

## JOURNAL OF THE SENATE

## Sixty-third Legislative Assembly

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Bismarck, April 5, 2013

The Senate convened at 12:30 p.m., with President Wrigley presiding.

The prayer was offered by Father Daniel Maloney, Annunciation Monastery, Bismarck.

The roll was called and all members were present except Senators J. Lee and Nelson.

A quorum was declared by the President.

## REPORT OF STANDING COMMITTEE

**HB 1234, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1234 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to income tax withholding for oil and gas royalties; to amend and reenact section 15-05-10, subsection 4 of section 38-08-04, sections 57-51.1-01 and 57-51.1-03, subsection 1 of section 57-51.1-03.1, and section 57-51.2-02 of the North Dakota Century Code, relating to oil extraction tax definitions and exemptions and the state-tribal oil tax agreement; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 15-05-10 of the North Dakota Century Code is amended and reenacted as follows:

**15-05-10. Royalties from oil leases - Rents from other leases - Rules.**

Oil leases must be made by the board of university and school lands at such annual minimum payments as are determined by the board, but the royalty shall be not less than twelve and one-half percent of the gross output of oil from the lands leased. Oil leases made by the board may authorize a royalty of less than twelve and one-half percent for production from stripper well properties or individual stripper wells and qualifying secondary recovery and qualifying tertiary recovery projects as defined in section 57-51.1-01. Leases for gas, coal, cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical substances, metallic ores, or colloidal or other clays must be made by the board in such annual payments as are determined by the board. The board may adopt rules regarding annual payments and royalties under this section.

**SECTION 2. AMENDMENT.** Subsection 4 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

4. To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter, to classify and determine the status and depth of wells that are stripper well property as defined in subsection 8 of section 57-51.1-01, to certify to the tax commissioner which wells are stripper wells and the depth of those wells, to recertify stripper wells that are reentered and recompleted as horizontal wells, and to certify to the tax commissioner which wells involve secondary or tertiary recovery operations under section 57-51.1-01, and the date of qualification for the reduced rate of oil extraction tax for secondary and tertiary recovery operations.

**SECTION 3.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Withholding requirement for oil and gas royalty payments to nonresidents.**

1. For purposes of this section:
  - a. "Publicly traded partnership" means a publicly traded partnership as defined in section 7704 of the Internal Revenue Code [26 U.S.C. 7704] which is not treated as a corporation.
  - b. "Remitter" means any person who distributes royalty payments to royalty owners.
  - c. "Royalty owner" means a person or entity entitled to receive periodic royalty payments for a nonworking interest in the production of oil or gas.
2. Except as provided in subsection 3, each remitter shall deduct and withhold from the net amount of the royalty payment made to each nonresident individual or business entity that does not have its commercial domicile in this state at the highest marginal rate provided in sections 57-38-30 and 57-38-30.3. Sections 57-38-59 and 57-38-60 apply to the filing of the returns and payment of the tax under this subsection.
3. This section does not apply to royalty payments made to a royalty owner if the royalty owner is:
  - a. The United States or an agency of the federal government, this state or a political subdivision of this state, or another state or a political subdivision of another state;
  - b. A federally recognized Indian tribe with respect to on-reservation oil and gas production pursuant to a lease entered under the Indian Mineral Leasing Act of 1938 [25 U.S.C. 396a through 396g];
  - c. The United States as trustee for individual Indians;
  - d. A publicly traded partnership;
  - e. An organization that is exempt from the tax under this chapter; or
  - f. The same person or entity as the remitter.
4.
  - a. This section does not apply to a remitter that produced less than three hundred fifty thousand barrels of oil or less than five hundred million cubic feet of gas in the preceding calendar year as certified to the tax commissioner in the manner and on forms prescribed by the tax commissioner.
  - b. Each remitter that is exempt from withholding under this subsection shall make an annual return to report royalty payments that exceed the dollar amounts in subsection 6 and must be reported in the same manner as provided in section 57-38-60.
5.
  - a. Each year, a publicly traded partnership that is exempt from withholding under subsection 3 shall transmit to the tax commissioner, in an electronic format approved by the tax commissioner, each partner's United States department of the treasury schedule K-1, form 1065, or form 1065-B, as applicable, filed electronically for the year with the United States internal revenue service.

- b. A royalty owner that is a publicly traded partnership, or an organization exempt from taxation under section 57-38-09, shall report to the remitter and tax commissioner under oath, on a form prescribed by the tax commissioner, all information necessary to establish that the remitter is not required under subsection 2 to withhold royalty payments made to the partnership or organization.
6. If the royalty payment made to a royalty owner under this section is less than six hundred dollars for the current withholding period, or is less than one thousand dollars if the payment is annualized, the tax commissioner may grant a remitter's request to forego withholding the tax from the royalty payment made to that royalty owner for the current withholding period or, if applicable, the royalty payments for the annual period.

**SECTION 4. AMENDMENT.** Section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-01. Definitions for oil extraction tax.**

~~For the purposes of the oil extraction tax law, the following words and terms shall have the meaning ascribed to them in this section~~this chapter:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.
2. "Average price" of a barrel of crude oil means the monthly average of the daily closing price for a barrel of west Texas intermediate cushing crude oil, as those prices appear in the Wall Street Journal, midwest edition, minus two dollars and fifty cents. When computing the monthly average price, the most recent previous daily closing price must be considered the daily closing price for the days on which the market is closed.
3. "Horizontal reentry well" means a well that was not initially drilled and completed as a horizontal well, including any well initially plugged and abandoned as a dry hole, which is reentered and recompleted as a horizontal well.
4. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].
5. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.
6. "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.
7. "Qualifying secondary recovery project" means a project employing water flooding. To be eligible for the tax reduction provided under section 57-51.1-02, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have achieved for six consecutive months an average production level of at least twenty-five percent above the level that would have been recovered under normal recovery operations. To be eligible for the tax exemption

provided under section 57-51.1-03 and subsequent thereto the rate reduction provided under section 57-51.1-02, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 5 of section 57-51.1-03.

8. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:
- a. Miscible fluid displacement.
  - b. Steam drive injection.
  - c. Microemulsion.
  - d. In situ combustion.
  - e. Polymer augmented water flooding.
  - f. Cyclic steam injection.
  - g. Alkaline flooding.
  - h. Carbonated water flooding.
  - i. Immiscible carbon dioxide displacement.
  - j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. To be eligible for the tax reduction provided under section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have achieved for at least one month a production level of at least fifteen percent above the level that would have been recovered under normal recovery operations. To be eligible for the tax exemption provided under section 57-51.1-03 and subsequent thereto the rate reduction provided under section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 5 of section 57-51.1-03.

9. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.
10. "Stripper well" means a well drilled and completed, or reentered and recompleted as a horizontal well, after June 30, 2013, whose average daily production of oil during any preceding consecutive twelve-month period, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] outside the Bakken and Three Forks formations, and forty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.

11. "Stripper well property" means wells drilled and completed, or a well reentered and recompleted as a horizontal well, before July 1, 2013, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.
- ~~11-12.~~ "Trigger price" means thirty-five dollars and fifty cents, as indexed for inflation. By December thirty-first of each year, the tax commissioner shall compute an indexed trigger price by applying to the current trigger price the rate of change of the producer price index for industrial commodities as calculated and published by the United States department of labor, bureau of labor statistics, for the twelve months ending June thirtieth of that year and the indexed trigger price so determined is the trigger price for the following calendar year.
- ~~12-13.~~ "Two-year inactive well" means any well certified by the industrial commission that did not produce oil in more than one month in any consecutive twenty-four-month period before being recompleted or otherwise returned to production after July 31, 1995. A well that has never produced oil, a dry hole, and a plugged and abandoned well are eligible for status as a two-year inactive well.

**SECTION 5. AMENDMENT.** Section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-03. ~~(Effective through June 30, 2013)~~ Exemptions from oil extraction tax.**

The following activities are specifically exempted from the oil extraction tax:

1. The activity of extracting from the earth any oil that is exempt from the gross production tax imposed by chapter 57-51.
2. The activity of extracting from the earth any oil from a stripper well property or individual stripper well.
3. For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
4. The production of oil from a qualifying well that was worked over is exempt from any taxes imposed under this chapter for a period of twelve months, beginning with the first day of the third calendar month after the completion of the work-over project. The exemption provided by this subsection is only effective if the well operator establishes to the satisfaction of the industrial commission upon completion of the project that the cost of the project exceeded sixty-five thousand dollars or

production is increased at least fifty percent during the first two months after completion of the project. A qualifying well under this subsection is a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production. A work-over project under this subsection means the continuous employment of a work-over rig, including recompletions and reentries. The exemption provided by this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.

5. a. The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission after July 1, 1991, is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.
- b. The incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins. Incremental production from a tertiary recovery project that uses carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter from the date the incremental production begins.
- c. For purposes of this subsection, incremental production is defined in the following manner:
  - (1) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the secondary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the secondary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
  - (2) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence prior to July 1, 1991, and where the industrial commission cannot establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during a new secondary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.

- (3) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence before July 1, 1991, and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the new secondary recovery project and the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced includes both primary production and production that occurred as a result of the secondary recovery project that was in existence before July 1, 1991. The industrial commission shall determine the amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the new secondary recovery project is certified.
- (4) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the tertiary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
- (5) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project, incremental production means the difference between the total amount of oil produced during the tertiary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
- (6) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced includes both primary production and production that occurred as a

result of any secondary recovery project. The industrial commission shall determine the amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the tertiary recovery project is certified.

- d. The industrial commission shall adopt rules relating to this exemption that must include procedures for determining incremental production as defined in subdivision c.
6. The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner, for a period of ten years after the date of receipt of the certification. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
7. The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner, for a period of nine months after the date the well is completed as a horizontal well. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
8. The initial production of oil from a well is exempt from any taxes imposed under this chapter for a period of sixty months if:
  - a. The well is drilled and completed before July 1, 2013, on nontrust lands located within the boundaries of an Indian reservation;
  - b. The well is drilled and completed before July 1, 2013, on lands held in trust by the United States for an Indian tribe or individual Indian; or
  - c. The well is drilled and completed before July 1, 2013, on lands held by an Indian tribe if the interest is in existence on August 1, 1997.
9. The first seventy-five thousand barrels or the first four million five hundred thousand dollars of gross value at the well, whichever is less, of oil produced during the first eighteen months after completion, from a horizontal well drilled and completed after April 30, 2009, and before July 1, 2015, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption for horizontal wells under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty-four months after completion. The rate reduction under this subsection becomes effective on the first day of the month following a month for which the average price of a barrel of crude oil is less than fifty-five dollars. The rate reduction under this subsection becomes ineffective on the first day of the month following a month in which the average price of a barrel of crude oil exceeds seventy dollars. If the rate reduction under this subsection is effective on the date of completion of a well, the rate reduction applies to production from that well for up to eighteen months after completion, subject to the other limitations of this subsection. If the rate reduction under this subsection is ineffective on the date of completion of a well, the rate reduction under this subsection does not apply to production from that well at any time.



10. The first seventy-five thousand barrels of oil produced during the first eighteen months after completion, from a well drilled and completed outside the Bakken and Three Forks formations, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty-four months after completion.

**(Effective after June 30, 2013) Exemptions from oil extraction tax.** The following activities are specifically exempted from the oil extraction tax:

1. The activity of extracting from the earth any oil that is exempt from the gross production tax imposed by chapter 57-51.
2. The activity of extracting from the earth any oil from a stripper well property.
3. For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
4. The production of oil from a qualifying well that was worked over is exempt from any taxes imposed under this chapter for a period of twelve months, beginning with the first day of the third calendar month after the completion of the work-over project. The exemption provided by this subsection is only effective if the well operator establishes to the satisfaction of the industrial commission upon completion of the project that the cost of the project exceeded sixty-five thousand dollars or production is increased at least fifty percent during the first two months after completion of the project. A qualifying well under this subsection is a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production. A work-over project under this subsection means the continuous employment of a work-over rig, including recompletions and reentries. The exemption provided by this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
5.
  - a. The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission after July 1, 1991, is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.
  - b. The incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins. Incremental production from a tertiary recovery project that uses carbon dioxide and which has been certified as a qualified project by the industrial commission is

exempt from any taxes imposed under this chapter from the date the incremental production begins.

- e. For purposes of this subsection, incremental production is defined in the following manner:
- (1) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the secondary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the secondary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
  - (2) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence prior to July 1, 1991, and where the industrial commission cannot establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during a new secondary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
  - (3) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence before July 1, 1991, and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the new secondary recovery project and the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced includes both primary production and production that occurred as a result of the secondary recovery project that was in existence before July 1, 1991. The industrial commission shall determine the amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the new secondary recovery project is certified.
  - (4) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced

from the unit during the tertiary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the tertiary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.

- (5) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project, incremental production means the difference between the total amount of oil produced during the tertiary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
  - (6) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced includes both primary production and production that occurred as a result of any secondary recovery project. The industrial commission shall determine the amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the tertiary recovery project is certified.
- d. The industrial commission shall adopt rules relating to this exemption that must include procedures for determining incremental production as defined in subdivision c.
6. The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner, for a period of ten years after the date of receipt of the certification. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
  7. The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner, for a period of nine months after the date the well is completed as a horizontal well. The exemption under this subsection becomes ineffective if the

~~average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five month period.~~

8. ~~The initial production of oil from a well is exempt from any taxes imposed under this chapter for a period of sixty months if:~~
- a. ~~The well is located within the boundaries of an Indian reservation;~~
  - b. ~~The well is drilled and completed on lands held in trust by the United States for an Indian tribe or individual Indian; or~~
  - c. ~~The well is drilled and completed on lands held by an Indian tribe if the interest is in existence on August 1, 1997.~~
9. ~~The first seventy five thousand barrels of oil produced during the first eighteen months after completion, from a horizontal well drilled and completed in the Bakken formation after June 30, 2007, and before July 1, 2008, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption for horizontal wells under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty four months after completion.~~

**SECTION 6. AMENDMENT.** Subsection 1 of section 57-51.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

1. To receive, from the first day of eligibility, a tax exemption on production from a stripper well property or individual stripper well under subsection 2 of section 57-51.1-03, the industrial commission's certification must be submitted to the tax commissioner within eighteen months after the end of the stripper well property's or stripper well's qualification period.

**SECTION 7. AMENDMENT.** Section 57-51.2-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.2-02. Agreement requirements.**

An agreement under this chapter is subject to the following:

1. The only taxes subject to agreement are the state's oil and gas gross production and oil extraction taxes attributable to production from wells located within the exterior boundaries of the Fort Berthold Reservation.
2. The state's oil and gas gross production tax under chapter 57-51 and oil extraction tax under chapter 57-51.1 must apply to all wells located within the Fort Berthold Reservation.
3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas production attributable to trust lands on the Fort Berthold Reservation may not exceed six and one-half percent but may be reduced through negotiation between the governor and the Three Affiliated Tribes.
4. Any exemptions for oil and gas production from trust lands under chapters 57-51 and 57-51.1 do not apply to production within the boundaries of the Fort Berthold Reservation except as otherwise provided in the agreement.
5. The allocation of revenue from oil and gas production taxes on the Fort Berthold Reservation must be as follows:

- a. Production attributable to trust lands. All revenues and exemptions from all oil and gas gross production and oil extraction taxes attributable to production from trust lands on the Fort Berthold Reservation must be evenly divided between the tribe and the state.
  - b. All other production. ~~The tribe must receive twenty percent of the total oil and gas gross production taxes collected from all production~~ All revenues and exemptions from all oil and gas gross production and oil extraction taxes attributable to production from nontrust lands on the Fort Berthold Reservation must be evenly divided between the tribe and the state in lieu of the application of the Three Affiliated Tribes' fees and taxes related to production on such lands. The state must receive the remainder.
  - c. The state's share of the revenue as divided in subdivisions a and b is subject to distribution among political subdivisions as provided in chapters 57-51 and 57-51.1.
6. An oil or gas well that is drilled and completed during the time of an agreement under this chapter must be subject to the terms of the agreement for the life of the well.
  7. The Three Affiliated Tribes must agree not to impose a tribal tax or any fee on future production of oil and gas on the Fort Berthold Reservation during the term of the agreement.
  8. To address situations in which the tax commissioner refunds taxes to a taxpayer, the agreement must allow the tax commissioner to offset future distributions to the tribe.
  9. The tax commissioner must retain authority to administer and enforce chapters 57-51 and 57-51.1 as applied to wells subject to any agreement authorized by this chapter.
  10. An oil or gas well that is drilled and completed during the time an agreement under this chapter is in effect is subject to state regulatory provisions for the life of the well in addition to any other applicable regulatory provisions.
  11. The federal district court for the western division of North Dakota is the venue for any dispute arising from a revenue-sharing agreement between the state and the Three Affiliated Tribes.

**SECTION 8. EFFECTIVE DATE.** Section 3 of this Act is effective for taxable years beginning after December 31, 2013, and the remainder of this Act is effective for taxable events occurring after June 30, 2013."

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**HB 1358, as reengrossed: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1358 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "a new section to chapter 23-01 and"

Page 1, line 3, after "reenact" insert "paragraph 1 of subdivision f of subsection 1 of section 15.1-27-04.1 of the North Dakota Century Code, as created by House Bill No. 1319, as approved by the sixty-third legislative assembly, and"

Page 1, line 5, remove "; to provide a continuing appropriation"

Page 1, line 5, remove "; to provide a"

Page 1, line 6, remove "statement of legislative intent"

Page 1, line 6, after the first semicolon insert "and"

Page 1, line 6, remove "; and to declare an emergency"

Page 1, remove lines 8 through 24

Page 2, replace lines 1 through 22 with:

**"SECTION 1. AMENDMENT.** Paragraph 1 of subdivision f of subsection 1 of section 15.1-27-04.1 of the North Dakota Century Code, as created by House Bill No. 1319, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

- (1) Seventy-five percent of all revenue received by the school district and reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08 and mineral revenue received by the school district by direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual,"

Page 3, line 9, replace "seven" with "three"

Page 3, line 9, replace "fifty" with "seventy-five"

Page 3, line 18, replace "two" with "one"

Page 3, line 18, replace "fifty" with "twenty-five"

Page 3, remove line 21

Page 3, line 22, remove "treasurer"

Page 3, line 22, overstrike "retain seventy-five percent of the allocation and deposit that amount in"

Page 3, line 23, overstrike "a special account established for that school district."

Page 3, line 23, remove "Up"

Page 3, line 23, overstrike "to fifty percent of the"

Page 3, line 24, overstrike "funds deposited in the special account under this subdivision"

Page 3, line 24, remove "may"

Page 3, line 24, overstrike "be released by"

Page 3, overstrike lines 25 and 26

Page 3, line 27, overstrike "special account"

Page 3, line 27, remove "that"

Page 3 line 27, overstrike "are not committed or expended for school construction"

Page 3, line 28, overstrike "projects"

Page 3, line 28, remove "may be released to the school district by the state treasurer upon"

Page 3, remove lines 29 through 31

Page 4, remove lines 1 through 24

Page 4, line 25, replace "e." with "c."

Page 4, line 26, overstrike "one" and insert immediately thereafter "two"

Page 4, line 26, after the semicolon insert "and"

Page 4, remove lines 27 through 30

Page 4, overstrike line 31

Page 5, line 1, replace "g." with "d."

Page 5, line 1, remove "If there are no remaining"

Page 5, remove lines 2 through 6

Page 5, line 11, overstrike "the next one"

Page 5, line 11, replace "four" with "all annual revenue exceeding five"

Page 5, line 11, overstrike "seventy-five" and insert immediately thereafter "twenty-five"

Page 5, line 12, overstrike "c. Of the next one"

Page 5, line 12, remove "three"

Page 5, line 12, overstrike "million dollars, fifty percent is allocated to the county."

Page 5, line 13, overstrike "d. Of the next fourteen million dollars"

Page 5, line 13, remove "all remaining annual revenue"

Page 5, line 13, overstrike ", twenty-five"

Page 5, overstrike line 14

Page 6, line 3, replace "credited" with "distributed"

Page 6, line 3, replace "county" with "state"

Page 6, line 4, replace "Sixty" with "Sixty-five"

Page 7, line 25, overstrike "Twenty" and insert immediately thereafter "Fifteen"

Page 8, line 7, replace "Five" with "Two and one-half"

Page 8, line 9, replace the first "county" with "state"

Page 8, line 11, replace the second "county" with "state"

Page 8, line 14, after "to" insert "the county treasurer for subsequent allocation to"

Page 8, line 19, remove "if"

Page 8, remove line 20

Page 8, line 21, remove "funds on hand or"

Page 8, remove lines 23 through 30

Page 9, replace lines 1 through 16 with:

"e. Ten percent must be deposited in the oil and gas impact grant fund in the state treasury."

Page 9, line 19, replace "credited" with "distributed"

Page 9, line 19, replace the second "county" with "state"

Page 9, line 25, replace "county" with "state"

Page 9, line 28, replace the second "county" with "state"

Page 9, line 30, replace "to" with "among"

Page 9, line 30, after "districts" insert "in the county"

Page 12, line 31, replace "\$150,000" with "\$120,000"

Page 13, line 5, replace "**STATE TREASURER**" with "**DEPARTMENT OF TRANSPORTATION**"

Page 13, line 5, remove "**STRATEGIC INVESTMENT AND**"

Page 13, line 6, replace "**IMPROVEMENTS**" with "**OIL-PRODUCING COUNTIES INFRASTRUCTURE ENHANCEMENT**"

Page 13, line 6, remove "strategic investment"

Page 13, line 7, replace "and improvements" with "oil-producing counties infrastructure enhancement"

Page 13, line 8, replace "\$190,000,000" with "\$60,000,000"

Page 13, line 8, replace "state treasurer" with "department of transportation"

Page 13, line 9, after "allocation" insert "as provided in this section"

Page 13, line 9, after "counties" insert "that received \$5,000,000 or more of allocations under subsection 2 of section 57-51-15 in the state fiscal year ending June 30, 2012"

Page 13, line 9, replace "period" with "biennium"

Page 13, line 9, replace "May" with "July"

Page 13, line 10, remove "The amounts available for allocation under this section must be allocated"

Page 13, replace lines 11 through 20 with:

- "1. The sum appropriated in this section must be used to rehabilitate or reconstruct county paved and unpaved roads needed to support oil and gas production and distribution in North Dakota.
  - a. Funding allocations to counties are to be made by the department of transportation based on data supplied by the upper great plains transportation institute.
  - b. Counties identified in the data supplied by the upper great plains transportation institute which received \$5,000,000 or more of allocations under subsection 2 of section 57-51-15 for the state fiscal year ending June 30, 2012, are eligible for this funding.
2. Each county requesting funding under this section for county roads shall submit the request in accordance with criteria developed by the department of transportation.



- a. The request must include a proposed plan for funding projects that rehabilitate or reconstruct paved and unpaved roads within the county.
  - b. The plan must be based on data supplied by the upper great plains transportation institute, actual road conditions, and integration with state highway and other county road projects.
  - c. Projects funded under this section must comply with the American association of state highway transportation officials (AASHTO) pavement design procedures and the department of transportation local government requirements. Upon completion of major reconstruction projects, the roadway segment must be posted at a legal load limit of 105,500 pounds [47853.993 kilograms].
  - d. Funds may not be used for routine maintenance.
3. The department of transportation, in consultation with the county, may approve the plan or approve the plan with amendments.
  4. The funding appropriated in this section may be used for:
    - a. Ninety percent of the cost of the approved roadway projects not to exceed the funding available for that county.
    - b. Funding may be used for construction, engineering, and plan development costs.
  5. Upon approval of the plan, the department of transportation shall transfer to the county the approved funding for engineering and plan development costs.
  6. Upon execution of a construction contract by the county, the department of transportation shall transfer to the county the approved funding to be distributed for county and township road rehabilitation and reconstruction projects.
  7. The recipient counties shall report to the department of transportation upon awarding of each contract and upon completion of each project in a manner prescribed by the department.
  8. The funding under this section may be applied to engineering, design, and construction costs incurred on related projects as of January 1, 2013.
  9. Section 54-44.1-11 does not apply to funding under this section. Any funds not spent by June 30, 2015, must be continued into the biennium beginning July 1, 2015, and ending June 30, 2017, and may be expended only for purposes authorized by this section."

Page 13, remove lines 21 through 31

Page 14, remove lines 1 and 2

Page 14, line 6, replace "period" with "biennium"

Page 14, line 7, replace "May" with "July"

Page 14, line 8, replace "on or before May 1," with "in July"

Page 14, line 8, remove the second comma

Page 14, line 8, remove "1,"

Page 14, line 18, remove "if that township has"

Page 14, line 19, remove "uncommitted reserve funds on hand exceeding \$100,000 or"

Page 14, line 26, replace "for" with "during"

Page 14, remove lines 27 through 31

Page 15, remove lines 1 through 5

Page 15, remove lines 22 through 31

Page 16, remove lines 1 through 27

Page 16, line 28, replace "2" with "1"

Page 16, line 28, replace "3" with "2"

Page 16, remove lines 30 and 31

Renumber accordingly

#### CONSIDERATION OF AMENDMENTS

**HB 1029, as engrossed: SEN. COOK (Finance and Taxation Committee) MOVED** that the amendments be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**HB 1250: SEN. MILLER (Finance and Taxation Committee) MOVED** that the amendments be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**HB 1358, as reengrossed: SEN. OEHLKE (Finance and Taxation Committee) MOVED** that the amendments be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**.

#### REQUEST

**SEN. SCHNEIDER REQUESTED** a recorded roll call vote, which request was granted.

#### ROLL CALL

The question being on the motion to adopt the amendments to Reengrossed HB 1358, the roll was called and there were 26 YEAS, 19 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Burckhard; Campbell; Carlisle; Cook; Dever; Erbele; Flakoll; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Miller; Murphy; Oehlke; Poolman; Schaible; Sitte; Sorvaag; Triplett; Wanzek; Wardner

**NAYS:** Andrist; Armstrong; Axness; Berry; Bowman; Dotzenrod; Grabinger; Heckaman; Hogue; Luick; Lyson; Marcellais; Mathern; O'Connell; Robinson; Schneider; Sinner; Unruh; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Nelson

The proposed amendments to Reengrossed HB 1358 were adopted on a recorded roll call vote.

#### CONSIDERATION OF AMENDMENTS

**HB 1198, as reengrossed: SEN. COOK (Finance and Taxation Committee) MOVED** that the amendments be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**HB 1234, as engrossed: SEN. COOK (Finance and Taxation Committee) MOVED** that the amendments be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**HB 1128: SEN. ARMSTRONG (Judiciary Committee) MOVED** that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1128:** A BILL for an Act to create and enact chapter 14-03.2 of the North Dakota Century Code, relating to the Uniform Premarital and Marital Agreements Act and the abrogation of common law regarding premarital and marital agreements; and to repeal chapter 14-03.1 and section 30.1-05-07 of the North Dakota Century Code, relating to the Uniform Premarital Agreement Act and the waiver of right to elect of a surviving spouse.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 36 YEAS, 9 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Axness; Bowman; Campbell; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**NAYS:** Andrist; Berry; Burckhard; Carlisle; Kilzer; Larsen; Lee, G.; O'Connell; Sitte

**ABSENT AND NOT VOTING:** Lee, J.; Nelson

HB 1128, as amended, passed.

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**CONSIDERATION OF AMENDMENTS**

**HB 1048, as engrossed: SEN. OEHLKE (Transportation Committee) MOVED** that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1048:** A BILL for an Act to amend and reenact section 39-06.1-06 of the North Dakota Century Code, relating to fees for speeding.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 36 YEAS, 9 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Axness; Berry; Bowman; Burckhard; Carlisle; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Holmberg; Kilzer; Krebsbach; Laffen; Lee, G.; Lyson; Marcellais; Mathern; Miller; Murphy; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Wanzek; Wardner; Warner

**NAYS:** Andrist; Campbell; Cook; Dever; Hogue; Klein; Larsen; Luick; Unruh

**ABSENT AND NOT VOTING:** Lee, J.; Nelson

Engrossed HB 1048, as amended, passed.

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**CONSIDERATION OF AMENDMENTS**

**HB 1263, as reengrossed: SEN. SINNER (Transportation Committee) MOVED** that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1263:** A BILL for an Act to create and enact paragraphs 37, 38, and 39 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to demerit points for driving without liability insurance; and to amend and reenact sections 39-06.1-05 and 39-06.1-09, subdivision b subsection 3 of section 39-06.1-10, and section 39-08-20 of the North Dakota Century Code, relating to procedures and demerit points for driving without liability insurance.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Nelson

Reengrossed HB 1263, as amended, passed.

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**CONSIDERATION OF AMENDMENTS**

**HB 1027: SEN. ARMSTRONG (Transportation Committee) MOVED** that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1027:** A BILL for an Act to amend and reenact subsection 5 of section 39-06-17 and sections 39-06-42 and 39-06.1-11 of the North Dakota Century Code, relating to driving under suspension and the issuance of temporary restricted motor vehicle operator's licenses.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Nelson

HB 1027, as amended, passed.

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**MOTION**

**SEN. KLEIN MOVED** that SB 2361 be returned to the Senate floor from the **Education Committee**, which motion prevailed.

**MOTION**

**SEN. KLEIN MOVED** that Engrossed HB 1170, which is on the Fourteenth order, be rereferred to the **Human Services Committee**, which motion prevailed. Pursuant to Sen. Klein's motion, Engrossed HB 1170 was rereferred.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. HOGUE MOVED** that the conference committee report on Engrossed SB 2368 as printed on SJ page 1073 be adopted, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1192:** A BILL for an Act to create and enact a new section to chapter 51-07 of the North Dakota Century Code, relating to motor vehicle warranty reimbursement; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 43 YEAS, 2 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Mathern; Miller; Murphy; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**NAYS:** Flakoll; Marcellais

**ABSENT AND NOT VOTING:** Lee, J.; Nelson

Engrossed HB 1192 passed and the emergency clause was declared carried.

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**SECOND READING OF HOUSE BILL**

**HB 1004:** A BILL for an Act to provide an appropriation for defraying the expenses of the state auditor; and to amend and reenact section 54-10-10 of the North Dakota Century Code, relating to the salary of the state auditor.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 1 YEAS, 44 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Holmberg

**NAYS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Nelson

Engrossed HB 1004 failed.

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**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. FLAKOLL MOVED** that the Senate do not concur in the House amendments to SB 2361 as printed on SJ pages 942-943 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2361: Sens. Luick, Poolman, Marcellais.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. DEVER MOVED** that the Senate do not concur in the House amendments to SB 2047 as printed on SJ page 782 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2047: Sens. Schaible, Poolman, Marcellais.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. DEVER MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2210 as printed on SJ pages 917-918 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2210: Sens. Dever, Marcellais, Nelson.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. DEVER MOVED** that the Senate do not concur in the House amendments to SB 2201 as printed on SJ page 1010 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2201: Sens. Dever, Poolman, Nelson.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. DEVER MOVED** that the Senate do not concur in the House amendments to SB 2213 as printed on SJ page 1065 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2213: Sens. Schaible, Dever, Nelson.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. ANDRIST MOVED** that the Senate do not concur in the House amendments to Reengrossed SB 2353 as printed on SJ pages 1066-1067 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Reengrossed SB 2353: Sens. Sorvaag, Anderson, Grabinger.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. ANDRIST MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2352 as printed on SJ page 1066 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2352: Sens. Andrist, Sorvaag, Dotzenrod.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. J. LEE MOVED** that the Senate do not concur in the House amendments to Reengrossed SB 2244 as printed on SJ page 942 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Reengrossed SB 2244: Sens. Larsen, Dever, Axness.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. J. LEE MOVED** that the Senate do not concur in the House amendments to SB 2030 as printed on SJ page 939 and that a conference committee be appointed to meet with a like

committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2030: Sens. J. Lee, Dever, Anderson.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. J. LEE MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2087 as printed on SJ page 878 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2087: Sens. Larsen, Anderson, Axness.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. J. LEE MOVED** that the Senate do not concur in the House amendments to SB 2114 as printed on SJ page 939 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2114: Sens. Anderson, Larsen, Axness.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. J. LEE MOVED** that the Senate do not concur in the House amendments to SB 2162 as printed on SJ page 878 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2162: Sens. Dever, Larsen, Axness.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. J. LEE MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2243 as printed on SJ page 918 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2243: Sens. Dever, J. Lee, Axness.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. HOGUE MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2225 as printed on SJ page 942 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2225: Sens. Armstrong, Sitte, Nelson.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. HOGUE MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2113 as printed on SJ page 939 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2113: Sens. Berry, Armstrong, Grabinger.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. HOGUE MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2115 as printed on SJ page 939 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2115: Sens. Berry, Hogue, Nelson.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. HOGUE MOVED** that the Senate do not concur in the House amendments to SB 2310 as printed on SJ pages 918-919 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2310: Sens. Sitte, Armstrong, Nelson.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1192.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1027, HB 1048, HB 1128, HB 1263.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2298, SB 2323.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2298**

In lieu of the amendments as printed on page 1132 of the House Journal, Engrossed Senate Bill No. 2298 is amended as follows:

Page 1, line 8, overstrike "If the organization does not give" and insert immediately thereafter "A presumption may not be established in favor of"

Page 1, overstrike lines 9 through 11

Page 1, line 12, overstrike "employee's record based on one or more of" and insert immediately thereafter ". The organization shall resolve conflicting medical opinions and in doing so the organization may consider"

Page 1, line 20, remove "At an administrative hearing, the organization's determination under subsection 1 is"

Page 1, remove line 21

Page 1, line 22, remove "3."

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2323**

Page 1, line 9, remove "financial service provider."

Page 1, line 17, remove "section:"

Page 1, remove lines 18 through 20

Page 1, line 21, replace "b. Medical" with "subsection, medical"

Page 2, line 5, after "2." insert "A report, if required by section 25-01.3-04, satisfies all reporting requirements of this chapter."



3."

Page 2, line 13, replace "3." with "4."

Renumber accordingly

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has appointed as a conference committee to act with a like committee from the House on:

**SB 2030:** Sens. J. Lee; Dever; Anderson

**SB 2047:** Sens. Schaible; Poolman; Mathern

**SB 2087:** Sens. Larsen; Anderson; Axness

**SB 2113:** Sens. Berry; Armstrong; Grabinger

**SB 2114:** Sens. Anderson; Larsen; Axness

**SB 2115:** Sens. Berry; Hogue; Nelson

**SB 2162:** Sens. Dever; Larsen; Axness

**SB 2201:** Sens. Dever; Poolman; Nelson

**SB 2210:** Sens. Dever; Marcellais; Nelson

**SB 2213:** Sens. Schaible; Dever; Nelson

**SB 2225:** Sens. Armstrong; Sitte; Nelson

**SB 2243:** Sens. Dever; J. Lee; Axness

**SB 2244:** Sens. Larsen; Dever; Axness

**SB 2310:** Sens. Sitte; Armstrong; Nelson

**SB 2352:** Sens. Andrist; Sorvaag; Dotzenrod

**SB 2353:** Sens. Sorvaag; Anderson; Grabinger

**SB 2361:** Sens. Luick; Poolman; Marcellais

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House does not concur in the Senate amendments to HB 1080, HB 1227, HB 1251, and HCR 3016, and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1080:** Reps. Ruby; Frantsvog; Gruchalla

**HB 1227:** Reps. Wall; Rust; M. Nelson

**HB 1251:** Reps. Vigesaa; Beadle; Boschee

**HCR 3016:** Reps. Vigesaa; Drovdaal; Delmore

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has adopted the conference committee report on: SB 2368.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2060, SB 2076.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1113, HB 1125, HB 1149, HB 1168, HB 1175, HB 1196, HB 1201, HB 1207, HB 1236, HB 1276, HB 1316, HB 1333, HB 1336, HB 1360, HCR 3031.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1131, HB 1197, HB 1274, HB 1278, HB 1327, HB 1378, HB 1424, HB 1428, HB 1429, HB 1464, HCR 3028.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The President has signed: HB 1113, HB 1125, HB 1131, HB 1149, HB 1168, HB 1175, HB 1196, HB 1197, HB 1201, HB 1236, HB 1274, HB 1276, HB 1278, HB 1316, HB 1327, HB 1333, HB 1336, HB 1360, HB 1378, HB 1424, HB 1428, HB 1429, HB 1464, HCR 3028, HCR 3031.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The President has signed: HB 1207.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 5, 2013: SB 2046, SB 2168, SB 2169, SB 2170, SB 2199, SB 2231, SB 2272, SB 2292.

**MOTION**

**SEN. KLEIN MOVED** that the absent members be excused, which motion prevailed.

**MOTION**

**SEN. KLEIN MOVED** that the Senate be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Monday, April 8, 2013, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1105: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1105 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1134, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1134 was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "section 57-06-17.5, a new subsection to section 57-51-02.2, and"

Page 1, line 2, after "to" insert "a new natural gas gathering and collection system property tax exemption,"

Page 1, line 2, after the second "gas" insert a comma

Page 1, line 14, overstrike "during a one-year period" and insert immediately thereafter "for six months"

Page 1, line 16, replace "time period in subsection 1" with "six months"

Page 1, line 22, remove "or"

Page 2, line 3, replace the underscored comma with an underscored semicolon

Page 2, line 3, after "or" insert:

"e. Equipped with"

Page 2, line 4, after "commission" insert "which reduce the volume or intensity of the flare by more than sixty percent"

Page 2, line 15, overstrike "upon" and insert immediately thereafter "if an"

Page 2, line 15, after "application" insert "for the exemption is filed within ninety days from the date of first production from the well"

Page 2, line 15, overstrike "a showing" and insert immediately thereafter "the producer shows to the satisfaction of the industrial commission"

Page 2, after line 19, insert:

**"SECTION 2.** Section 57-06-17.5 of the North Dakota Century Code is created and enacted as follows:

**57-06-17.5. New natural gas gathering and collection systems property tax exemption.**

1. A natural gas gathering pipeline, and its associated equipment, or a natural gas or natural gas liquids collection system that is initially placed

- in service on or between January 1, 2013, and December 31, 2017, is exempt from property taxes for the first taxable year after the line is initially placed in service, and the taxable valuation as otherwise determined by law on the gathering pipeline or collection system and the associated equipment must be reduced by:
- a. Seventy-five percent for the second taxable year of operation of the gathering pipeline or collection system.
  - b. Fifty percent for the third taxable year of operation of the gathering pipeline or collection system.
  - c. Twenty-five percent for the fourth taxable year of operation of the gathering pipeline or collection system.
2. After the fourth taxable year of operation the gathering or collection system is no longer exempt, in any way, from payment of full property taxes as otherwise determined by law.
3. For purposes of this section, the following terms have the following definitions:
- a. "Associated equipment" includes compression, liquid separation facilities, and any other equipment absolutely necessary to gather or collect natural gas and natural gas liquids.
  - b. "Collection system" means a system that collects at least seventy-five percent of the gas and natural gas liquids from the well for compression to liquid or dense phase fluid for use as fuel or transport to a processing facility, production of petrochemicals or fertilizer, or conversion to liquid fuels.
  - c. "Initially placed in service" includes both new construction and substantial expansion of a preexisting gathering or collection system.
  - d. "Natural gas gathering pipeline" means an underground gas or liquid pipeline that is designed for or capable of transporting natural gas produced in association with oil and which is not subject to public service commission jurisdiction as a gas or liquid transmission line under chapter 49-22.
  - e. "Substantial expansion" means a capacity increase of twenty percent or more.
4. Natural gas processing and other natural gas liquid refining plants or facilities are not included in the exemption provided by this section."

Page 3, after line 18, insert:

**"SECTION 4.** A new subsection to section 57-51-02.2 of the North Dakota Century Code is created and enacted as follows:

An operator who collects natural gas at a well site by natural gas gathering line, electrical generator, or collection system described in section 38-08-06.4 is entitled to an exemption from the tax imposed under this section for a period of one year from the day the natural gas is first collected."

Page 3, line 23, after "years" insert "and thirty days"

Page 4, line 9, after "years" insert "and thirty days"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1139, as engrossed: Transportation Committee (Sen. Oehlke, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1139 was placed on the Sixth order on the calendar.

Page 1, line 2, after "husbandry" insert "; and to provide an expiration date"

Page 1, after line 11, insert:

**"SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2015, and after that date is ineffective."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1145, as reengrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1145 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1261, as amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1261, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 830 of the Senate Journal, House Bill No. 1261 is amended as follows:

Page 1, line 1, remove "an appropriation"

Page 1, line 3, remove "**APPROPRIATION -**"

Page 1, line 4, remove "There is appropriated out of any moneys in the general fund in the state treasury, not"

Page 1, remove line 5

Page 1, line 6, replace "to the" with "The"

Page 1, line 6, replace "for the purpose of providing a" with "shall provide an annual"

Page 1, replace lines 9 through 18 with:

- "1. A district is eligible to receive a grant under this section if the number of students reflected in the district's September tenth enrollment report:
  - a. Exceeds the number of students in average daily membership by at least twenty; and
  - b. Represents an increase in students equal to at least four percent.
2. In order to calculate the amount to which an eligible district is entitled, the superintendent of public instruction shall:
  - a. Determine the actual percentage increase in the number of students;
  - b. Subtract 2.0 from the percentage established under subdivision a;
  - c. Determine the number of students represented by the difference determined under subdivision b; and
  - d. Multiply the number of students determined under subdivision c by \$3,900."

Page 1, line 19, replace "in this section" with "this purpose in subdivision 1 of section 1 of House Bill No. 1013, as approved by the sixty-third legislative assembly,"

Page 1, line 23, replace "\$8,500,000 in" with "one-half of the amount appropriated for these"

Page 1, line 24, remove "under this section"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1302, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1302, as amended, was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1322: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1322 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1338, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1338 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a board of university and school lands study of private lands owned adjacent to lands under the control of the United States army corps of engineers and a report to the legislative management.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. STUDY BY BOARD OF UNIVERSITY AND SCHOOL LANDS - REPORT TO LEGISLATIVE MANAGEMENT.** During the 2013-14 interim, the board of university and school lands shall study options to address the concerns of landowners adjacent to land under the control of the United States army corps of engineers surrounding Lake Sakakawea and Lake Oahe. The study must include consideration of control of noxious weeds, protecting public access for hunting and fishing, the costs of possible transition of land from the United States army corps of engineers, and the costs associated with maintaining any property that may become a responsibility of the state. The study must also include consideration of the interests of North Dakota Indian tribes. The board may establish a task force consisting of landowners, hunting and fishing organizations, the game and fish department, the parks and recreation department, the North Dakota national guard, and other parties that utilize the land for access. Before October 1, 2014, the board shall provide to the legislative management a report on the outcome of this study."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1348, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1348 was placed on the Sixth order on the calendar.

Page 1, line 22, replace "landowner" with "owner"

Page 1, after line 22 insert "permanently"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1352, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends

**DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1352 was placed on the Sixth order on the calendar.

Page 1, line 14, replace "The" with "If the mediation is provided by the North Dakota mediation service."

Page 1, line 14, remove "at least one"

Page 1, line 15, replace "hundred seventy dollars per hour" with "the actual cost of the mediator to the North Dakota mediation service"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1355, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1355 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1397, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1397 was placed on the Sixth order on the calendar.

Page 1, after line 6 insert:

"1."

Page 1, line 8, overstrike "1." and insert immediately thereafter "a."

Page 1, line 10, overstrike "2." and insert immediately thereafter "b."

Page 1, line 11, overstrike "3." and insert immediately thereafter "c."

Page 1, line 12, overstrike "4." and insert immediately thereafter "d."

Page 1, line 13, overstrike "5." and insert immediately thereafter "e."

Page 1, line 14, overstrike "6." and insert immediately thereafter "f."

Page 1, line 16, overstrike "7." and insert immediately thereafter "g."

Page 1, line 17, overstrike "8." and insert immediately thereafter "h."

Page 1, line 19, overstrike "9."

Page 1, line 21, after "40:" insert "i."

Page 1, line 23, replace "10." with "j."

Page 2, line 11, after the period insert "Any signature obtained in violation of this subdivision is void and may not be counted."

Page 2, line 12, replace "11." with "k."

Page 2, line 14, replace "12." with "l."

Page 2, line 15, replace "13." with "m."

Page 2, line 19, replace "14." with "n."

Page 2, line 21, replace "15." with "o."

Page 2, after line 22 insert:

"2. a."

Page 2, line 23, overstrike "subsections 1" and insert immediately thereafter "subdivisions a"

Page 2, line 23, replace "12" with "l of subsection 1"

Page 2, line 23, overstrike "Any signature obtained"

Page 2, line 24, overstrike "in violation of subsection"

Page 2, line 24, remove "10"

Page 2, line 24, overstrike "is void and may not be counted." and insert immediately thereafter:

"b. A violation of subdivision m of subsection 1 is a class C felony.

c."

Page 2, line 24, after the second "of" insert "subdivision n of"

Page 2, line 24, replace "14" with "1"

Page 2, line 26, after the period insert:

"d. A violation of subdivision o of subsection 1 is a class A misdemeanor if an individual signs one or two names other than the individual's own name to a petition and is a class C felony if an individual signs more than two names other than the individual's own name to a petition.

e."

Page 2, line 27, remove "An"

Page 2, remove line 28

Page 2, line 29, remove "under section 12.1-03-01."

Page 3, line 3, remove "A violation of subsection 13 is a class C felony. A violation of subsection 15 is"

Page 3, replace lines 4 through 6 with:

"f. An individual who is a member of an organization may be convicted of a violation as an accomplice under section 12.1-03-01.

3."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1440, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1440 was placed on the Sixth order on the calendar.**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact four new sections to chapter 61-35 of the North Dakota Century Code, relating to water services by cities and water districts and state water commission policies on funds for water districts.

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

**SECTION 1.** A new section to chapter 61-35 of the North Dakota Century Code is created and enacted as follows:

**Statement of intent.**

It is the intent of the legislative assembly that potable water should be available in sufficient quality and quantity to meet citizens' needs for a healthy and safe standard of living and to promote economic growth and development. In order to meet this objective in the most economical way, water service districts and city water service systems shall coordinate their service plans. Competition for users and duplication of service must be avoided whenever possible.

**SECTION 2.** A new section to chapter 61-35 of the North Dakota Century Code is created and enacted as follows:

**Plans for water service by providers - Filing plans - Existing agreements.**

1. A city planning to expand water service through annexation shall establish a city water service area plan. The city shall notify any other water service provider whose water service area is affected by the city's water service area plan of the establishment of the plan.
2. The city shall file the city water service area plan with the commission. Upon filing of the plan with the commission, the city may proceed with water service to the annexed area. A city water service area plan is perfected by a water service agreement among the water service providers that are encompassed by or which abut the water service boundary.
3. The provisions of this Act do not supersede an existing water service agreement between a city and a district.

**SECTION 3.** A new section to chapter 61-35 of the North Dakota Century Code is created and enacted as follows:

**State water commission funding.**

Before providing a grant or loan to a district or city for a water service project in any area within the extraterritorial zoning jurisdiction of any affected city, the commission shall require that district and city to have a water service agreement. The absence of a water service agreement may not affect the funding by the commission of other projects for a district or city which are not related to potable water service and are not located within the extraterritorial zoning jurisdiction.

**SECTION 4.** A new section to chapter 61-35 of the North Dakota Century Code is created and enacted as follows:

**Water service agreement - Mediation - Administrative law judge.**

1. If a water service agreement between the district and the city is not executed within sixty days after the city notifies the district that a city water service area plan has been established, the matter must be submitted to a committee for mediation. The committee must be comprised of a mediator retained jointly by the city and the district, two members appointed by the governing body of the city, and two members appointed by the district. The retained mediator shall arrange and preside over the mediation proceedings.
2. If the mediation committee is unable to resolve the dispute to the satisfaction of the parties involved, either party may petition the office of administrative hearings to appoint an administrative law judge to determine the terms of the water service agreement. Before a hearing may be held, at least two weeks' written notice must be given to the parties involved in the dispute. At the hearing, the retained mediator who



presided over the mediation proceedings may provide information to the administrative law judge on the dispute between the parties involved and any proposed resolutions or recommendations made by a majority of the members appointed to the committee. Any resident of or person owning property in a city or district involved in the dispute, or a representative of such a resident or property owner, and any representative of a city or district involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge must consider the following factors related to water service in the annexed area in making a decision under this subsection:

- a. The recommendation of the mediation committee;
- b. The firefighting flow capacity of the water system;
- c. The anticipated growth patterns of the district and city involved in the dispute;
- d. Special conditions or needs, including topographic or physical features influencing service;
- e. The system capacity and trunk main delivery structure of each provider;
- f. The age, condition, and worth of the affected existing infrastructure;
- g. Outstanding debt attributable to current users;
- h. The impact on future revenues lost from existing infrastructure;
- i. Whether development would have occurred without annexation; and
- j. Any other factor determined to be relevant by the administrative law judge."

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**HCR 3010, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3010 was placed on the Sixth order on the calendar.

Page 1, line 20, replace "when it holds" with "in a"

Page 1, line 20, replace "hearings" with "hearing held"

Page 1, line 20, after "Dakota" insert "in 2013"

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**HCR 3019, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3019 was placed on the Fourteenth order on the calendar.

#### **REPORT OF STANDING COMMITTEE**

**HCR 3021: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HCR 3021 was placed on the Fourteenth order on the calendar.

The Senate stood adjourned pursuant to Senator Klein's motion.

**William R. Horton, Secretary**

