

**FIRST ENGROSSMENT
with House Amendments**

ENGROSSED SENATE BILL NO. 2120

Introduced by

Natural Resources Committee

(At the request of the Attorney General)

1 A BILL for an Act to amend and reenact subsection 7 of section 38-08-09.4 and section
2 38-08-09.5 of the North Dakota Century Code, relating to dissolution of units and to the
3 industrial commission's oversight of the creation of units for the further development of oil and
4 gas and changing ratification requirements for these units.

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

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

8 7. The time when and conditions under which and the method by which the unit ~~shall~~
9 must or may be dissolved and its affairs wound up; however, the unit may be
10 dissolved ten years after the unit agreement becomes effective upon a petition to
11 the commission by the royalty owners who are credited with at least eighty percent
12 of the production and proceeds thereof or for units established after the effective
13 date of this Act, upon a petition to the commission by the royalty owners who are
14 credited with at least sixty percent of the production and proceeds thereof, and a
15 subsequent hearing and order by the commission. The commission may not
16 dissolve any unit if the dissolution would be likely to result in waste or the violation
17 of the correlative rights of any owner. This provision does not limit or restrict any
18 other authority which the commission has.

19 **SECTION 2. AMENDMENT.** Section 38-08-09.5 of the 1999 Supplement to the North
20 Dakota Century Code is amended and reenacted as follows:

21 **38-08-09.5. Ratification or approval of plan by lessees and owners.** At the time of
22 filing of the petition for the approval of a unit agreement and the filing of the unit agreement, the
23 commission shall ~~set a time and place for the~~ schedule a hearing. At least forty-five days prior
24 to the hearing, the applicant ~~or someone under his direction and control~~, shall give notice of the

Fifty-seventh
Legislative Assembly

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