

**HOUSE BILL NO. 1166**

Introduced by

Natural Resources Committee

(At the request of the Public Service Commission)

1 A BILL for an Act to create and enact a new chapter to title 38 of the North Dakota Century  
2 Code, relating to the interstate mining compact.

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

4 **SECTION 1.** A new chapter to title 38 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **Interstate mining compact.** The interstate mining compact is hereby enacted into law  
7 and entered into with all other jurisdictions legally joining therein in the form substantially as  
8 follows:

9 Article I - Findings and Purposes

- 10 1. The party states find that:
- 11 a. Mining and the contributions thereof to the economy and well-being of every  
12 state are of basic significance.
  - 13 b. The effects of mining on the availability of land, water, and other resources for  
14 other uses present special problems which properly can be approached only  
15 with due consideration for the rights and interests of those engaged in mining,  
16 those using or proposing to use these resources for other purposes, and the  
17 public.
  - 18 c. Measures for the reduction of the adverse effects of mining on land, water,  
19 and other resources may be costly and the devising of means to deal with  
20 them are of both public and private concerns.
  - 21 d. Such variables as soil structure and composition, physiography, climatic  
22 conditions, and the needs of the public make impracticable the application to  
23 all mining areas of a single standard for the conservation, adaptation, or  
24 restoration of mined land or the development of mineral and other natural

- 1 resources; but justifiable requirements of law and practice relating to the  
2 effects of mining on lands, water, and other resources may be reduced in  
3 equity or effectiveness unless they pertain similarly from state to state for all  
4 mining operations similarly situated.
- 5 e. The states are in a position and have the responsibility to assure that mining  
6 is conducted in accordance with sound conservation principles and with due  
7 regard for local conditions.
- 8 2. The purposes of this compact are to:
- 9 a. Advance the protection and restoration of land, water, and other resources  
10 affected by mining.
- 11 b. Assist in the reduction or elimination or counteracting of pollution or  
12 deterioration of land, water, and air attributable to mining.
- 13 c. Encourage, with due recognition of relevant regional, physical, and other  
14 differences, programs in each of the party states which will achieve  
15 comparable results in protecting, conserving, and improving the usefulness of  
16 natural resources, to the end that the most desirable conduct of mining and  
17 related operations may be universally facilitated.
- 18 d. Assist the party states in their efforts to facilitate the use of land and other  
19 resources affected by mining, so that such use may be consistent with sound  
20 land use, public health, and public safety, and to this end to study and  
21 recommend, wherever desirable, techniques for the improvement, restoration,  
22 or protection of such land and other resources.
- 23 e. Assist in achieving and maintaining an efficient and productive mining industry  
24 and in increasing economic and other benefits attributable to mining.

25 Article II - Definitions

26 As used in this compact, the term:

- 27 1. "Mining" means the breaking of the surface soil in order to facilitate or accomplish  
28 the extraction or removal of minerals, ores, or other solid matter, any activity or  
29 process constituting all or part of a process for the extraction or removal of  
30 minerals, ores, and other solid matter from its original location, and the preparation,  
31 washing, cleaning, or other treatment of minerals, ores, or other solid matter so as

1 to make them suitable for commercial, industrial, or construction use, but does not  
2 include those aspects of deep mining not having significant effect on the surface  
3 and does not include excavation of grading when conducted solely in aid of onsite  
4 farming or construction.

5 2. "State" means a state of the United States, the District of Columbia, the  
6 Commonwealth of Puerto Rico, or a territory or possession of the United States.

#### 7 Article III - State Programs

8 Each party state agrees that within a reasonable time it will formulate and establish an  
9 effective program for the conservation and use of mined land, by the establishment of  
10 standards, enactment of laws, or the continuing of the same in force, to accomplish:

- 11 1. The protection of the public and the protection of adjoining and other landowners  
12 from damage to their lands and the structures and other property thereon resulting  
13 from the conduct of mining operations or the abandonment or neglect of land and  
14 property formerly used in the conduct of such operations.
- 15 2. The conduct of mining and the handling of refuse and other mining wastes in ways  
16 that will reduce adverse effects on the economic, residential, recreational, or  
17 aesthetic value and utility of land and water.
- 18 3. The institution and maintenance of suitable programs of adaptation, restoration,  
19 and rehabilitation of mined lands.
- 20 4. The prevention, abatement and control of water, air, and soil pollution resulting  
21 from mining, present, past, and future.

#### 22 Article IV - Powers

23 In addition to any other powers conferred upon the interstate mining commission,  
24 established by article V of this compact, such commission shall have power to:

- 25 1. Study mining operations, processes and techniques for the purpose of gaining  
26 knowledge concerning the effects of such operations, processes and techniques  
27 on land, soil, water, air, plant and animal life, recreation, and patterns of community  
28 or regional development or change.
- 29 2. Study the conservation, adaptation, improvement, and restoration of land and  
30 related resources affected by mining.

- 1           3.    Make recommendations concerning any aspects of law or practice and  
2                    governmental administration dealing with matters within the purview of this  
3                    compact.
- 4           4.    Gather and disseminate information relating to any of the matters within the  
5                    purview of this compact.
- 6           5.    Cooperate with the federal government and any public or private entities having  
7                    interests in any subject coming within the purview of this compact.
- 8           6.    Consult, upon the request of a party state and within available resources, with the  
9                    officials of such state in respect to any problem within the purview of this compact.
- 10          7.    Study and make recommendations with respect to any practice, process,  
11                    technique, or course of action that may improve the efficiency of mining or the  
12                    economic yield from mining operations.
- 13          8.    Study and make recommendations relating to the safeguarding of access to  
14                    resources which are or may become the subject of mining operations to the end  
15                    that the needs of the economy for the products of mining may not be adversely  
16                    affected by unplanned or inappropriate use of land and other resources containing  
17                    minerals or otherwise connected with actual or potential mining sites.

18                                   Article V - The Commission

- 19          1.    There is hereby created an agency of the party states to be known as the  
20                    "interstate mining commission", hereinafter called "the commission". The  
21                    commission shall be composed of one commissioner from each party state who  
22                    shall be the governor thereof. Pursuant to the laws of the party state, each  
23                    governor may have the assistance of an advisory body, including membership from  
24                    mining industries, conservation interests, and such other public and private  
25                    interests as may be appropriate, in considering problems relating to mining and in  
26                    discharging the responsibilities as a commissioner on the commission. If a  
27                    governor is unable to attend a meeting of the commission or perform any other  
28                    function in connection with the business of the commission, an alternate must be  
29                    designated to represent and act on behalf of the governor. The alternate  
30                    designated by the governor must be employed by the state agency with  
31                    responsibilities for protecting and restoring lands affected by mining. The

- 1 designation of an alternate must be communicated by the governor to the  
2 commission in such manner as its bylaws may provide.
- 3 2. The commissioners shall be entitled to one vote each on the commission. No  
4 action of the commission making a recommendation pursuant to subsections 3, 7,  
5 and 8 of article IV or requesting, accepting, or disposing of funds, services, or other  
6 property pursuant to this subsection, subsections 7 and 8 of this article, or  
7 article VII shall be valid unless taken at a meeting at which a majority of the total  
8 number of votes on the commission is cast in favor thereof. All other action must  
9 be by a majority of those present and voting provided that action of the commission  
10 shall be only at a meeting at which a majority of the commissioners, or their  
11 alternates, who are present. The commission may establish and maintain such  
12 facilities as may be necessary for the transaction of its business. The commission  
13 may acquire, hold, and convey real and personal property and any interest therein.
- 14 3. The commission shall have a seal.
- 15 4. The commission shall elect annually, from among its members, a chairman, a vice  
16 chairman, and a treasurer. The commission shall appoint an executive director  
17 and fix the duties and compensation. Such executive director shall serve at the  
18 pleasure of the commission. The executive director, the treasurer, and such other  
19 personnel as the commission shall designate shall be bonded. The amounts of  
20 such bonds must be determined by the commission.
- 21 5. Irrespective of the civil service, personnel or other merit system laws of any of the  
22 party states, the executive director, with the approval of the commission, shall  
23 appoint, remove, or discharge such personnel as may be necessary for the  
24 performance of the commission's functions and shall fix the duties and  
25 compensation of such personnel.
- 26 6. The commission may establish and maintain independently, or in conjunction with  
27 a party state, a suitable retirement system for its employees. Employees of the  
28 commission shall be eligible for social security coverage in respect of old-age and  
29 survivor insurance provided that the commission takes such steps as may be  
30 necessary pursuant to the laws of the United States to participate in such program  
31 of insurance as a governmental agency or unit. The commission may establish

- 1 and maintain or participate in such additional programs of employee benefits as it  
2 may deem appropriate.
- 3 7. The commission may borrow, accept, or contract for the services of personnel from  
4 any state, the United States, or any other governmental agency, or from any  
5 person, firm, association, or corporation.
- 6 8. The commission may accept for any of its purposes and functions under this  
7 compact any and all donations, and grants of money, equipment, supplies,  
8 materials, and services, conditional or otherwise, from any state, the United States,  
9 or any other governmental agency, or from any person, firm, association, or  
10 corporation and may receive, utilize, and dispose of the same. Any donation or  
11 grant accepted by the commission pursuant to this subsection or services  
12 borrowed pursuant to subsection 7 must be reported in the annual report of the  
13 commission. Such report must include the nature, amount, and conditions, if any,  
14 of the donation, grant, or services borrowed and the identity of the donor or lender.
- 15 9. The commission shall adopt bylaws for the conduct of its business and shall have  
16 the power to amend and rescind these bylaws. The commission shall publish its  
17 bylaws in convenient form and shall file a copy thereof and a copy of any  
18 amendment thereto, with the appropriate agency or officer in each of the party  
19 states.
- 20 10. The commission annually shall make to the governor, legislative assembly, and  
21 any advisory body established under subsection 1 of each party state a report  
22 covering the activities of the commission for the preceding year and embodying  
23 such recommendations as may have been made by the commission. The  
24 commission may make such additional reports as it may deem desirable.

25 Article VI - Advisory, Technical, and Regional Committees

26 The commission shall establish such advisory, technical, and regional committees as it  
27 may deem necessary, membership on which must include private persons and public officials,  
28 and shall cooperate with the use and services of any such committees and the organizations  
29 which the members represent in furthering any of its activities. Such committees may be  
30 formed to consider problems of special interest to any party states, problems dealing with

1 particular commodities or types of mining operations, problems related to reclamation,  
2 development, or use of mined land, or any other matters of concern to the commission.

3 Article VII - Finance

- 4 1. The commission shall submit to the governor or designated officer or officers of  
5 each party state a budget of its estimated expenditures for such period as may be  
6 required by the laws of that party state for presentation to the legislature thereof.
- 7 2. Each of the commission's budgets of estimated expenditures must contain specific  
8 recommendations of the amounts to be appropriated by each of the party states.  
9 The total amount of appropriations requested under any such budget must be  
10 apportioned among the party states one half in equal shares and the remainder in  
11 proportion to the value of minerals, ores, and other solid matter mined. In  
12 determining such values, the commission shall employ such available public  
13 sources of information as, in its judgment, present the most equitable and accurate  
14 comparisons among the party states. Each of the commission's budgets of  
15 estimated expenditures and requests for appropriations must indicate the sources  
16 used in obtaining information concerning value of minerals, ores, and other solid  
17 matter mined.
- 18 3. The commission shall not pledge the credit of any party state. The commission  
19 may meet any of its obligations in whole or in part with funds available to it under  
20 subsection 8 or article V, provided that the commission takes specific action setting  
21 aside such funds prior to incurring any obligation to be met in whole or in part in  
22 such manner. Except when the commission makes use of funds available to it  
23 under subsection 8 of article V hereof, the commission shall not incur any  
24 obligation prior to the allotment of funds by the party states adequate to meet the  
25 same.
- 26 4. The commission shall keep accurate accounts of all receipts and disbursements.  
27 The receipts and disbursements of the commission must be subject to the audit  
28 and accounting procedures established under its bylaws. All receipts and  
29 disbursements of funds handled by the commission must be audited yearly by a  
30 qualified public accountant and the report of the audit must be included in and  
31 become part of the annual report of the commission.

1           5. The accounts of the commission must be open at any reasonable time for  
2           inspection by duly constituted officers of the party states and by any persons  
3           authorized by the commission.

4           6. Nothing contained herein must be construed to prevent commission compliance  
5           with laws relating to audit or inspection of accounts by or on behalf of any  
6           government contributing to the support of the commission.

7                                   Article VIII - Entry Into Force and Withdrawal

8           1. The compact enters into force when enacted into law by any four or more states.  
9           Thereafter, this compact becomes effective as to any other state upon its  
10          enactment thereof.

11          2. Any party state may withdraw from this compact by enacting a statute repealing the  
12          same, but no such withdrawal takes effect until one year after the governor of the  
13          withdrawing state has given notice in writing of the withdrawal to the governors of  
14          all other party states. No withdrawal affects any liability already incurred by or  
15          chargeable to a party state prior to the time of such withdrawal.

16                                   Article IX - Effect on Other Laws

17          Nothing in this compact shall be construed to limit, repeal, or supersede any other law of  
18          any party state.

19                                   Article X - Construction and Severability

20          This compact shall be liberally construed so as to effectuate the purposes thereof. The  
21          provisions of this compact shall be severable and if any phrase, clause, sentence, or provision  
22          of this compact is declared to be contrary to the constitution of any state or of the United States,  
23          or the applicability thereof to any government, agency, person, or circumstance is held invalid,  
24          the validity of the remainder of this compact and the applicability thereof to any government,  
25          agency, person, or circumstance shall not be affected thereby. If this compact shall be held  
26          contrary to the constitution of any state participating herein, the compact shall remain in full  
27          force and effect as to the remaining party states and in full force and effect as to the state  
28          affected as to all severable matters.

29          **Filing bylaws and amendments.** In accordance with subsection 9 of article V of the  
30          compact, the interstate mining compact commission shall file copies of its bylaws and any  
31          amendments thereto with the governor and public service commission.