

Sixty-fifth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1257

Introduced by

Representatives Steiner, Kempenich, J. Nelson, Schneider, Vetter, Zubke

Senators Bekkedahl, Campbell

1 A BILL for an Act to amend and reenact subsection 7 of section 38-08-09.4 and sections  
2 38-08-09.5 and 38-08-09.9 of the North Dakota Century Code, relating to approval  
3 requirements for unitization plans.

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

5 **SECTION 1. AMENDMENT.** Subsection 7 of section 38-08-09.4 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 7. The time when and conditions under which and the method by which the unit must or  
8 may be dissolved and its affairs wound up; however, the unit may be dissolved ten  
9 years after the unit agreement becomes effective upon a petition to the commission by  
10 the royalty owners who are credited with at least ~~eighty percent of the production and~~  
11 ~~proceeds thereof or for units established after August 1, 2001, upon a petition to the~~  
12 ~~commission by the royalty owners who are credited with at least sixty percent of the~~  
13 ~~production and proceeds thereof~~ the percentage of interest of the royalty production  
14 and proceeds thereof required to ratify the unit agreement on the date the unit  
15 agreement was initially approved by the commission, and a subsequent hearing and  
16 order by the commission. The commission may not dissolve any unit if the dissolution  
17 would be likely to result in waste or the violation of the correlative rights of any owner.

18 This provision does not limit or restrict any other authority which the commission has.

19 **SECTION 2. AMENDMENT.** Section 38-08-09.5 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **38-08-09.5. Ratification or approval of plan by lessees and owners.**

22 At the time of filing of the petition for the approval of a unit agreement and the filing of the  
23 unit agreement, the commission shall schedule a hearing. At least forty-five days prior to the  
24 hearing, the applicant shall give notice of the hearing and shall mail, postage prepaid, a copy of

1 the application and the proposed plan of unitization to each affected person owning an interest  
2 of record in the unit outline, at such person's last-known post-office address. In addition, the  
3 applicant shall file with the commission engineering, geological, and all other technical exhibits  
4 to be used at the hearing, and further, the notice must specify that such material is filed and is  
5 available for inspection. Service is complete in the mailing of the notice of hearing and unit  
6 agreement to each interest owner as described in this section and the filing of an affidavit of  
7 mailing with the commission. No order of the commission creating a unit and prescribing its plan  
8 of unitization becomes effective until the plan of unitization has been signed, or in writing ratified  
9 or approved by those persons who, under the commission's order, will be required to pay at-  
10 ~~least sixty~~more than fifty-five percent of the costs of the unit operation and by the owners of at-  
11 ~~least sixty~~more than fifty-five percent of the royalty interests, excluding overriding royalties,  
12 production payments, and other interests carved out of the working interest, and in addition it is  
13 required that when there is more than one person who will be obligated to pay costs of the unit  
14 operation, at least two nonaffiliated such persons and at least two royalty interest owners, are  
15 required as voluntary parties, and the commission has made a finding either in the order  
16 creating the unit or in a supplemental order that the plan of unitization has been so signed,  
17 ratified, or approved by lessees and royalty owners owning the required percentage interest. If  
18 the plan of unitization has not been signed, ratified, or approved by lessees and royalty owners  
19 owning the required percentage interest at the time the order creating the unit is made, the  
20 commission shall, upon petition and notice, hold such additional hearings as may be requested  
21 or required to determine if and when the plan of unitization has been so signed, ratified, or  
22 approved by lessees and royalty owners owning the required percentage interest and shall, in  
23 respect to such hearings, enter a finding of its determination in such regard. In the event  
24 lessees and royalty owners, or either, owning the required percentage interest have not signed,  
25 ratified, or approved the plan of unitization within six months from the date on which the order  
26 creating the unit is made, the order ceases to be of further force and effect and shall be revoked  
27 by the commission.

28 **SECTION 3. AMENDMENT.** Section 38-08-09.9 of the North Dakota Century Code is  
29 amended and reenacted as follows:

1           **38-08-09.9. Enlargement of area - Creation of new units - Amendment of plan.**

2           The unit area of a unit may be enlarged at any time by the commission, subject to the  
3 limitations ~~hereinbefore~~ provided in this chapter to include adjoining portions of the same  
4 common source of supply, including the unit area of another unit, and a new unit created for the  
5 unitized management, operation, and further development of ~~such~~the enlarged unit area, or the  
6 plan of unitization may be otherwise amended, all in the same manner, upon the same  
7 conditions and subject to the same limitations as provided with respect to the creation of a unit  
8 in the first instance, except, that where an amendment to a plan of unitization relates only to the  
9 rights and obligations as between lessees, or the amendment to a plan of unitization or the  
10 enlargement of a unit area is found by the commission to be reasonably necessary in order to  
11 effectively carry on the joint effort, to prevent waste, and to protect correlative rights, and that  
12 such will result in the general advantage of the owners of the oil and gas rights within the unit  
13 area and the proposed enlarged unit area, and the persons and owners in the proposed added  
14 unit area have ratified or approved the plan of unitization as required by section 38-08-09.5,  
15 then ~~such~~the amendment to a plan of unitization or the enlargement of a unit area need not be  
16 ratified or approved by royalty owners of record in the existing unit area provided that written  
17 notice thereof is mailed to ~~such~~the royalty owners by the operator of a unit not more than forty  
18 days nor less than thirty days prior to the commission hearing. The notice must describe the  
19 plan for the unit amendment or enlargement together with the participation factor to be given  
20 each tract in the unit area and in the proposed area and must contain the time and place of the  
21 commission hearing. An affidavit of mailing verifying ~~such~~the notice must be filed with the  
22 commission. ~~Said~~The notice must further provide that in the event ten percent of the royalty  
23 interests or working interests in the existing unit area file with the commission at least ten days  
24 prior to the commission proceeding an objection to the plan of enlargement, the commission  
25 shall require that the unit amendment or enlargement be approved by sixty more than fifty-five  
26 percent of all royalty interests and working interests in the existing and proposed areas.