

**2013 HOUSE POLITICAL SUBDIVISIONS**

**HB 1178**

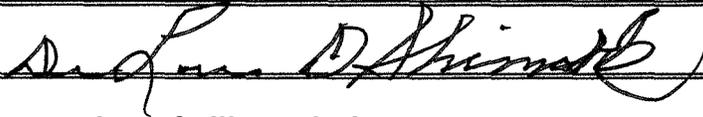
# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1178  
January 25, 2013  
Job #17753

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to extensions of time for utility company reporting and applicable penalties and due dates for filing reports with the county auditor and tax commissioners; and to provide an effective date.

### Minutes:

Testimony #1

**Chairman N. Johnson** opened the hearing on HB 1178.

**Rep. Drovdal:** Introduced the bill. The reason this bill is before you is that currently in law the reporting status for pipelines is pretty loose and the penalty is not very much and we have companies that are not following our law. When we have companies and people that do not follow the law we get them to do it by fining them. That is what the bill does. It increases the penalty and moves up the filing date and that will help the assessors determine just what township they are in and how much pipeline is in the township in order to distribute the tax rate at a more equitable formula.

**Rep. L. Meier:** When a county has to go after those individuals concerning this; is it the county then foot the bill or do they assume the bill onto the owners of the pipeline?

**Rep. Drovdal:** I will let the tax department answer that question. I don't know for sure. I did visit my auditor and assessor in McKenzie County and they felt this bill was a good bill and help them considerably.

**Jolene Vidal, Property Tax Specialist for the Office of State Tax Commissioner:** (See testimony #1). 04:18 - 10:38

**Rep. Klemin:** I understand the pipelines have to go through a siting process in order to put a pipeline through anywhere. Isn't that the way this works?

**Jolene Vidal:** Gathering pipelines do not have those requirements under the PFC. It applies to all public pipelines under 57-06 so yes it would apply to the transmission lines as well.

**Rep. Klemin:** So some of them do have to go through a siting process?

**Jolene Vidal:** Correct.

**Rep. Klemin:** All that information is done through the Public Service Commission. We have the State Pipeline Authority also so with respect to those pipelines there shouldn't be any difficulty in finding out where they are because they have to file public maps with the PSC.

**Jolene Vidal:** Yes we have information on the transmission lines and we can get the information that they file with the PSC.

**Rep. Klemin:** Clarification on this Section 1 penalty. \$5000 for each failure to make the required report after three consequent years so that would be three years in which they didn't make the report; is that a \$15,000 penalty?

**Jolene Vidal:** Yes.

**Rep. J. Kelsh:** If they don't report for three years and you finally catch up with them and charge them \$15,000 and they have put this pipeline in under their tax they have used fast appreciation from the federal government and what value do you use; the original value or use the depreciated value when you do the central assessing of those pipelines then?

**Jolene Vidal:** There are a couple of different instances. Some companies that fail to file for multiple years usually have not added any new property so when they finally do send in a report it is probably because they have added some. How we value the gathering lines and this wouldn't include our transmission is we use the original cost on a straight line depreciation. If a company came in and had been putting in property over the past three years and then we find out about it. We can go and have an omitted hearing property and then we can go back at least six years. So then we can go back to 09 and 2010 and come up with the values as of those years and then they will be sent tax statements for those years.

**Rep. J. Kelsh:** So the county would not be deprived of any of the tax they had due even though they hadn't been centrally assessed for three years. They would have to pay the back taxes based on what the value would have been at the time they put them in. Not the depreciated value.

**Jolene Vidal:** Yes, that is right.

**Rep. Klemin:** Do we have any other situations where we determine a penalty by increasing the assessed valuation of the property?

**Jolene Vidal:** Not that I am aware of.

**Rep. Klemin:** It seems a little unusual to me to say well you didn't file your report so your taxes will be jacked up 10%. If you don't do it within another period of time we are going to increase it another 10%? I don't understand the rational. Why don't you just impose a dollar amount penalty like we do on all the other taxes?

**Jolene Vidal:** With the public utilities their property costs cross so many taxing jurisdictions that being able to spread a tax dollar amount; it is easier to spread a value amount across those lines instead of a tax dollar amount because there is so many different mill levy's involved. If we are able to spread the value to all the different entities then that way it is spread evenly.

**Rep. J. Kelsh:** Do we have any other centrally assessed property?

**Jolene Vidal:** Yes we have electrics, pipelines, railroads, and airlines.

**Rep. Klemin:** We don't do that for any of them?

**Jolene Vidal:** Not for the railroads or airlines, but all of the other public utilities are under 57-06.

**Rep. Klemin:** Do they have an increased assessment if they don't properly report and do they pay a penalty?

**Jolene Vidal:** Under 57-05 the railroads do not have a penalty. Under the airlines; theirs is different. We send out the tax bills instead of it going to the county because of how we have to come up with their mill levies from where they are located so we send out the bills for those. It is not based upon the values on those.

**Rep. Klemin:** How about on electric?

**Jolene Vidal:** Yes it is the assessed value. It gets a 10% increase if they don't file same as pipelines.

**Rep. Kathy Hogan:** How often do you think this is happening? This not reporting of pipelines and how many situations have you dealt with?

**Jolene Vidal:** In 2012 it was mostly the gathering companies I had issues with. The State Board of Equalization assessed three companies penalty in 2012, but there were instances where we granted extensions to be able to receive more the time of the filing. I have a company that added over 500 miles of gathering line and when they submitted their report they put it all on one line so I only knew that it was in certain counties. I didn't know where in the counties it was and so I am still actually at this point there are still places they have not told me where their property is located and I had to find different ways to be able to get that value to the tax jurisdictions.

**Rep. Kretschmar:** Does the company file this report each year or are they supposed to file it each year?

**Jolene Vidal:** Yes

**Rep. Kretschmar:** Company A builds a pipeline somewhere and files a report but doesn't do anything else. Do they have to report the next year that we still have this pipeline here?

**Jolene Vidal:** We need their financial information as part of their valuation process so it is not just about the property. There is other information that is involved that they need to file every year.

**Chairman N. Johnson:** If a company failed to report years one and two and then files in year three there is no penalty for doing that?

**Jolene Vidal:** That is correct.

**Marcy Dickerson, State Supervisor of Assessments:** The amount of money that is involved in these pipelines with the current oil and gas development is huge. I believe Jolene mentioned \$800 million increase in the value of the new pipeline property. That is a lot to the counties if someone does not report and the assessment is not made or at least part of it is missed because the information is not provided. That is a lot of money that the counties and townships and school districts are not getting that they are entitled to so it is important to provide an incentive for these companies to file the way they are required to. In response to your question Rep. Kretschmar. Every year we don't know if there is new property or not unless these companies file. It is an existing provision of law that they must make an annual report based on the January 1 property they had in place. For central assessment it is January 1 where you are probably familiar with the local assessment date of February 1. Rep. L. Meier earlier question; the counties don't have to go after the companies that do not file. That is the State Tax Department's responsibility. Counties often provide information. They will know from their own sighting of it that they see there is a new pipeline constructed and they will let us know so they are very helpful in the process, but they have no costs other than driving around and looking for new construction.

**Dan Rouse, Tax Department: Legal Counsel to the state tax department and legal counsel to the ND State Board of Equalization:** This board is comprised of the governor, the tax commissioner, the agricultural commissioner, the state treasurer and state auditor. At one of their last meetings on record the state board discussed this matter and is in support of this bill and we request favorable consideration.

**Rep. Toman:** Do think we should raise the assessed value rather than imposing a penalty and spreading that out because the assessed value is more than its true value that would worrisome to me I guess.

**Dan Rouse:** I believe we treat airlines similarly. There is a similar county structure in place. That is what it is is a penalty and mechanically how it is being applied is by using this as a portion of the valuation of the assets that are in place because it is much more discernible figure to use as a basis. If you look at page 1 line 16 of the bill it is a penalty. Of course the mechanics of the penalty are carried out on lines 1-6 page 2 of the bill. It is an additional percentage to the valuation of the property but the mechanical impact of this is that it is intended to be a penalty.

**Rep. Koppelman:** What are the mechanics of going after these companies that fail to report in terms of trying to either impose the penalty or get them to pay?

**Dan Rouse:** We actually do have instances where these properties have simply gone off the radar. They just have not been caught. Yes we do get a fair amount of information from the Public Service Commission but there are some of these more unique developments like the gas gatherings are that they don't have that same reporting requirement and we have a difficult time getting ahold of that. We encountered that a couple years ago with a substantial project in the Slope County area. The property tax division tries to reach out and communicate the severity and the seriousness of the situation. If that doesn't work then they may turn it over to me and I will take progressively more strong steps to try and resolve it. At some point we have the authority that we could go to court and ask for a MIT. That is basically force these folks to report this information to us. I have been in it 15 years and I have never had to go that far.

**Rep. Klemin:** On page 2, lines 5 & 6 this bill says on or before the 15 of July for good cause shown the Tax Commissioner may waive all or part of this penalty, which is plus 10% increase in the assessment. What happens after that if they become good tax paying citizens? Do they get their assessment value reduced?

**Dan Rouse:** That is one of the other reasons for the annual reporting requirement because based upon the depreciated value of the property in question that entity with work with the tax commissioner's office and the more accurate values of the property would be used before any tax was paid. If they have paid the penalty and they have come into compliance and life goes on and they move forward and they report from year to year our expectation would be that we would be looking at their financial statements and their accounting of the property at the valuation that it is at that point in time and the assessments would be based accordingly.

**Rep. Klemin:** So that assessed valuation is only for a year.

**Dan Rouse:** It is intended as a penalty. These are substantial dollars that are being missed. The counties are not getting compensated for the wear and tear on the infrastructure within the counties and that is why this is on its face a more severe penalty structure. Sometimes it is necessary. These companies are going fast and furious and in many cases it is unintentional, but they need to be made aware that they have a responsibility to the counties and to the local political subdivisions in which they are located.

**Rep. J. Kelsh:** If a person left the taxes go on his house with interest and penalty what is the rate of the interest and penalty that he or she would have to pay?

**Dan Rouse:** That is usually something that is driven at the local political subdivision level so I don't have those figures in front of me.

Opposition: None

**Chairman N. Johnson** reopened the hearing on HB 1178.

**Rep. Klemin:** On section 1 this penalty reads confusing. So you add a penalty for \$5,000 for each failure to make the report which is three failures times \$5,000 is \$15,000. Why

doesn't it say shall add a penalty of \$15,000 for failure to make the report after three consequent years?

**Rep. Muscha:** Did you ask if they did pay on the third year they wouldn't pay anything?

**Chairman N. Johnson:** Discussed the penalty and how it is figured? Maybe we need to clarify that.

**Rep. Koppelman:** The intent is to make it an annual penalty, but it is just not triggered until three years have passed. If we make it just a lump sum penalty every three years it gets more confusing. I think what they are saying is if you continue to do this for three years we can assess a penalty of \$5,000 for each year you have failed to do so. I assume as part of their negotiating process they can say we will waive two out of three years.

**Rep. Toman:** On page 2, line 4 and 5 if it is filed on or before the 15<sup>th</sup> of July the Tax Commissioner may waive all or any part of the penalty so if we set it to \$15,000 he could arbitrarily say I am going to just waive it to \$2,000 maybe that is why they have it as a per year fee?

**Rep. Klemin:** I think on page 2 where you are just reading from is a different penalty. That is the increase in the assessed valuation penalty whereas the other one is a monetary penalty. So there are two different penalties here.

**Chairman N. Johnson:** I am going to take a look at it and see if we can make it a little more clear. I think their intent was if you haven't filed it for three years it would be a penalty for each year but if you filed after year one there would be no penalty. I will take a look at this and check on it.

**Rep. Muscha:** Dan Rouse said in 15 years they have never had to go to court so it usually is solved.

Closed.

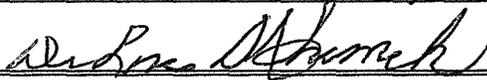
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee  
Prairie Room, State Capitol

HB 1178  
January 31, 2013  
Job # 18048

Conference Committee

Committee Clerk Signature



## Minutes:

**Chairman N. Johnson** reopened the hearing on HB 1178. This is the one that had to do with the failure of a public utility to give the report. I think what it says is that you could for two years not file the report; the third year you could file the report and your OK. Year four if you have not filed the report then the penalty kicks in for each of the first three years. If you wait until year five you would have a penalty for four years. They say you get a grace period of three years.

**Rep. Hatlestad:** It says the Board of Equalization could add 10% to the assessed value. Does that mean each year? So could you potential increase the value of your property 50% if you didn't file it until year six?

**Rep. Klemin:** The answer is yes, but it is a penalty here. So the following year when they catch up they could go back to the actual assessed values.

**Do Pass Motion Made by Rep. J. Kelsh: Seconded by Rep. M. Klein:**

**Vote: 13 Yes 0 No 2 Absent Carrier: Rep. Looyen:**

Closed.

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Date: 1-31-13  
 Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1178

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Rep. Kelsh Seconded By Rep. Klemin

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Ben Hanson	✓	
Vice Chairman Patrick Hatlestad	✓		Rep. Kathy Hogan	✓	
Rep. Thomas Beadle	✓		Rep. Jerry Kelsh	✓	
Rep. Matthew Klein	✓		Rep. Naomi Muscha	✓	
Rep. Lawrence Klemin	✓				
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Alex Looyen	✓				
Rep. Andrew Maragos	—				
Rep. Lisa Meier	—				
Rep. Nathan Toman	✓				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep. Poygan

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1178: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1178 was placed on the Eleventh order on the calendar.

**2013 SENATE POLITICAL SUBDIVISIONS**

**HB 1178**

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Political Subdivisions Committee Red River Room, State Capitol

HB 1178  
March 8, 2013  
19620

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to extensions of time for utility company reporting and applicable penalties and due dates for filing reports with the county auditor and tax commissioner; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

**Chairman Andrist** opened the hearing on HB 1178. All senators were present.

**Rep. Drovdal** District 39. Prime sponsor of HB 1178 The bill before you is simply defining the reporting time for pipelines and put in deadlines and putting in stricter fines. We are having difficulty with some of these companies coming in and giving inaccurate records and we need those accurate records for determining where the special assessment taxes go into which townships. We need them for safety purposes and we're not getting them so they asked if this bill be introduced in order to encourage the companies to do a little better job in their reporting and if there is a legitimate excuse that they do not get those reports in; that the penalty can be waived and there also is where the date has been moved up on the time of reporting and that is in order to be able to get those pipelines onto special assessments. The paperwork done is moved up to the 15<sup>th</sup> of March of each year instead of where before it was on the 1<sup>st</sup> day of May. That basically is what the bill does. I visited with my county auditor and Linda says this is a good idea and she is glad to see it going forward.

**Sara Meier** N.D. Tax Department (3:31-12:13) presenting testimony from Jolene Vidal , Property Tax Specialist for the Office of State Tax Commissioner Written testimony #1.

**Chairman Andrist** You gave the statistics here of how many have failed; do you generally find when the filing is not properly completed on schedule that is required, is it usually negligence or is there usually good reason for it?

**Sara Meier** replied most of the time, when a company has failed or is late in their filing we've had mostly the gathering systems have had difficulty reporting to us. They are growing so fast. Rep. Drovdal talked about 7 going in on his property in one year; there are moving so fast they've got so much information to take care of. Many companies hire a second party to report. They get the data from the first party to the second party and then

on to the state tax department. It takes a lot of time for them to accumulate that information. So I think those are some of the short falls that companies have with reporting.

**Vice Chairman Ronald Sorvaag** Do they have to get permits before they put them in so they have a lot of the information? Do they just start putting them in, they have to have a permit first don't they?

**Sara Meier** replied building permits typically counties will require building permits, townships don't always require building permits. So, they might be getting lost in the shuffle. They have to talk to the property owner of course and get information from them or get approval from them and work out a payment for the damages. But there isn't a lot of consistency probably on the county and the townships part in getting those building permits and then sending that information on to us. It is a difficult process.

**Chairman Andrist** Aren't these pipelines, don't they have to be permitted by the Public Service Commission before they do it?

**Sara Meier** replied not gathering systems. **Chairman Andrist** not gathering systems. **Sara Meier** replied the main transportation lines like Enbridge and the Keystone Pipeline those main transportation lines do have to be permitted by the Public Service Commission, but not the gathering systems.

**Chairman Andrist** so who permits those gathering system lines in the first place? **Sara Meier** replied no one. **Chairman Andrist** Nobody, they can just go and do it? **Sara Meier** replied like with Sr. Sorvaag's question, townships and counties are the only permitting agencies. **Chairman Andrist** But they could require that they be permitted? **Sara Meier** replied that is correct. **Chairman Andrist** Do you know if they routinely do? **Sara Meier** It's hit or miss depending on the county.

**Terry Traynor ND Association of Counties** We support this bill. The Tax Department is essential, integral and primary in the whole assessment taxing process for these lines and they understand it a lot better than most of our counties do and they say this is good. We urge a do pass as well.

**Senator Judy Lee** When we were just hearing about who might issue permits, in a county that has some townships that might not be organized. Can the county take over if they wish any kind of permitting requirements through their authority or does it have to be a Home Rule county? Can you talk a little bit about the change of governance there?

**Terry Traynor** replied yes. Townships have the priority for zoning. A county cannot zone if the county chooses to zone, unorganized townships chooses to zone. If it's unorganized or the organized county chose to basically abdicate their authority to the county, then the county can assume that responsibility. Every county but one has a zoning ordinance now for whatever area of the county they have authority for, and presumably that there would be a building permit then in those areas that they have authority for. But there are quite a number of townships across the state. I am not real familiar with the west versus the east; but, I know there are a lot of organized townships; that have not relinquished their zoning authority, but don't have a very robust system of building permits and things like that. So

that I think is where it gets lost in the shuffle is more on the organized townships that haven't done that. But often times these lines spread in multiple townships so ultimately the county does find out about it and gets involved. They don't build it in a jurisdiction that has a zoning ordinance without permitting it and they certainly don't build it without getting easements from the land owners.

**Chairman Andrist** Terry, life is always simpler for those of us who are in a front row seat, than it is for the guy in the ring, but some of the thoughts that come to my mind, are shouldn't the permitting all be done with the county level rather than the township and isn't there a way at the time this is permitted for them to file the information with the Tax Department? Or couldn't there be a way, I am just wondering if there could be an even better system than this? A gathering pipeline must have a lot of similarity from the other gathering pipeline and somebody must have it pretty well figured out at what it should be assessed at once they get the map? But I would like your comment in this area.

**Terry Traynor** replied I wish I understood the process better. My understanding is this is a fair attempt at moving the process further ahead towards the construction so we can get the information quicker and get it on the tax rolls appropriately. I don't know if there could be a whole rethink of that but this seems to be an improvement.

**Chairman Andrist** I didn't mean to suggest that I didn't like the bill, but sometimes we try to apply some thoughts that somebody can take home and maybe come back next time with an even better plan. **Terry Traynor** replied we appreciate that.

**Doug Graupe** Divide County commissioner I can only speak for our county. In our county we always ask them to get approval from the township before they come to our county zoning. Now I don't know how other counties do it, but that is how we do it there. We want approval from the county board or the township board before it comes to our zoning. I don't know if that kind of answers. I know you are asking more specifically in reference to Sr. Lee's unorganized townships, which we don't have in our county, we have organized townships. That's the requirement we set on them.

**Chairman Andrist** Do you require approval of the county board as well as the township?  
**Doug Graupe** replied yes after we've heard from the townships that it is okay with them.

**Chairman Andrist** and you get maps I presume to show where the pipeline is going to go?  
**Doug Graupe** replied yes we do.

**Chairman Andrist** you don't have any responsibility to forward them to the State Tax Department?

**Doug Graupe** replied I don't think so, no. We're a developing county and one of the problems I have is different than Rep. Drovdal's. I don't feel we have enough pipe lines. They are just coming in to place in our county. Most of the gas and oil is being hauled by truck but there are more pipelines coming in all the time. That is our requirement.

**Senator Howard Anderson** I think there is a difference here in the permitting process where you say I am going to put my pipeline here; and the assessment process where

you're assessing one that is already built. So, the fact that the county might send in may mean we're going to build it here that doesn't mean that will be the final analysis of where they build it. Changes may take place during the process or whatever so that the map of what's completed is probably different than the original plan sometimes. You don't assess them until after it's built.

**Chairman Andrist** I would understand this.

**Roger Chinn McKenzie County Commission.** ND Association of Counties. I think I can address Senator Lee's question. I think we started with about 56-58 townships and now we are down to 13 townships, out of those 13, I think 7 have retained their zoning authority or had zoning authority. Our county was not zoned. The way we operate on the pipelines we let that be between the private landowner and the company. However, when they cross the section line, whether its developed or not we ask for a permit in order to cross the section line. So that is how we track them. As far as getting that information to the tax department, no, it doesn't go there.

**Senator Judy Lee** You don't mean that you don't have the townships, you mean that they have relinquished their permitting or zoning authority to you as counties except for a handful? Could you explain this drop in numbers that you are talking about?

**Roger Chinn** replied we only have 13 out of the 56 left that are still organized. The rest of them have turned it over to the counties.

**Chairman Andrist** I am sure McKenzie County is similar to my home county and in Divide you have some rural townships that maybe have one or two families and that is all.

**Roger Chinn** continued and I think we even have some that don't have any families left in them.

**Chairman Andrist** closed the hearing on HB 1178.

Committee discussion followed.(25:44- 31:36)

**Vice Chairman Ronald Sorvaag** my initial question on the permitting wasn't necessarily thinking they should send it in, my question was coming more from my confusion why the companies are having such a difficult time getting the information in because if they have already filled it out for permit once their done that should be a very simple process.

**Vice chairman Ron Sorvaag** made a motion to approve HB 1178  
Senator John Grabinger 2<sup>nd</sup>.

Is there a GIS mapping system that keeps track of all this information statewide? Where all of these pipelines are at and what is going on? We do it in our local community to know where our lines are (sewer, water etc) is there anything statewide?

**Sara Meier** replied no there isn't anything statewide. There has been an attempt to have one

central GIS data set for all pipelines, gathering systems and for other pipelines, and other centrally assessed properties but it hasn't gained any momentum. In the Tax Dept we have looked at having our own system just to track all of our centrally assessed property. But not at this time.

**Chairman Andrist** Who do you think Sara, might be interested in doing this? Would it be the Department of Mineral Services, or the Public Service Commission or your department if we were to have a GPS system?

**Sara Meier** replied I think we have a number of different divisions or different departments that will be interested in having this information in one central location. Definitely the Oil and Gas Division, they have the well sites already, and we get some of our pipeline information from them and vice versa. The one-call would be interested in having that information and knowing where those pipelines are. I think they've had bills in other sessions to try and get a GIS program going and it hasn't gone anywhere.

**Senator Judy Lee** I certainly support the motion and the bill but would there be any interest in amending it to include requesting a study for which ultimately would result in a GIS. I can't believe there isn't one actually. It is surprising to me. Maybe now is the time to have an impetus for it, it is something we certainly want to visit with Mr. Helms about and all. Maybe it is not our place and maybe that should be in Natural Resources but maybe we should find out if there talking about it or if we have some knowledge about this. If there is anything to support that venture, Senator Grabinger had a very good idea.

**Terry Traynor** replied the Legislature has been very supportive and I believe again in this session the final \$1.5 Million is in the DS budget for the completion of what we've been calling the Statewide Base map. It's an incredibly detailed set of aerial photos and digitalized base maps for the entire state that will reside on the states GIS hub with the idea that we will finally get to the place where we'll all have a common base of GIS information in order to accumulate that. Pipelines is one of the things that was being discussed when this project was started. There are some challenges with that, some reluctance by some of the owners of the pipeline to have that information to readily available so there is a lot of issues about where that would and have access to it because of obvious safety concerns and things like that. That is definitely being considered but I wouldn't disagree that the Legislative interest in that issue through a study would be helpful.

**Chairman Andrist** So are we hearing you say this is probably being taken care of already, that the suggestion for a study resolution is not needed? **Terry Traynor** replied I don't know if it's needed, I don't see where it would, if priority would be placed on the pipelines by the Legislature through a study process, that wouldn't hurt at all. But I think it is ultimately being addressed, yes.

Roll Call Vote 6 Yea, 0 No, 0 Absent  
Carrier: Senator John Grabinger



**REPORT OF STANDING COMMITTEE**

**HB 1178: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1178 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**HB 1178**

#1

**Testimony of the Office of State Tax Commissioner**  
**Before the**  
**House Political Subdivisions Committee**  
**House Bill 1178**  
**January 25, 2013**

Madam Chair Johnson, members of the House Political Subdivisions Committee, my name is Jolene Vidal, Property Tax Specialist for the Office of State Tax Commissioner. I am here today to testify in support of House Bill 1178. The Property Tax Division (Division) of the Office of State Tax Commissioner values all the public utilities as defined in N.D.C.C Chapter 57-06, which includes gathering pipelines. This property is centrally assessed by the State Board of Equalization and the values are certified to the counties. The counties then send out property tax statements to collect payment of the tax.

By the end of 2011, over 2,200 miles of new pipeline were added in North Dakota. The cost of these newly constructed pipelines was more than \$800 million. During the 2012 assessment cycle, the counties and the Division encountered difficulty in locating property and having the required reports completed. Even after assessments were finalized by the State Board of Equalization, the Division was missing location information to properly spread the value among taxing jurisdictions. House Bill 1178 gives the Division and counties more tools to complete the assessment process and certify values to the correct taxing jurisdictions across the state.

**Current Law**

The Division is responsible for determining the value as of January 1 of each year of all utility companies required to be centrally assessed under N.D.C.C Chapter 57-06. As of April 1 of each year, the county auditor mails maps to companies showing the boundaries of each assessment district. On May 1, companies are required to send maps to the county auditors that show where their property is located within that county. Also on May 1, companies are required to submit reports to the Tax Commissioner as prescribed in N.D.C.C § 57-06-06. Companies can request an extension of time to file the reports and these requests are generally granted. The Division must have the tentative valuations completed by July 15 for the statutorily required August meeting of the State Board of Equalization, which is the first Tuesday in August to

equalize the assessments. The Division then sends certification of values to the county auditors to add to the assessment records of the taxing jurisdictions.

## **Purposed Changes to Law**

### **Section 1.**

Section 1 adds a new section to the N.D.C.C Chapter 57-06. This section provides a penalty of \$5,000 for each failure to make the required report after three consecutive years of failing to file a report.

### **Section 2.**

There are three proposed amendments to the current law in Section 2: 1) the penalty for failure to file a report; 2) the dates that extension requests are due; and 3) the authority to grant waiver of the penalty.

Currently, as of May 1 of any year, the State Board of Equalization shall add 10% to the assessed value of a property for failure to furnish a report required or neglecting to furnish requested information. When a company does not furnish the required information, the Division uses the best information available at that time. The proposed language does not change the current penalty that can be assessed on May 1. On Page 2, lines 2 through 4, this bill proposes to add an additional penalty if a company does not furnish the report by July 1. The penalty for not providing the report by July 1 was added as an incentive to comply with the reporting requirement and because of the requirement that the tentative valuation be completed by July 15.

In 2012, out of 89 companies, 20 asked for an extension of time to file a report. Our office will typically grant an extension to June 1. The purpose of the requested change is to give our office and companies a set date for the filing extension because tentative valuations must be completed by July 15 each year. These extension date proposals begin on Page 1, line 24 through Page 2, line 2.

This bill also provides specific statutory authority to allow the Tax Commissioner to waive all or any part of the penalty for good cause shown. (Page 2 lines 4 through 6). The Division understands that circumstances may arise that delay the process. This new provision will give companies an opportunity to explain the delay and will not penalize companies that are reliable with their filings and may have circumstances that are unavoidable.

**Section 3.**

Under N.D.C.C § 57-06-21 a company must file a report and a map with the county auditor each year. The reports are currently due on or before May 1 of each year. The proposed changes amend the due dates. The dates were moved up in the year so as to not coincide with the reports due to the Tax Commissioner’s office. Another proposed change is for the companies to now send maps of their property to the Tax Commissioner. If there are changes in the taxing jurisdiction information where the property is located, or there is new property, having the location to the counties and the Division before the May 1 deadline gives more opportunity to verify the information and make corrections. Reporting of property is an essential part of the valuation process. The company’s property may cross many taxing jurisdictions. Our office strives to make sure that value is distributed to the correct taxing jurisdictions. Having access to the maps will give the Tax Commissioner an additional information source to ensure property is located in the correct taxing jurisdiction.

**Section 4.**

The effective date would make these changes for the 2014 assessment year.

**Conclusion**

The main purpose of House Bill 1178 is to clarify for the public utilities their reporting requirements and extension opportunities. In addition, House Bill 1178 will give the Tax Commissioner’s office additional resources to assist in our efforts to improve compliance and to ensure the counties receive the tax dollars they are entitled to from the construction of pipelines in their counties. This is especially important due to the increased activity in the western part of our State.

The Office of State Tax Commissioner respectfully requests that the Political Subdivisions Committee give House Bill 1178 favorable consideration. Thank you.

**Testimony of the Office of State Tax Commissioner  
Before the  
Senate Political Subdivisions Committee  
House Bill 1178  
March 8, 2013**

Chairman Andrist, members of the Senate Political Subdivisions Committee, my name is Jolene Vidal, Property Tax Specialist for the Office of State Tax Commissioner. I am here today to testify in support of House Bill 1178. The Property Tax Division (Division) of the Office of State Tax Commissioner values all the public utilities as defined in N.D.C.C Chapter 57-06, which includes gathering pipelines. This property is centrally assessed by the State Board of Equalization and the values are certified to the counties. The counties then send out property tax statements to collect payment of the tax.

By the end of 2011, over 2,200 miles of new pipeline were added in North Dakota. The cost of these newly constructed pipelines was more than \$800 million. During the 2012 assessment cycle, the counties and the Division encountered difficulty in locating property and having the required reports completed. Even after assessments were finalized by the State Board of Equalization, the Division was missing location information to properly spread the value among taxing jurisdictions. House Bill 1178 gives the Division and counties more tools to complete the assessment process and certify values to the correct taxing jurisdictions across the state.

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