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**House
Legislative
Analysis
Section**

**GAS & OIL; POSTPRODUCTION
COSTS**

House Bill 5709

Sponsor: Rep. Larry DeVuyst

**Committee: Conservation and Outdoor
Recreation**

Complete to 5-5-00

A SUMMARY OF HOUSE BILL 5709 AS INTRODUCED 5-2-00

The Natural Resources and Environmental Protection Act contains provisions governing lease arrangements involving the extraction of minerals. Among other things, the act specifies that a person who enters into a gas lease cannot deduct from the lessor's (landowner's) royalty any portion of postproduction costs unless the lease explicitly provides for such deductions. Further, if a lease explicitly provides for the deduction of postproduction costs, the lessee may only deduct for certain specified items (items that are listed in the statute, including the reasonable costs of removal of carbon dioxide, hydrogen sulfide, molecular nitrogen, or other substances whose removal will enhance the value of the gas, and certain specified transportation costs), *unless the lease explicitly and specifically provides for the deduction of other items*. House Bill 5709 would amend this provision to delete the exception, so that only the listed items could be deducted.

In addition, the act provides that a lessor may recover damages in the amount of wrongly deducted postproduction costs, and that a party who prevails in litigation under this provision may recover reasonable attorney fees incurred in bringing an action, if the court finds that the position taken by the nonprevailing party was frivolous. The bill would rewrite this provision. It would specify that a lessor could recover reasonable attorney fees incurred in bringing an action to recover wrongly deducted postproduction costs, unless the lessee in good faith endeavored to cure the alleged violation before the court action was initiated, and that a lessee who prevailed in litigation could recover reasonable attorney fees incurred in defending an action brought under the provision if the court found that the lessor's action was frivolous.

324.61503b and 324.61503c

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