

**SENATE BILL NO. 2317**

Introduced by

Senator Magrum

1 A BILL for an Act to amend and reenact sections 38-25-05, 38-25-06, and 38-25-07 of the North  
2 Dakota Century Code, relating to the amalgamation of the underground storage of oil and gas;  
3 to repeal section 38-25-08 of the North Dakota Century Code, relating to amalgamating  
4 property interests; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 38-25-05 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **38-25-05. Permit requirements - Storage in oil and gas reservoir.**

9 Before issuing a permit for storage in an oil and gas reservoir, the commission shall find:

- 10 1. The storage operator has or will obtain the consent by lease, purchase, or other  
11 agreement from all surface owners where surface disturbance activities are necessary  
12 and surface facilities will be located.
- 13 2. The storage operator has complied with all requirements set by the commission.
- 14 3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of  
15 oil or gas.
- 16 4. The storage operator has made a good-faith effort to get the consent of all persons  
17 that own the storage reservoir's pore space.
- 18 5. The storage operator has made a good-faith effort to obtain the consent of all persons  
19 that own oil and gas minerals and oil and gas leases.
- 20 6. The storage operator has obtained the consent of persons that own at least  
21 ~~fifty-five~~eighty-five percent of the storage reservoir's pore space ~~unless the percentage~~  
22 ~~required to unitize the oil and gas unit is otherwise provided for by order of the~~  
23 ~~commission before August 1, 2021, in which case the percentage in the order required~~  
24 ~~to pool the mineral interests prevails as to the percentage of pore space owners from~~

1            ~~whom the storage operator must obtain consent. If a county elects to require written~~  
2            ~~consent from more than eighty-five percent of the persons that own the storage~~  
3            ~~reservoir's pore space, the storage operator has received written consent from the~~  
4            ~~specified percentage of the owners required by the county.~~

5            7. The storage operator has obtained the consent of persons that own at least fifty-five  
6            percent of the storage reservoir's oil and gas minerals and oil and gas leases unless  
7            the percentage required to unitize the oil and gas unit is otherwise provided for by  
8            order of the commission before August 1, 2021, in which case the percentage in the  
9            order prevails.

10          8. Whether the storage reservoir contains any commercially valuable oil, gas, or other  
11          minerals and, if it does, a permit may be issued only if the commission is satisfied the  
12          interests of the mineral owners or mineral lessees will not be affected adversely or  
13          have been addressed in an arrangement entered by the mineral owners or mineral  
14          lessees and the storage operator.

15          9. The proposed storage facility will not affect adversely surface waters or formations  
16          containing fresh water.

17          10. The injected oil or gas will not escape from the storage reservoir.

18          11. The storage facility will not endanger health or unduly endanger the environment.

19          12. The storage facility is in the public interest.

20          13. The vertical boundaries of the storage reservoir are defined to include any necessary  
21          or reasonable buffer zones for the purpose of ensuring the safe operations of the  
22          storage facility and to protect the storage facility against pollution, invasion, and  
23          escape or migration of oil or gas ~~therefrom~~from the storage facility.

24          14. The horizontal extent of the injected gas within the storage reservoir, as estimated by  
25          reasonable means and confirmed through appropriate monitoring methods, are  
26          defined to include any necessary or reasonable buffer zones for the purpose of  
27          ensuring the safe operations of the storage facility and to protect the storage facility  
28          against pollution, invasion, and escape or migration of oil or gas ~~therefrom~~from the  
29          storage facility.

- 1       15. The storage operator will establish monitoring facilities and protocols to assess the  
2           location and migration of oil and gas, if any, injected for storage and to ensure  
3           compliance with all permit, statutory, and administrative requirements.
- 4       16. The method of underground storage is reasonably necessary to effectively carry on  
5           the joint effort, will prevent waste, protect correlative rights of the mineral and surface  
6           estate, and, with reasonable probability, will result in the increased storage and  
7           recovery of more oil and gas.
- 8       17. The time, conditions, and method by which the storage facility must be dissolved and  
9           the facility's affairs wound up. A storage facility may be dissolved ten years after the  
10          storage facility permit is issued upon a petition to the commission by the pore space  
11          owners and mineral owners that are credited with at least the percentage of interest of  
12          the pore space required to ratify the storage facility amalgamation agreement, and a  
13          subsequent hearing and order by the commission.
- 14      18. All nonconsenting owners ~~are or will be compensated equitably~~have received just  
15          compensation under chapter 32-15 and section 16 of article I of the Constitution of  
16          North Dakota or the district court has authorized the plaintiff to take possession under  
17          section 32-15-29.

18       **SECTION 2. AMENDMENT.** Section 38-25-06 of the North Dakota Century Code is  
19      amended and reenacted as follows:

20       **38-25-06. Permit requirements - Storage in saline reservoir or aquifer.**

21       Before issuing a permit for storage in a saline reservoir or aquifer, the commission shall  
22      find:

- 23       1. The storage operator has or will obtain the consent by lease, purchase, or other  
24          agreement from all surface owners where surface disturbance activities are necessary  
25          and surface facilities will be located.
- 26       2. The storage operator has complied with all requirements set by the commission.
- 27       3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of  
28          oil or gas.
- 29       4. The storage operator has made a good-faith effort to obtain the consent of all persons  
30          that own the storage reservoir's pore space.

- 1        5.    The storage operator has obtained the consent of persons that own at least  
2            sixtyeighty-five percent of the storage reservoir's pore space. If a county elects to  
3            require written consent from more than eighty-five percent of the persons that own the  
4            storage reservoir's pore space, the storage operator has received written consent from  
5            the specified percentage of the owners required by the county.
- 6        6.    The proposed storage facility will not affect adversely surface waters or formations  
7            containing fresh water.
- 8        7.    The injected oil or gas will not escape from the storage reservoir.
- 9        8.    The storage facility will not endanger health or unduly endanger the environment.
- 10       9.    The storage facility is in the public interest.
- 11       10.   The vertical boundaries of the storage reservoir are defined to include any necessary  
12            or reasonable buffer zones for the purpose of ensuring the safe operations of the  
13            storage facility and to protect the storage facility against pollution, invasion, and  
14            escape or migration of oil or gas ~~therefrom~~from the storage facility.
- 15       11.   The horizontal extent of the injected gas within the storage reservoir, as estimated by  
16            reasonable means and confirmed through appropriate monitoring methods, are  
17            defined to include any necessary or reasonable buffer zones for the purpose of  
18            ensuring the safe operations of the storage facility and to protect the storage facility  
19            against pollution, invasion, and escape or migration of oil or gas ~~therefrom~~from the  
20            storage facility.
- 21       12.   The storage operator will establish monitoring facilities and protocols to assess the  
22            location and migration of oil and gas, if any, injected for storage and to ensure  
23            compliance with all permit, statutory, and administrative requirements.
- 24       13.   The method of underground storage is reasonably necessary to effectively carry on  
25            the joint effort, will prevent waste, protect correlative rights of the mineral and surface  
26            estate, and, with reasonable probability, will result in the increased storage and  
27            recovery of more oil and gas.
- 28       14.   The time, conditions, and method by which the storage facility must be dissolved and  
29            the facility's affairs wound up. A storage facility may be dissolved ten years after the  
30            storage facility permit is issued upon a petition to the commission by the pore space  
31            owners and mineral owners that are credited with at least the percentage of interest of

1 the pore space required to ratify the storage facility amalgamation agreement, and a  
2 subsequent hearing and order by the commission.

3 15. All nonconsenting pore space owners ~~are or will be compensated equitably~~have  
4 received just compensation under chapter 32-15 and section 16 of article I of the  
5 Constitution of North Dakota or the district court has authorized the plaintiff to take  
6 possession under section 32-15-29.

7 **SECTION 3. AMENDMENT.** Section 38-25-07 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **38-25-07. Permit requirements - Storage in salt cavern.**

10 Before issuing a permit for storage in a salt cavern, the commission shall find:

- 11 1. The storage operator has or will obtain the consent by lease, purchase, or other  
12 agreement from all surface owners where surface disturbance activities are necessary  
13 and surface facilities will be located.
- 14 2. The storage operator has complied with all requirements set by the commission,  
15 including all necessary permits to conduct solution mining, if applicable.
- 16 3. The storage facility is suitable and feasible for the injection, storage, and withdrawal of  
17 oil or gas.
- 18 4. The storage operator has made a good-faith effort to obtain the consent of all persons  
19 that own the salt cavern's pore space.
- 20 5. The storage operator has made a good-faith effort to obtain the consent of all persons  
21 that own the salt cavern's salt minerals and salt leases.
- 22 6. The storage operator has obtained the consent of persons that own at least  
23 ~~sixtyeighty-five~~ percent of the salt cavern's pore space. If a county elects to require  
24 written consent from more than eighty-five percent of the persons that own the salt  
25 cavern's pore space, the storage operator has received written consent from the  
26 specified percentage of the owners required by the county.
- 27 7. The storage operator has obtained the consent of persons that own at least fifty-five  
28 percent of the salt cavern's salt minerals and salt leases.
- 29 8. The proposed storage facility will not affect adversely surface waters or formations  
30 containing fresh water.
- 31 9. The injected oil or gas will not escape from the salt cavern.

- 1        10. The storage facility will not endanger health or unduly endanger the environment.
- 2        11. The storage facility is in the public interest.
- 3        12. The horizontal and vertical boundaries of the salt cavern are defined to include a  
4        buffer zone from the outer walls of the cavern for the purpose of ensuring the safe  
5        operation of the storage facility and to protect the storage facility against pollution,  
6        invasion, and escape or migration of gas ~~therefrom~~from the storage facility.
- 7        13. The storage operator will establish monitoring facilities and protocols to assess the  
8        location and migration of oil and gas, if any, injected for storage and to ensure  
9        compliance with all permit, statutory, and administrative requirements.
- 10       14. The method of underground storage is reasonably necessary to effectively carry on  
11       the joint effort, will prevent waste, protect correlative rights of the mineral and surface  
12       estate, and, with reasonable probability, will result in the increased storage and  
13       recovery of more oil and gas.
- 14       15. The time, conditions, and method by which the storage facility must be dissolved and  
15       the facility's affairs wound up. A storage facility may be dissolved ten years after the  
16       storage facility permit is issued upon a petition to the commission by the pore space  
17       owners and mineral owners that are credited with at least the percentage of interest of  
18       the pore space required to ratify the storage facility amalgamation agreement, and a  
19       subsequent hearing and order by the commission.
- 20       16. ~~That all~~All nonconsenting owners are or will be equitably compensatedhave received  
21       just compensation under chapter 32-15 and section 16 of article I of the Constitution of  
22       North Dakota or the district court has authorized the plaintiff to take possession under  
23       section 32-15-29.

24       **SECTION 4. REPEAL.** Section 38-25-08 of the North Dakota Century Code is repealed.

25       **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.