FIRST ENGROSSMENT

Sixty-sixth Legislative Assembly of North Dakota

ENGROSSED SENATE BILL NO. 2212

Introduced by

Senators Bekkedahl, Patten, Unruh

Representatives Hatlestad, Jones, Steiner

- 1 A BILL for an Act to amend and reenact section 47-16-39.2 of the North Dakota Century Code,
- 2 relating to authorization for the inspection of production and royalty payment records by the
- 3 board of university and school lands to impose a civil penalty for failure to produce records; and
- 4 to provide a penalty.

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

6 SECTION 1. AMENDMENT. Section 47-16-39.2 of the North Dakota Century Code is
7 amended and reenacted as follows:

47-16-39.2. Inspection of production and royalty payment records <u>- Penalty</u>. 1. A royalty owner, a royalty owner's assignee, or a designated representative, upon

- 10 written notice, is entitled to inspect and copy the oil and gas production and royalty 11 payment records for the lease of the person obligated to pay royalties under the lease 12 or division order. The person obligated to pay royalties under the lease shall make that 13 person's oil and gas royalty payment and production records available for inspection 14 and copying at that person's usual and customary place of business within the United 15 States. A royalty owner may bring an action to compel the person obligated to pay 16 royalties to allow inspection and copying of oil and gas production royalty payment 17 records. In order for the royalty owner to prevail in such an action, the royalty owner 18 must establish that:
- 191.a.The royalty owner or the royalty owner's assignee complied with notice20requirements of this section;
- 21 2. b. The notice specified the lease involved, the time period under review and the
 22 records requested;

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1	3.	<u>C.</u>	The royalty owner notified the person obligated to pay royalties at the address		
2			printed on the information statement as prescribed by rules adopted by the		
3			industrial commission pursuant to section 38-08-06.3; and		
4	4.	<u>d.</u>	The person obligated to pay royalties denied inspection of the records or failed to		
5			respond within thirty days of service of notice.		
6	<u>2.</u>	The	district court for the county in which the oil or gas well is located has jurisdiction		
7		ove	r all proceedings brought pursuant to this section. If the royalty owner or the royalty		
8		own	er's assignee is successful in any proceeding brought pursuant to this section, the		
9		dist	istrict court shall allow the royalty owner or the royalty owner's assignee to recover		
10		cou	rt costs; reasonable costs, fees, disbursements, and expenses incurred by the		
11		roya	alty owner or the royalty owner's assignee or a designated representative in		
12		insp	ecting and copying the oil and gas production and royalty payment records of the		
13		pers	son obligated to pay royalties under the lease; and reasonable attorney's fees.		
14	<u>3.</u>	If a royalty owner, a royalty owner's assignee, or a designated representative is the			
15		<u>boa</u>	rd of university and school lands , the board shall send a letter to the person		
16		<u>obli</u>	gated to pay royalties requesting the information necessary to conduct the board's		
17		aud	it together with the information outlined in subsection 1. The letter must be sent by		
18		<u>regi</u>	stered mail, return receipt requested. If the requested information is not received		
19		by t	he board within ninety days of the date of receipt of the letter, the board may		
20		<u>imp</u>	ose a civil penalty of up to one thousand dollars per day, as determined by the		
21		boa	rd pursuant to board policies, until the records are made available. Each day's		
22		viola	ation is a separate offense. The board, for good cause shown, may waive all or any		
23		<u>part</u>	of the penalty provided by this subsection. A penalty paid under this section must		
24		be c	deposited in the common schools trust fund .:		
25		<u>a.</u>	The records in subsection 1 must be sent electronically, or in a manner		
26			acceptable to the board, to a location designated by the board.		
27		b.	Notwithstanding subsection 2, at the discretion of the board, a proceeding		
28			brought under this section may be brought in the district court of Burleigh County		
29			or in the county in which the oil or gas well is located.		
30	4.	lf th	e board of university and school lands is successful in any proceeding brought		
31		und	er this section, the district court shall allow the board to recover court costs;		

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1	reasonable costs, fees, disbursements, and expenses incurred by the board in		
2	inspecting the copying the oil and gas production and royalty payment records of the		
3	person obligated to pay royalties under the lease; and reasonable attorney's fees.		
4	a. The district court also shall assess a civil penalty of two thousand dollars per day		
5	for each day the person obligated to pay royalties under the lease failed to send		
6	the oil and gas royalty payment and production records to the board in		
7	accordance with subsection 1.		
8	b. The civil penalty under subdivision a ceases to accrue on the date the		
9	proceedings are initiated under subsection 1.		