Thank you, madam chairman and members of the Committee. Good morning, my name is Barry Biggs and I am a Vice President at Hess Corporation. I want to thank the committee for giving Hess the opportunity to appear at this hearing. I appear today before the Committee in opposition to Senate Bill 2217.

Hess Corporation and its affiliates have a long history of operating in North Dakota. We drilled our first oil well here in 1951. Today, Hess holds more than 500,000 net acres in the Bakken with more than 1,650 active wells producing about 120,000 barrels of crude oil per day. Hess companies and contractors employ nearly 1,500 people across the state, and Hess companies are among the largest private employers in the state. Moreover, Hess companies have invested tens of millions of dollars in North Dakota community initiatives in the past 5 years. We are proud to be invested here and proud to say that generations of Hess employees have called, and will continue to call, North Dakota home.

Hess has paid almost two billion dollars in royalties to North Dakota royalty owners since early 2014. The vast majority of this royalty revenue is from oil, because, as you've heard, the Bakken is primarily an oil play—one of the best in the world. But when you produce oil in the Bakken, you also get gas. Capturing that gas requires significant investment and cost. The alternative is simply flaring the gas, but that runs contrary to government regulations and to Hess's commitment to environmental stewardship. The simple fact is that without significant investment in infrastructure that can handle the gas produced along with the oil, North Dakota will never realize the full benefit of its great oil resources.

Against that background, Hess urges the committee to reject Bill 2217 for several practical reasons. First, the bill would reduce investment in North Dakota. Second, the bill would result in lower royalties to royalty owners and lower tax revenue for the State. Third, the bill would reduce overall oil production, further reducing royalty revenue and tax payments. Fourth, the bill would interfere with the contracts that the parties bargained for in their oil and gas leases. At bottom, this bill would have negative ramifications for everyone—operators, royalty owners, working interest owners, the state of North Dakota and the people of North Dakota— while also discouraging investment by integrated operators like Hess.

To my first point, Bill 2217 undermines the goals that North Dakota's leaders have set for increased investment by companies like Hess. For example, in a 2018 press release, Governor Burgum said that "additional private-sector capital investment for gas capture and value-added processing is exactly what we need to simultaneously grow our economy and protect our environment." Just last November, North Dakota Pipeline Authority director Justin Kringstad, in a call for additional private investment in the state, said that the "infrastructure we have today is not adequate for the long term." Department of Mineral Resources director Lynn Helms has also talked of the need for additional investment, noting in September 2020 that future gas capture requires "a monumental effort" and billions of dollars in infrastructure investments. We agree that infrastructure investments are critical. But Bill 2217 would undermine these goals by discouraging producers and midstream companies from making additional infrastructure investments.

To be clear, as part of Hess's long-term strategy in North Dakota, and consistent with North Dakota's goals, Hess companies have made substantial investments in order to operate on their current scale. Hess operates in North Dakota through various affiliates, and since 2012, Hess companies have invested more than $14.4 billion in North Dakota. Nearly $2.9 billion of that investment has been in midstream infrastructure through Hess Midstream, a publicly traded partnership between Hess Corporation and Global Infrastructure Partners formed in 2015. Hess Midstream's assets and investments include oil and gas gathering pipeline systems and compression facilities; processing plants and associated storage facilities like the Tioga Gas Plant north of the river and the Little Missouri 4, or LM4, Gas Plant south of the river; as well as terminaling and export facilities like the Ramburg Terminal Facility and Tioga Rail Terminal.

Hess's goal is to obtain the best possible price for itself and its royalty owners when it sells oil and gas. Today, Hess produces oil and gas and pays royalties pursuant to tens of thousands of oil and gas leases in North Dakota. As I stated earlier, since 2014 Hess has paid out almost $2 billion in revenue to royalty owners. Hess has been able to pay this sum by moving oil and gas out of North Dakota to be sold in locations where the price is higher, which benefits Hess and royalty owners alike, rather than selling to a third-party at the wellhead. To be clear, Hess can sell oil at the wellhead to an unaffiliated third-party. But instead, Hess has invested in infrastructure that gives it the flexibility to move the oil and gas, while our affiliate, Hess Trading Corporation, has a team of people devoted to analyzing downstream markets. This allows us to determine the best available methods of transporting volumes to those markets in an effort to obtain a relatively high price at a relatively low cost. And royalty owners share in that higher downstream price without shouldering the marketing costs Hess incurs to secure those higher prices.

There are, of course, transportation costs involved in moving oil or gas from the wellhead to downstream markets. These costs—which are for activities like gathering, transportation, processing, and compression—are typically referred to as post-production costs. The lease between Hess and the royalty owner determines whether those post-production costs are shared on a pro rata basis, often by specifying whether royalties are to be based on the value of oil and gas at the well. When the lease permits a sharing of post-production costs on a pro rata basis, it allows Hess to recover some of the extensive investment that it has made to transport oil and gas in and out of North Dakota.

Under current market conditions, the gas produced from the Bakken alongside the oil is rarely profitable. But both because of Hess's commitment to environmental stewardship, and because federal and state regulations limit flaring at the well pad, gas must be gathered and pipelines must therefore be built to capture and gather gas at the well pad. This, too, requires substantial investment from producers and midstream operators. Gas is gathered from the wellhead; compressed to move through the pipe; and processed to separate gas products for marketing and sale. Sometimes the costs of processing and transporting the gas exceed the value of the gas. But in those situations, under the Hess cost of service model, Hess does not take royalty owners negative on the combined gas stream.

As our 70-year track record shows, Hess is in it for the long haul here in North Dakota. Hess has made substantial investment in North Dakota to be well-positioned for the long-run. To be sure, there are down years for oil—like 2020, when the price of oil dropped steeply in the early days of the global pandemic. But the market has somewhat recovered and we hope that recovery will continue over the next few months. We strongly believe that Hess and our royalty owners are well-positioned for this recovery in oil prices based on our long-term commitment to, and investment strategy in, North Dakota. As the price has recovered, oil production in North Dakota has recently been increasing, with previously shut-in wells returning to production and additional drilling rigs coming online.

Looking ahead to 2021 and beyond, Hess has already invested in the gas infrastructure it needs to be able to increase oil production without fear of substantial curtailment to accommodate flaring limitations. Notably, Hess Midstream provides Hess with a "firm" level of service, meaning Hess has first priority in the pipeline system when capturing gas. This is in contrast to many gas gathering operations in North Dakota, which are "interruptible"—meaning that in determining how much gas can be captured, producers are at the mercy of whatever pipeline capacity remains. While interruptible service may be cheaper, it makes it more difficult for producers to gather gas, and could in turn force some producers to curtail oil production in a higher-priced environment. Given our existing infrastructure, Hess is less subject to these limitations than most producers and has already begun to increase drilling with an additional rig that just came online this month.

All of this brings me back to why this committee should reject Bill 2217. First, the bill would reduce midstream investment in North Dakota. No responsible business would make investments knowing a material portion of such investments would be unrecoverable. Here, Hess, together with its partner and public investors, has invested in midstream assets that cost billions of dollars, and these investments are not fully recoverable when those costs cannot be shared, on a pro rata basis, with royalty owners who benefit equally from those services and whose leases permit such cost-sharing.

Second, for similar reasons, the bill would incentivize producers to sell oil to unaffiliated third parties at the wellhead, rather than in downstream markets, which would result in lower royalties. If Hess companies are forced to bear 100% of post-production costs and cannot recover any of them even when their leases allow them to, the incentive for incurring those costs substantially diminishes, and instead operators would be incentivized to sell oil to third parties at the wellhead at reduced prices. That, of course, would result in lower overall revenues to both royalty owners and operators.

Third, the bill would harm royalty owners and lower North Dakota tax revenues by reducing the number of profitable wells and curtailing oil production. Royalty owners receive royalty payments only if oil is being produced and sold from their wells. But operators and midstream companies will invest in oil production only if it is economically advantageous to do so. If Bill 2217 makes certain existing or potential wells uneconomic by raising net costs beyond net income, then operators will simply no longer drill and produce such wells. That, of course, eliminates royalty income as well as tax revenues to North Dakota.

Fourth, the bill would interfere with the rights and obligations of contracts that were freely negotiated between producers and royalty owners, and thus would likely trigger litigation as to whether those contracts can be amended by legislation after they were entered into. Negotiation of each lease is a give and take, where the parties trade off on terms until they finally reach a set of terms that are mutually agreeable. As I stated earlier, Hess has tens of thousands of leases in North Dakota, and these are contracts that the parties negotiated and freely entered into. Hess believes that it honors the language of each lease based on North Dakota law, and we respectfully ask that this Committee not interfere with those agreements with this legislation.

Thank you for the opportunity to participate today. I am happy to answer any questions the Committee may have.