. ~~Commission~~Commissioner to operate council.**

10 The ~~commission~~commissioner shall operate, manage, and control the council.

11 **SECTION 4. AMENDMENT.** Section 54-17.6-04 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **54-17.6-04. Powers and duties of ~~commission~~the commissioner in managing and**
14 **operating council.**

15 The ~~commission~~commissioner is granted all the powers necessary or appropriate to carry
16 out and effectuate the purposes of this chapter, including the power to:

- 17 1. Make grants or loans, and to provide other forms of financial assistance as necessary
18 or appropriate, to qualified persons for research, development, marketing, and
19 educational projects, and processes or activities directly related to the oil and gas
20 exploration, production, or refining industry, or the petroleum marketing industry;
21 2. Enter into contracts or agreements to carry out the purposes of this chapter, including
22 authority to contract for the administration of the oil and gas research, development,
23 marketing, and educational program;
24 3. Keep accurate records of all financial transactions performed under this chapter;
25 4. Cooperate with any private, local, state, or national commission, organization, or
26 agent, or group and to make contracts and agreements for programs benefiting the oil
27 and gas industry;
28 5. Accept donations, grants, contributions, and gifts from any public or private source and
29 deposit such in the oil and gas research fund; and
30 6. Make and explore orders, rules, and regulations necessary to effectuate the purposes
31 of this chapter.

1 **SECTION 5. AMENDMENT.** Subsection 5 of section 54-17.6-05 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 5. The council shall recommend to the ~~commission~~commissioner the approval of grants,
4 loans, or other financial assistance necessary or appropriate for funding, research,
5 development, marketing, and educational projects or activities and any other matters
6 related to this chapter.

7 **SECTION 6. AMENDMENT.** Section 54-17.6-06 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **54-17.6-06. Access to council records.**

- 10 1. Materials and data submitted to, or made or received by, the council or
11 ~~commission~~commissioner, to the extent that the council determines the materials or
12 data consist of trade secrets or commercial, financial, or proprietary information of
13 individuals or entities applying to or contracting with the council or receiving council
14 services under this chapter, are not public records subject to section 44-04-18 and
15 section 6 of article XI of the Constitution of North Dakota, and are subject to section
16 44-04-18.4.
- 17 2. A person or entity must file a request with the council or ~~commission~~commissioner to
18 have material designated as confidential under subsection 1. The request must
19 contain any information required by the council and must include at least the following:
- 20 a. A general description of the nature of the information sought to be protected.
21 b. An explanation of why the information derives independent economic value,
22 actual or potential, from not being generally known to other persons.
23 c. An explanation of why the information is not readily ascertainable by proper
24 means by other persons.
25 d. A general description of any person or entity that may obtain economic value
26 from disclosure or use of the information, and how the person or entity may
27 obtain this value.
28 e. A description of the efforts used to maintain the secrecy of the information.
- 29 3. Any request under subsection 2 is confidential. The council shall examine the request
30 and determine whether the information is relevant to the matter at hand and is a trade
31 secret under the definition in section 47-25.1-01 or 44-04-18.4. If the council

1 determines the information is either not relevant or not a trade secret, the council shall
2 notify the requester and the requester may ask for the return of the information and
3 request within ten days of the notice. If no return is sought, the information and
4 request are a public record.

5 4. The names or identities of independent technical reviewers on any project or program
6 and the names of council members making recommendations are confidential, may
7 not be disclosed by the council, and are not public records subject to section 44-04-18
8 or section 6 of article XI of the Constitution of North Dakota.

9 **SECTION 7. AMENDMENT.** Section 54-60-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-60-03. Commissioner of commerce - Duties.**

12 With the advice and counsel of the North Dakota development foundation, the governor
13 shall appoint a commissioner to supervise, control, and administer the department. The
14 commissioner serves at the pleasure of the governor and receives a salary set by the governor
15 within the limits of legislative appropriations. The commissioner:

- 16 1. Shall file an oath of office in the usual form before commencing to perform the duties
17 of the commissioner;
- 18 2. Shall serve as chairman of the cabinet;
- 19 3. Shall appoint personnel as may be determined necessary to carry out the duties of the
20 department;
- 21 4. Shall manage the operations of the department and oversee each of the divisions;
- 22 5. Shall assume central responsibilities to develop, implement, and coordinate a working
23 network of commerce service providers;
- 24 6. Shall coordinate the department's services with commerce-related services of other
25 state agencies;
- 26 7. Shall advise and cooperate with departments and agencies of the federal government
27 and of other states; private businesses, agricultural organizations, and associations;
28 research institutions; and with any individual or other private or public entity;
- 29 8. May enter contracts upon terms and conditions as determined by the commissioner to
30 be reasonable and to effectuate the purposes of this chapter;

- 1 9. Shall foster, encourage, and promote the development, production, and utilization of
2 natural resources of oil and gas in this state; operate, manage, and control the oil and
3 gas research council; and assign responsibilities of these functions among the
4 divisions of the department;
- 5 10. Shall report between the first and tenth legislative days of each regular legislative
6 session to a standing committee of each house of the legislative assembly as
7 determined by the legislative management and shall report annually to the foundation:
- 8 a. On the department's goals and objectives since the last report;
9 b. On the department's goals and objectives for the period until the next report;
10 c. On the department's long-term goals and objectives;
11 d. On the department's activities and measurable results occurring since the last
12 report; and
13 e. On commerce benchmarks, including the average annual wage in the state, the
14 gross state product exclusive of agriculture, and the number of primary sector
15 jobs in the state;
- 16 ~~40-11.~~ Shall adopt rules necessary to implement this chapter and chapter 54-17.6; and
17 ~~41-12.~~ May take any actions necessary and proper to implement this chapter and chapter
18 54-17.6.