

**HOUSE BILL NO. 1490**

Introduced by

Representatives B. Anderson, Lefor, Steiner, Trottier

1 A BILL for an Act to amend and reenact section 38-11.1-08.1 of the North Dakota Century,  
2 relating to loss of oil and gas production payments.

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

4 **SECTION 1. AMENDMENT.** Section 38-11.1-08.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **38-11.1-08.1. Loss of production payments.**

7 The mineral developer shall pay the surface owner a sum of money equal to the amount of  
8 damages sustained by the surface owner and the surface owner's tenant, if any, for loss of  
9 agricultural production and income caused by oil and gas production and completion  
10 operations. The amount of damages may be determined by any formula mutually agreeable  
11 between the surface owner and the mineral developer. When determining damages for loss of  
12 production, consideration must be given to the period of time during which the loss occurs and  
13 the damages for loss of production must be paid annually unless the surface owner elects to  
14 receive a single lump sum payment. Payments under this section are intended to compensate  
15 the surface owner, and any tenant of a surface owner, for loss of production. Any reservation or  
16 assignment of such compensation apart from the surface estate, except to a tenant of the  
17 surface estate, is prohibited. In the absence of an agreement between the surface owner and a  
18 tenant as to the division of compensation payable under this section, the tenant is entitled to  
19 ~~recover from the surface owner that portion of the compensation attributable to the tenant's~~  
20 ~~share of the damages sustained~~ maintain a separate action against the mineral developer for  
21 recovery of damages for loss of agricultural production and income. A tenant of a surface owner  
22 is not entitled to receive notice or fees under sections 38-11.1-04.1 or 38-11.1-09.