

HOUSE BILL NO. 1299

Introduced by

Representatives M. Nelson, P. Anderson, Louser, Simons

1 A BILL for an Act to amend and reenact section 47-05-02.1 of the North Dakota Century Code,
2 relating to the duration of easements on the use of real property for pipelines.

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

4 **SECTION 1. AMENDMENT.** Section 47-05-02.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **47-05-02.1. Requirements of easements, servitudes, or nonappurtenant restrictions**
7 **on the use of real property.**

8 Real property easements, servitudes, or any nonappurtenant restrictions on the use of real
9 property, which become binding after July 1, 1977, ~~shall be~~are subject to the requirements of
10 this section. These requirements are deemed a part of any agreement for such interests in real
11 property whether or not printed in a document of agreement.

12 1. The area of land covered by the easement, servitude, or nonappurtenant restriction on
13 the use of real property ~~shall~~must be properly described and ~~shall~~must set out the
14 area of land covered by the interest in real property.

15 2. The duration of the easement, servitude, or nonappurtenant restriction on the use of
16 real property must be specifically set out, and in no case may the duration of any
17 interest in real property regulated by this section exceed ninety-nine years. The
18 duration of an easement for a waterfowl production area acquired by the federal
19 government, and consented to by the governor or the appropriate state agency after
20 July 1, 1985, may not exceed fifty years. A waterfowl production area easement that
21 exceeds fifty years or which purports to be perpetual may be extended by negotiation
22 between the owner of the easement and the owner of the servient tenement. A
23 waterfowl production area easement that exceeds fifty years or which purports to be
24 permanent and is not extended by negotiation is void. The duration of a wetlands

1 reserve program easement acquired by the federal government pursuant to the Food,
2 Agriculture, Conservation, and Trade Act of 1990 after July 1, 1991, may not exceed
3 thirty years.

4 3. No increase in the area of real property subject to the easement, servitude, or
5 nonappurtenant restriction ~~shall~~may be made except by negotiation between the
6 owner of the easement, servitude, or nonappurtenant restriction and the owner of the
7 servient tenement.

8 4. Unless otherwise provided by law, an easement, servitude, or nonappurtenant
9 restriction obtained for the purpose of building a pipeline is considered abandoned if
10 the pipeline is not built within twenty years of the date on which the easement,
11 servitude, or nonappurtenant restriction was obtained. An easement, servitude, or
12 nonappurtenant restriction abandoned under this subsection is extinguished and title
13 vests in the owner of the servient tenement.