

Sixty-seventh  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2217

Introduced by

Senators Bekkedahl, Dwyer, Kannianen

Representatives Brandenburg, Kempenich, Zubke

1 A BILL for an Act to create and enact a new section to chapter 47-16 of the North Dakota  
2 Century Code, relating to the deduction or recovery of losses incurred in the sale or disposition  
3 of natural gas from the proceeds of oil production; and to provide for a legislative management  
4 study.

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

6 **SECTION 1.** A new section to chapter 47-16 of the North Dakota Century Code is created  
7 and enacted as follows:

8 **Certain deductions prohibited - Breach.**

- 9 1. The deduction or recovery of losses incurred in the sale or disposition of natural gas  
10 produced under an oil and gas lease from the proceeds of oil production attributable to  
11 royalty interests or overriding royalty interests under the lease is prohibited unless  
12 expressly and unambiguously provided otherwise by the lease, provided the losses:  
13 a. May be offset or applied against a subsequent net gain in the sale or disposition  
14 of natural gas in accordance with the lease;  
15 b. May not be offset by the gains from one well to another well; and  
16 c. May not be carried forward from one well to the gains or losses of another well.  
17 2. A person found to be in violation of subsection 1, if lease cancellation is not sought,  
18 shall pay interest at the applicable annual rate set by the state court administrator  
19 pursuant to section 28-20-34 on the portion of oil or gas royalties that were not timely  
20 paid to the owner of the royalties on account of the violation until paid. The district  
21 court for the county in which the oil or gas well is located has jurisdiction over all  
22 proceedings brought under this section. The prevailing party in any proceeding under  
23 this section is entitled to recover any court costs and reasonable attorney's fees.

1       **SECTION 2. LEGISLATIVE MANAGEMENT STUDY - POSTPRODUCTION COST**

2       **DEDUCTIONS.** During the 2021-22 interim, the legislative management shall consider studying  
3       deductions for postproduction costs under oil and gas leases.

4       1.     The study must include:

5           a.     Consideration of the methods used to calculate the value of oil and gas, the point  
6                 of sale used to determine the value, oil and gas sales in the absence of an  
7                 arm's-length contract, any deductions or incentives applied to the value, and the  
8                 methods used to report any deductions or incentives on mineral royalty  
9                 statements;

10          b.     Input from representatives from the oil and gas industry, representatives from an  
11                 organization representing royalty owners, the department of mineral resources,  
12                 the department of trust lands, and the attorney general's office; and

13          c.     An analysis and review of state-mandated natural gas capture targets, federal  
14                 land permitting restrictions, the effectiveness of using onsite flare mitigation  
15                 technologies and the infrastructure necessary to enhancing oil and natural gas  
16                 value.

17       2.     The study may include consideration of the desirability and feasibility of expanding the  
18                 use and market access of natural gas, including value-added energy opportunities  
19                 within the state.

20       3.     The legislative management shall report its findings and recommendations, together  
21                 with any legislation required to implement the recommendations, to the sixty-eighth  
22                 legislative assembly.