

**HOUSE BILL NO. 1264**

Introduced by

Representatives S. Meyer, Kempenich, Skarphol, Onstad

Senators Bowman, Nodland

1 A BILL for an Act to amend and reenact section 47-16-39.1 of the North Dakota Century Code,  
2 relating to the obligation to pay oil and gas royalties.

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

4 **SECTION 1. AMENDMENT.** Section 47-16-39.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **47-16-39.1. Obligation to pay royalties - Breach.**

7 The obligation arising under an oil and gas lease to pay oil or gas royalties to the mineral  
8 owner or the mineral owner's assignee, or to deliver oil or gas to a purchaser to the credit of the  
9 mineral owner or the mineral owner's assignee, or to pay the market value thereof is of the  
10 essence in the lease contract, and breach of the obligation may constitute grounds for the  
11 cancellation of the lease in cases where it is determined by the court that the equities of the  
12 case require cancellation. If the operator under an oil and gas lease fails to pay oil or gas  
13 royalties to the mineral owner or the mineral owner's assignee within one hundred fifty days  
14 after oil or gas produced under the lease is marketed and cancellation of the lease is not sought  
15 or if the operator fails to pay oil or gas royalties to an unleased mineral interest owner within  
16 one hundred fifty days from initial oil or gas production from the unleased mineral interest  
17 owner's mineral interest, the operator shall pay interest on the unpaid royalties, from the date of  
18 first production without the requirement that the mineral owner or the mineral owner's assignee  
19 request the payment of interest, at the rate of eighteen percent per annum until paid, except  
20 that the commissioner of university and school lands may negotiate a rate to be no less than the  
21 prime rate as established by the Bank of North Dakota plus four percent per annum with a  
22 maximum of eighteen percent per annum, for unpaid royalties on minerals owned or managed  
23 by the board of university and school lands. Provided, that the operator may remit semiannually  
24 to a person entitled to royalties the aggregate of six months' monthly royalties where the

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1 aggregate amount is less than fifty dollars. The district court for the county in which the oil or  
2 gas well is located has jurisdiction over all proceedings brought pursuant to this section. The  
3 prevailing party in any proceeding brought pursuant to this section is entitled to recover any  
4 court costs and reasonable attorney's fees. This section does not apply when mineral owners or  
5 their assignees elect to take their proportionate share of production in kind, in the event of a  
6 dispute of title existing that would affect distribution of royalty payments, or when a mineral  
7 owner cannot be located after reasonable inquiry by the operator; however, the operator shall  
8 make royalty payments to those mineral owners whose title and ownership interest is not in  
9 dispute.