

**2013 HOUSE FINANCE AND TAXATION**

**HB 1198**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1198  
January 21, 2013  
Job #17485

Conference Committee

Committee Clerk Signature

*Mary Brucher*

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

A Bill relating to deposits of the state's share of oil and gas taxes and property tax relief through allocation of state funding to school districts for mill levy reduction grants.

### Minutes:

*Attached testimony #1, 2*

**Chairman Belter:** Opened hearing on HB 1198.

**Vice Chairman Headland:** Introduced bill. Since 2008 the state has provided mill levy reduction grants to school districts to buy down mill levees. When we first passed this legislation it was all based on a 2008 tax year and what you levied in those particular years you were essentially capped on your relief that was provided through mill levy reduction grant. I think that has caused some problems with equity amongst school districts and therefore I am offering a bill I believe would fix the proposed equity problem.

**Representative Drovdal:** We have two fiscal notes, the one that takes \$448 million out of funds is the correct one, is it not? One takes it out of the general fund and one takes it out of the other/special funds. I believe the one that takes it out of the other/special funds is correct.

**Chairman Belter:** I would think so. Further testimony in support of 1198?

**Mitch Carlson, Superintendent of LaMoure Public School:** See attached testimony #1.

**Chairman Belter:** Further testimony in support of 1198?

**Dr. Brian Duchscherer, Superintendent of Carrington School District:** See attached testimony #2.

**Representative Drovdal:** When we passed that we said we would finance up to mills in each school district. In your case you had 160. I don't think we went below 100 mills so we financed 60 mills. What this bill does is with your 160 mills it would bring it below 100 to 85 mills I believe. If that brings it down to 85 mills and leaves another school district at 100 or 110 mills isn't that an inequity there since the values of land are supposed to be controlled by the state and be based on market value? Wouldn't this create an inequity?

**Dr. Brian Duchscherer, Superintendent of Carrington School District:** No, I believe the current inequity is where I as a resident should have received 75 mills of property tax relief if the true intent of the property tax relief bill was to give property taxes relief to the citizens of North Dakota. Just because I live in Carrington School district I am being penalized.

**Representative Drovdal:** I understand what you're saying but we fought that battle on the inequity per student wealth based on property value. This would go back inot that same case again and cost us that same problem as before.

**Dr. Brian Duchscherer, Superintendent of Carrington School District:** I believe the bill did create an inequity because now what the previous bill did was that all schools were at 185 and now you have some schools operating at 185 while Carrington is at 170. There's an inequity probably bigger than the inequities that were in a lawsuit before.

**Vice Chairman Headland:** What year did you reorganize?

**Dr. Brian Duchscherer, Superintendent of Carrington School District:** I believe it was 2006.

**Vice Chairman Headland:** If this would have been put off to 2008 what would your mill levy reduction grants be then? It would have been based at what your current mill levy was before you lowered it after the reorganization so essentially you're being penalized.

**Dr. Brian Duchscherer, Superintendent of Carrington School District:** Correct. The Carrington school district reorganized before I became the superintendent. They did lower their mills because they reorganized and it was an incentive to reorganize thus the past legislation penalized them for doing exactly what the school districts have been asked to do for many years.

**Representative Hatlestad:** If you're paying 160 mills and I'm paying 185 and the reduction is up to 75 mills so you're saying its inequitable because you didn't get 75 mills but you weren't paying that additional 25 mills that I was so shouldn't I be the one who should be concerned about being shorted?

**Dr. Brian Duchscherer, Superintendent of Carrington School District:** One needs to look at how did the school district go through the 170 mills or how did they go from a higher mill levy to a lower mill levy. In the case of the Carrington School district they lowered their mills by reorganizing with another school district. There are school districts out there that currently can look at that or who have looked at that and have reorganized and you look at the bill of the schools that have reorganized and they are in this situation. It sends a message to the school districts that if you reorganize legislation can also hurt them.

**Representative Hatlestad:** If you're not paying that much tax why should you get an equal reduction? Why should you get 75 mills if you're only paying 60?

**Dr. Brian Duchscherer, Superintendent of Carrington School District:** You look at it a couple ways though, as an individual taxpayer if it was supposed to be a property tax relief bill shouldn't everyone be given the same property tax relief no matter where you lived? If a school was fiscally conservative and/or reorganized and didn't receive a property tax relief because of that I think that is a tough consequence.

**Chairman Belter:** Further testimony in support of 1198?

**Brandt Dick, Superintendent of Hazelton-Moffit-Braddock School District and Underwood School District:** Hazelton-Moffit-Braddock was another school district that got caught in the inequity that has been talked about. I sat in on a bill 2037 and it was mentioned that there was 79 districts who did not receive the full 75 mill levy reduction. I feel that this would fix the inequity that was put into place. I hope that this committee would look at whatever bill that comes out and look at that for all taxpayers for the state of North Dakota. I agree with my colleague as to why the taxpayers in my district right next to other districts receive less property tax relief.

**Chairman Belter:** Further testimony in support of 1198?

**Mitch Carlson, Superintendent of LaMoure Public School:** I understand Representative Hatlestad's concern and from our standpoint in 2008 compared to now our situation has completely changed what we levied in 2008 compared to what we need to levy in 2013. Right now we are always at the cap and our situation has changed dramatically from 2008. In our elementary teaching staff we only needed one teacher per class and now we are at the point where we have 26-27 students in a classroom and we don't even have the ability to raise our cap and generate any extra money to split our classes. This year we got down to 106 mills because our taxable valuation rose dramatically but we will not have the ability to raise revenue based on the 106 because we are getting 58 mill levy reduction compared to the 75 reduction. Our income has been dramatically decreased because of the change in our situation. I am also a land owner in the LaMoure school district and our property tax relief is a three legged stool as we have our county tax, city tax, and our school tax. Our city tax was actually higher in 2008 than our school district levy tax and we didn't see any mill levy reduction money because of that.

**Representative Trottier:** How many people in your district come to your budgeting meeting?

**Mitch Carlson, Superintendent of LaMoure Public School:** This year we had two.

**Chairman Belter:** Any further testimony in support of 1198?

**Tom Rettig, Superintendent of Enderlin School:** I would compare to a banner year with the reorganization more value so it is a totally different ballgame now. Someone who is coming in on 2012-13 we're being judged on what happened in 2008 and that history is carried with us and it might be a totally different ballgame for different districts and we're still being set at that 2008 banner year in farming. I feel that we are being penalized at what occurred four or five years ago.

**Chairman Belter:** Any further testimony in support of 1198? Any testimony in opposition? Any neutral testimony?

**Jerry Coleman, Department of Public Instruction:** Asked to come to podium for questions.

**Vice Chairman Headland:** We've had two superintendents here who have testified as to their fiscal prudent conservative management of their school districts and the reorganization they've done prior to this legislation has penalized them. Could you give us an idea that since we started this mill levy reduction grant program how many consolidations have there been across the state?

**Jerry Coleman, Department of Public Instruction:** I don't have an exact number but it would be less than five over the last five years.

**Vice Chairman Headland:** If you could get that to the committee it might help us make a decision.

**Jerry Coleman, Department of Public Instruction:** I could do that.

**Representative Froseth:** I think we'll be seeing another bill that would be increasing the student foundation aid payments and whether that's in place of this bill or in combination with it, which is the most easiest and effective way to distribute that money?

**Jerry Coleman, Department of Public Instruction:** I don't know that any of them are easy. We have 180 school districts varying access to revenues with different basis, you have the property tax and that raises the statewide probably raises about 50% of the state and local contribution for school districts and state aid makes up for the other 50%. There are many attempts to equalize the money for state aid but the property tax isn't. It raises revenue based on the relative wealth of the school districts so that's a constant challenge for school funding. There are proposals to eliminate this particular program and push it into a formula that the state would control but there are a lot of details to be worked out yet.

**Representative Froseth:** There's another issue of growing enrollment especially in the western part of the state. Wouldn't it be more effective and quicker to get the money to the schools through foundation aid than to go through this property tax rebate formula?

**Jerry Coleman, Department of Public Instruction:** I don't know that it particularly matters. The property tax school districts raise that annually based on their property valuations and school districts state aid goes out annually too so that is the way it is structured. You could weight it a little heavily on the state side for increasing enrollments. One of the issues now that is getting a lot of discussion is cash flow because the state aid formulas based on students, full time students, so you have to get that number from the previous year and if districts are educating a significant number of new students that is a cash flow type issue for school districts if they don't have interim funds that could carry them until the following year.

**Representative Froseth:** To increase the mill levy it takes a while and is a process. Whereas a payment based on foundation aid would be based on the number of students seems to me to be a quicker and easier process.

**Jerry Coleman, Department of Public Instruction:** I think the details would probably bog that down a bit because if you increase the per student payment that would have to go out on an equalized basis and it would depend on the state appropriation. School districts by board authority can go on their general fund up to 110 mills then they have to go to the vote of the people and that is very difficult to get excess levy in school districts.

**Chairman Belter:** The fiscal note shows that it would cost over \$100 million. That seems a lot higher than last session. Do you recall?

**Jerry Coleman, Department of Public Instruction:** I believe the appropriation for the current biennium 2013 is about \$342 million and because this program is based on a number of mills levied in 2008 it varies directly with the property valuation increases. Property valuation statewide has increased dramatically over the last decade but the current year compared to the previous year our property valuations in North Dakota were over 14% on average. The cost of the program varies directly with that.

**Chairman Belter:** The difference is because of the total valuations going up, not just correcting the efficiency between these schools and the ones that are at 125.

**Jerry Coleman, Department of Public Instruction:** I believe that is correct. I think the projection into the next biennium for the existing mill levy reduction program would be \$396 and in this bill it is \$438 so that differential would be the additional cost of the program to pay a full 75 mills rather than it currently is.

**Representative Drovdal:** There was a comment about a school not going above 110 mills, can a school go to the voters and ask for a higher mill levy above 110 under current law?

**Jerry Coleman, Department of Public Instruction:** Yes they can be approved for a higher levy.

**Representative Drovdal:** If we passed this would this not put us back into that same old argument that wealth per student is not equal across the state?

**Jerry Coleman, Department of Public Instruction:** Those issues exist. Half of the money for educating students is roughly distributed on a per student basis and half of it is generated from property valuations. There is no real equalization with property valuations so it's related directly to the wealth of the school district on that half.

**Chairman Belter:** Any other neutral testimony on 1198? If no further testimony I will close the hearing on HB 1198.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1198  
February 13, 2013  
Job #18899

Conference Committee

Committee Clerk Signature

*Mary Bruner*

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

A Bill relating to deposits of the state's share of oil and gas taxes and property tax relief through allocation of state funding to school districts for mill levy reduction grants.

## Minutes:

*Attached amendments #1.*

**Vice Chairman Headland:** Distributed amendments and explained them to the committee. See attached amendments #1. This would add \$327 million to be distributed to counties for further property tax relief. This is in addition to the 75 mills offered to every school district assuming we move forward with the mill levy reduction grant program. It equates to about 17% additional property tax relief in dollars against every parcel of property spread across all different types. That would make for a total of about \$448 million plus \$327 million is \$775 million.

**Chairman Belter:** Are there any questions?

**Vice Chairman Headland:** Made a motion to adopt the amendment 2004.

**Representative Dockter:** Seconded.

**Representative Drovdal:** My concern is that we've sent money back for property tax relief time and time again only to see property tax continue to rise. Is there anything in here that is going to help control that?

**Vice Chairman Headland:** We have passed bills in here that are going to place caps on dollars to every taxing district in every political subdivision. Property taxes will not continue to grow without a vote of the people.

**Representative Drovdal:** We pass bills out that listed they couldn't go up more than a certain percentage off what they were taxed the year before. I'm concerned that if they get this money and reduce what they passed before and then raise it right back up again it won't hit the cap. Is there some way that this is subtracted from that?

**Vice Chairman Headland:** That's a good question. Mr. Walstad can answer that for us.

**John Walstad, Legislative Council:** The 3% is dollars capped bill has a provision in it for an adjustment for school districts for any increased state aid that is received. If there is a decrease they get more levy authority and if there's an increase they get less dollar for dollar. When I was writing that bill I wasn't looking at this payment through counties but that would be fixable dollar for dollar as well. Although it's not in there now it could easily be added to that 3% cap that dollar for dollar this \$327 million credit gets subtracted from levy authority.

**Representative Froseth:** Is the provision in here that the counties have to lower their mills by this amount?

**Vice Chairman Headland:** No it does not say that.

**John Walstad:** It could be added quite easily.

**Representative Froseth:** What makes their property taxes lower then to reflect this payment from the state?

**Vice Chairman Headland:** That seems to be an item that when assuming when caps would be put on they would lower it. Maybe we need to write a little more into this. I don't know if we can do it now though.

**Chairman Belter:** I would suggest that if we want that kind of language it needs to go to appropriations and if we want to draft an amendment to take to appropriations we could do that.

**John Walstad:** Is the cap bill going to go to appropriations?

**Chairman Belter:** No I guess it won't.

**John Walstad:** This will and the cap thing could be put in here.

**Vice Chairman Headland:** We can ask appropriations to add that language so we make sure they lower their levies dollar for dollar for every penny of buy down they are going to be getting in this.

**John Walstad:** If that's the committee's wish then you can just let them know.

**Representative Kelsh:** What is the total dollar amount levied by counties statewide?

**John Walstad:** I don't know that number. This relief is delivered to counties but it doesn't just go against your county tax bill; the county handles the money and passes it out to every taxing district in the county proportionately. It would lower your tax bill from everybody who is taxing you by the same share.

**Representative Kelsh:** Is there a mill levy buy down related to that dollar amount of \$327 million?



**John Walstad:** No. The disadvantage of a mill levy buy down is you get fewer bangs in some counties than you do in others. If you lay the reduction of every dollar of tax in the state then everybody's tax bill drops by the same share. With the mill levy reduction grant program some school districts aren't thinking they are treated fairly for that reason; they get a number of mills against their valuation and if they're not a rich district there are not as many dollars.

**Chairman Belter:** We have a motion to adopt the 2004 amendments.

**VOICE VOTE: MOTION CARRIED.**

**Chairman Belter:** What are your wishes on 1198?

**Vice Chairman Headland: Made a motion for a Do Pass as Amended.**

**Representative Dockter: Seconded.**

**ROLL CALL VOTE: 13 YES 0 NO ABSENT 1**

**Vice Chairman Headland will carry this bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/14/2013**

Revised  
 Bill/Resolution No.: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |                 | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-----------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds     | General Fund       | Other Funds |
| Revenues       |                    |             | \$341,790,000      | \$(341,790,000) |                    |             |
| Expenditures   |                    |             |                    |                 |                    |             |
| Appropriations |                    |             | \$448,000,000      |                 |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 makes some modifications to the mill levy reduction grant program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1198 shifts \$106,210,000 from the strategic investment and improvements fund to the property tax sustainability fund. Section 2 enables all school districts to receive the full 75-mill grant amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 5 is a transfer of \$341,790,000 from the property tax relief sustainability fund to the general fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of HB 1198 are expected to require a total expenditure of \$437,850,000 for mill levy reduction grants in the 2013-15 biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 4 contains an appropriation of \$448 million to DPI for the mill levy reduction grants to school districts.

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/17/2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1198

Page 1, line 1, after "Act" insert "to create and enact section 57-20-07.2 of the North Dakota Century Code, relating to a state-paid property tax relief credit;"

Page 1, line 1, after "sections" insert "57-20-09, 57-20-21.1,"

Page 1, line 2, after "to" insert "priority for delinquent taxes and the discount for early payment of property taxes,"

Page 1, after line 5, insert:

"**SECTION 1.** Section 57-20-07.2 of the North Dakota Century Code is created and enacted as follows:

**57-20-07.2. State-paid property tax relief credit.**

1. The owner of taxable property is entitled to a credit against property taxes levied against the total amount of property or mobile home taxes in dollars levied against the taxable value of the property. The credit is equal to seventeen percent of property or mobile home taxes levied in dollars against that property.
2. The owner, operator, or lessee of railroad property assessed by the state board of equalization under chapter 57-05 or public utility operative property assessed by the state board of equalization under chapter 57-06 is entitled to a credit against property taxes levied within each county against that property in the amount provided in subsection 1 against property taxes levied in dollars against that property in that county.
3. The owner, operator, or lessee of operative property of an air carrier transportation company assessed and taxed under chapter 57-32 is entitled to a credit in the amount provided in subsection 1 against property taxes in dollars levied against that property. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the air transportation fund. The credit for each air transportation company must be allocated to each city or municipal airport authority where that company makes regularly scheduled landings, in the same manner as the tax collected from that company is allocated.
4. The tax commissioner shall determine the total amount of credits under this section for each county from the abstract of the tax list filed by the county auditor under section 57-20-04, as audited and corrected by the tax commissioner. The tax commissioner shall certify to the state treasurer for payment, by June first following receipt of the abstract of the tax list, the amount determined for each county under this subsection. No penalty or interest applies to any state payment under this section, regardless of when the payment is made.

- 5. Upon receipt of the payment from the state treasurer under subsection 4, the county treasurer shall apportion and distribute it to the county and the taxing districts in the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.
- 6. After payments to counties under subsection 4 have been made, the tax commissioner shall certify to the state treasurer as necessary any supplemental amounts payable to counties or the air transportation fund or any amounts that must be returned by counties or returned from the air transportation fund for deposit in the state general fund to correct any errors in payments or reflect any abatement or compromise of taxes, court-ordered tax reduction or increase, or levy of taxes against omitted property. The county auditor shall provide any supplemental information requested by the tax commissioner after submission of the abstract of the tax list. The county treasurer shall apply to the tax commissioner for any supplemental payments to which the county treasurer believes the county is entitled.
- 7. Notwithstanding any other provision of law, for any property other than mobile homes, the property tax credit under this section does not apply to any property subject to payments or taxes that are stated by law to be in lieu of personal or real property taxes.

**SECTION 2. AMENDMENT.** Section 57-20-09 of the North Dakota Century Code is amended and reenacted as follows:

**57-20-09. Discount for early payment of tax.**

Except as provided in section 57-20-21.1, the county treasurer shall allow a five percent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency. Such discount applies, after deduction of any credit allowed under section 57-20-07.2, to the net remaining amount of all general real estate taxes levied for state, county, city, township, school district, fire district, park district, and any other taxing districts but does not apply to personal property taxes or special assessment installments. Whenever the board of county commissioners, by resolution, determines that an emergency exists in the county by virtue of weather or other catastrophe, it may extend the discount period for an additional thirty days.

**SECTION 3. AMENDMENT.** Section 57-20-21.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-20-21.1. Priority for delinquent taxes.**

When payment is made for any real or personal property taxes or special assessments, payments must be applied first to the oldest unpaid delinquent taxes or special assessments due, if any, shown to exist upon the property for which the tax payments are made, including any penalty and interest, except payments of state-paid property tax relief credit made by the state must be applied to taxes for the year for which the state-paid property tax relief credit is granted. The discounts applicable to payment of taxes set out in section 57-20-09 do not apply to payment of taxes made on property upon which tax payments are delinquent."

**"SECTION 8. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$327,200,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of state-paid property tax relief credits under section 57-20-07.2, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

Date: 2-13-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. ~~1198~~ 1198

House Finance and Taxation Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment 02004  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Headland Seconded By Rep. Dockter

| Representatives              | Yes | No | Representatives     | Yes | No |
|------------------------------|-----|----|---------------------|-----|----|
| Chairman Wesley Belter       |     |    | Rep. Scot Kelsh     |     |    |
| Vice Chairman Craig Headland |     |    | Rep. Steve Zaiser   |     |    |
| Rep. Matthew Klein           |     |    | Rep. Jessica Haak   |     |    |
| Rep. David Drovdal           |     |    | Rep. Marie Strinden |     |    |
| Rep. Glen Froseth            |     |    |                     |     |    |
| Rep. Mark Owens              |     |    |                     |     |    |
| Rep. Patrick Hatlestad       |     |    |                     |     |    |
| Rep. Wayne Trottier          |     |    |                     |     |    |
| Rep. Jason Dockter           |     |    |                     |     |    |
| Rep. Jim Schmidt             |     |    |                     |     |    |
|                              |     |    |                     |     |    |
|                              |     |    |                     |     |    |
|                              |     |    |                     |     |    |
|                              |     |    |                     |     |    |

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Voice Vote*  
*Motion Carried*

Date: 2-13-13  
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1198**

House Finance and Taxation 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. Headland Seconded By Rep. Dockter

| Representatives              | Yes | No | Representatives     | Yes          | No |
|------------------------------|-----|----|---------------------|--------------|----|
| Chairman Wesley Belter       | ✓   |    | Rep. Scot Kelsh     | ✓            |    |
| Vice Chairman Craig Headland | ✓   |    | Rep. Steve Zaiser   | ✓            |    |
| Rep. Matthew Klein           | ✓   |    | Rep. Jessica Haak   | <del>✓</del> |    |
| Rep. David Drovdal           | ✓   |    | Rep. Marie Strinden | ✓            |    |
| Rep. Glen Froseth            | ✓   |    |                     |              |    |
| Rep. Mark Owens              | ✓   |    |                     |              |    |
| Rep. Patrick Hatlestad       | ✓   |    |                     |              |    |
| Rep. Wayne Trottier          | ✓   |    |                     |              |    |
| Rep. Jason Dockter           | ✓   |    |                     |              |    |
| Rep. Jim Schmidt             | ✓   |    |                     |              |    |
|                              |     |    |                     |              |    |
|                              |     |    |                     |              |    |
|                              |     |    |                     |              |    |

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Headland

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



**REPORT OF STANDING COMMITTEE**

**HB 1198: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1198 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact section 57-20-07.2 of the North Dakota Century Code, relating to a state-paid property tax relief credit;"

Page 1, line 1, after "sections" insert "57-20-09, 57-20-21.1,"

Page 1, line 2, after "to" insert "priority for delinquent taxes and the discount for early payment of property taxes,"

Page 1, after line 5, insert:

**"SECTION 1.** Section 57-20-07.2 of the North Dakota Century Code is created and enacted as follows:

**57-20-07.2. State-paid property tax relief credit.**

1. The owner of taxable property is entitled to a credit against property taxes levied against the total amount of property or mobile home taxes in dollars levied against the taxable value of the property. The credit is equal to seventeen percent of property or mobile home taxes levied in dollars against that property.
2. The owner, operator, or lessee of railroad property assessed by the state board of equalization under chapter 57-05 or public utility operative property assessed by the state board of equalization under chapter 57-06 is entitled to a credit against property taxes levied within each county against that property in the amount provided in subsection 1 against property taxes levied in dollars against that property in that county.
3. The owner, operator, or lessee of operative property of an air carrier transportation company assessed and taxed under chapter 57-32 is entitled to a credit in the amount provided in subsection 1 against property taxes in dollars levied against that property. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the air transportation fund. The credit for each air transportation company must be allocated to each city or municipal airport authority where that company makes regularly scheduled landings, in the same manner as the tax collected from that company is allocated.
4. The tax commissioner shall determine the total amount of credits under this section for each county from the abstract of the tax list filed by the county auditor under section 57-20-04, as audited and corrected by the tax commissioner. The tax commissioner shall certify to the state treasurer for payment, by June first following receipt of the abstract of the tax list, the amount determined for each county under this subsection. No penalty or interest applies to any state payment under this section, regardless of when the payment is made.
5. Upon receipt of the payment from the state treasurer under subsection 4, the county treasurer shall apportion and distribute it to the county and the taxing districts in the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.

6. After payments to counties under subsection 4 have been made, the tax commissioner shall certify to the state treasurer as necessary any supplemental amounts payable to counties or the air transportation fund or any amounts that must be returned by counties or returned from the air transportation fund for deposit in the state general fund to correct any errors in payments or reflect any abatement or compromise of taxes, court-ordered tax reduction or increase, or levy of taxes against omitted property. The county auditor shall provide any supplemental information requested by the tax commissioner after submission of the abstract of the tax list. The county treasurer shall apply to the tax commissioner for any supplemental payments to which the county treasurer believes the county is entitled.
7. Notwithstanding any other provision of law, for any property other than mobile homes, the property tax credit under this section does not apply to any property subject to payments or taxes that are stated by law to be in lieu of personal or real property taxes.

**SECTION 2. AMENDMENT.** Section 57-20-09 of the North Dakota Century Code is amended and reenacted as follows:

**57-20-09. Discount for early payment of tax.**

Except as provided in section 57-20-21.1, the county treasurer shall allow a five percent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency. Such discount applies, after deduction of any credit allowed under section 57-20-07.2, to the net remaining amount of all general real estate taxes levied for state, county, city, township, school district, fire district, park district, and any other taxing districts but does not apply to personal property taxes or special assessment installments. Whenever the board of county commissioners, by resolution, determines that an emergency exists in the county by virtue of weather or other catastrophe, it may extend the discount period for an additional thirty days.

**SECTION 3. AMENDMENT.** Section 57-20-21.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-20-21.1. Priority for delinquent taxes.**

When payment is made for any real or personal property taxes or special assessments, payments must be applied first to the oldest unpaid delinquent taxes or special assessments due, if any, shown to exist upon the property for which the tax payments are made, including any penalty and interest, except payments of state-paid property tax relief credit made by the state must be applied to taxes for the year for which the state-paid property tax relief credit is granted. The discounts applicable to payment of taxes set out in section 57-20-09 do not apply to payment of taxes made on property upon which tax payments are delinquent."

Page 4, after line 22, insert:

**"SECTION 8. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$327,200,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of state-paid property tax relief credits under section 57-20-07.2, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

**2013 HOUSE APPROPRIATIONS**

**HB 1198**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

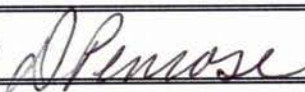
HB 1198

2/18/13

19107

Conference Committee

Committee Clerk Signature



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

A BILL for an Act to create and enact section 57-20-07.2 of the North Dakota Century Code, relating to a state-paid property tax relief credit; to amend and reenact sections 57-20-09, 57-20-21.1, 57-51.1-07.5, 57-64-02, and 57-64-03 of the North Dakota Century Code, relating to priority for delinquent taxes and the discount for early payment of property taxes, deposits of the state's share of oil and gas taxes and property tax relief through allocation of state funding to school districts for mill levy reduction grants; to provide an appropriation; to provide for a transfer; and to provide an effective date.

### Minutes:

You may make reference to "attached testimony."

Chairman Delzer called the committee back to order.

Rep. Headland: This bill is offering an alternative property tax relief solution. The original bill was designed to provide every school district in this state, 75 mills of relief. The reason behind that, if it's property tax relief, every property taxpayer, every parcel of property should receive as close to the same amount of relief as possible. The other argument that was brought to us by a group of superintendents that I believe equal somewhat less than 1/3 of the school districts in the state, believe that there is an equity problem associated with them being capped somewhere below 110 mills, in which every other school district that was levying 110 mills in 2008 when this action was first taken was allowed. The other thing that we added to this bill in committee was an additional \$327,200,000 which was just about as close of a guess as we could come up to, to provide the same dollar amount of property tax relief as would be provided in HB 1319. In the engrossed version, the original appropriation of \$448 million that was designed for the 75 mills for everybody was inadvertently taken out. I'm not sure how that happened. That needs to be there. Then also I was going to request from this committee to possibly further amend this bill to add language simply stating the dollar amount of property tax relief that is coming from the state in some fashion.

Chairman Delzer: So that the local counties have to put that on the tax statement? That's not on another bill already?

Rep. Headland: I had looked over some of the other bills and I believe it was taken out.

Chairman Delzer: You said the \$448M wasn't there? What about section 7, it appropriates \$448 million.

Rep. Headland: There it is. I'm not sure how I missed it. If it's there, good.

Chairman Delzer: These are both out of the general fund? Then there's a transfer of the \$341,790 that sits in the property tax sustainability fund right now to the general fund, July 1, 2013.

Rep. Headland: That's correct.

Rep. Monson: In section 7, you're saying \$448M; it is the committee's intention that would continue the buy down from 185 mills to 110 mills for a school district?

Rep. Headland: Correct, but it also would provide up to 75 mills for any school district, regardless of where their levy was at. If they were at 160 mills, they would still receive the equivalent of 75 mills.

Ch. Delzer: From when we started that plan.

Rep. Headland: From when we started that plan, correct.

Rep. Monson: The equity that the formula has been providing, which has kept us out of a lawsuit, would be out the window because you're saying that whether you're a rich district or a poor district, and whether you were levying high or low, you're going to get 75 mills of credit, is that right.

Rep. Headland: If we are to assume that this is designed to be property tax relief, your tax committee believes it should be equity to the property taxpayer. If it's just distribution of how the dollars go out, I suppose if you assume it is education funding, you may have some problems with equity. But if it is designed to provide relief to the property taxpayer, you shouldn't have a problem.

Chairman Delzer: You have \$327,000 to go to the tax department to pay the counties, I believe 17%?

Rep. Headland: That's as close as we could come to a guess as to what that dollar figure would buy down. An additional 17% on top of the \$448 million.

Chairman Delzer: Why put the 17% in there? If you put 17% in there and the bill continues on to the next biennium, by putting a percentage in there you in essence put the growth or loss of the valuation, do you not.

Rep. Headland: That would probably be the case.

Chairman Delzer: Did you have any discussion about using a dollar figure, the \$327,000 prorated equally as compared to the 17%.

Rep. Headland: The design was supposed to refer to the dollar figure, and the percent was put in there to describe what the dollar figure would equate to, you may have discovered a fault in the way it is written.

Ch. Delzer: In essence, if we put the dollar figure in there, that takes the valuation out and then the next legislature would have the opportunity to decide whatever level they want to fund it at.

Rep. Headland: That would be true.

Rep. Bellew: My question was answered.

Rep. Monson: If I'm reading this correctly, the new property tax relief that you are proposing in here would be to buy down the mill levy about 17% for every political subdivision, schools, counties, townships, park districts and so on?

Rep. Headland: That is correct.

Chairman Delzer: I've heard that the tax committee has an idea of changing from mills to dollars, was such a discussion had on this bill.

Rep. Headland: The discussion has been had, there is a bill that has gone to the legislative assembly; I don't think we had a discussion pertaining to this bill. But this would fall under it if it were to pass.

Chairman Delzer: We did the 370 in the idea for property tax relief in the formula, but we ended up using about \$10 million less than that because there is going to be a \$10 million return to the general fund off of that fund. Was there any discussion in the committee about that, and how accurate you think the estimate for the \$448 million is for the 75 mills?

Rep. Headland: That discussion did not take place. The number we used was \$403M appropriation that was brought to the interim tax committee to continue with the mill levy reduction grant program as it currently is and that is in a Senate bill. The appropriation here takes that \$403 million and adds the money to provide 75 mills for everyone.

Chairman Delzer: Is there language in HB 1013 about property tax to match that wording? There probably isn't because 1319 does it entirely different.

Rep. Skarphol: That is correct, we're going to have to decide whether 1319 moves forward and that will change the amount and 1013 reflects 1319 right now, so that if we decide to do something different than 1319, then there will have to be changes made in 1013.

Rep. Sanford: Mechanically how would this work at the county level when the school district levy is at 110 mills and it's going to get 17% relief, would that just come off those 110 mills. So they would levy 110 but the county would actually reduce it so that when I get my property tax bill, I would be paying 17% less than what that came to.

Rep. Headland: That would be the case. This is not going to be tied to mills in any way. It's just going to set a dollar amount that the school district, township, county, would have to offset your tax bill.

Chairman Delzer: They would send out the tax statement to all the individuals with whatever the locals all put on there, and put on the bottom that the state is going to do whatever percent or dollar figure we come up with, and that would reduce the amount that they would have to pay the counties, and then the counties would actually send the bill for that portion into the state and the state would pay the counties. Is that correct?

Rep. Headland: I believe that's correct.

Rep. Kempenich: We've been going around on property tax relief here the last 7 years, basically. This is basically a 1 or 2 year fix at best. I guess that's the whole jist of what do you take over. We had 1319, and you have to bring all of this together and it gets confusing to a certain degree, but we're within \$144M of paying K-12 education in total in that bill for the most part. We keep nibbling around the edges and the edges are getting fairly big. We're going to be at this again in two years from now. More than likely a bigger number to even keep it at 17%. The state government isn't any better as far as increase in government, how do you control it, that's the biggest problem that I'm seeing.

Chairman Delzer: I think that's part of the issue of why the discussion is being made about doing it off dollars instead of mills. Try to take the valuation out. But that \$144M you referenced is that per year? It must be per year because they say it's close to \$396,000 to \$403,000, are the different numbers we have had on the 75 mills.

Rep. Nelson: When we talk school funding, first of all, that the property tax relief that has been granted. Rep. Sanford mentioned the baseline of 110 mills. With the transfer of the money from the property tax relief sustainability fund, wouldn't we start with a baseline prior to implementing the current property tax buy down for school districts? Would we start at 185, or at 110?

Chairman Delzer: He referenced the \$448M off of starting at the 185 mills, the higher number.

Rep. Nelson: That is the way I would read it, yes. If a property taxpayer is looking at their bill, if this bill passes, they will see that change back to 185. I would agree with your premise that those school districts that levy less than the maximum are getting penalized today whether from an equity standpoint or not; there is no incentive for a school district under the current formula to provide more property tax relief. Now we're spreading this across the board for all taxing districts; is there a limiting factor as far as growth in this bill, how would they go forward with additional funding if they needed it?

Rep. Headland: That is what was referenced when we talked about the percentage listed in the bill. If we were to try to limit the expenditure moving forward, it maybe should just be tied to a dollar figure and not reference that percentage.

Rep. Nelson: But it's not right now in this bill.

Rep. Headland: Unfortunately that got by me.

Chairman Delzer: I think there are other bills that talk about the whole gambit, both schools and everything as well.

Rep. Nelson: But that's a major issue, with this type of plan, would you not agree.

Ch. Delzer: Yes.

Rep. Skarphol: There's a one mill levy for medical school, statewide; will this reduce that by 17% as well, I assume it applies to every mill levy?

Rep. Headland: I believe it would.

Chairman Delzer: Would you work on the amendments with what you talked about and what we talked about here so far.

Rep. Headland: I would be happy to do that and bring them to you.

Ch. Delzer: We will probably have to have another discussion on this where you may need to be involved.

Rep. Brandenburg: So if there is some sort of notice on the tax statement in dollars, we need to identify what we come up with and work on that amendment too, so people realize we gave them something.

Ch. Delzer: Frankly, I hope that's on a number of bills so one of them makes it through anyway.

Rep. Skarphol: I'm still puzzled why we would not require local pol subs since Sen. Cook got a bill passed last time requiring that if your assessed value goes up 20%, your mill levy has to go down 20% and if a pol. Subdivision wants to increase the mill levy, all they need to do is file a public notice of intent to do so. Nothing else is required. So they put a publication in the paper, and granted it has type size in it, but it's a meaningless act unless there is something further required. I submit to you that if you require that those political subdivisions must hold a meeting with a requirement of even 1% of those who voted in the last election had to be in attendance, it would get a few people involved. That's all we need is a few people to get involved to get control of property tax in my mind.

Rep. Headland: I couldn't agree more, but you have to have the votes.

Rep. Skarphol: We do have control here and if we commit ourselves to something similar to that, we got the votes.

Ch. Delzer: There are 141 of us in control here. We will come back to this later with the amendments.



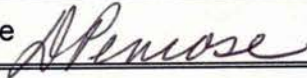
# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1198  
2/26/13  
19461

Conference Committee

Committee Clerk Signature



### Minutes:

You may make reference to "attached testimony."

Chairman Delzer: We'll take up 1198. Finance and Tax committee has brought down some amendments. Passed out amendment .03006 and marked up version of bill.

Rep. Wes Belter, District 22: In light of the changes made in 1319, 1198 was amended. It includes a real estate tax statement that requires the counties to put in 3 years of information on the tax statement, stating what proportion the tax that the state is paying for. The other major change is that it takes out the 75 mill buy down which we had previously had in there. That part is removed. Your whole education/finance bill will be in 1319. The other change is that it changes the percentage of buy down that this bill has and it changes it from 17% to 8.5% and that changes the appropriation from 327,200,000 to \$147,600,000. Those are the major changes in 1198.

Chairman Delzer: This matches the same amount of money in total then that was in the Governor's original 1319.

Rep. Belter: Yes, that number should be pretty close.

Rep. Pollert: We did the \$20M on foster care / subsidized adoption, so is that \$20M on top of the original recommendation.

Chairman Delzer: That's on top, the firefighters is on top and I think we will ask LC to put together a list of all the things that we're doing that are direct property tax relief and it should be tax relief.

Rep. Skarphol: Are there provisions in here for the reporting by every county, and if so, have they been strengthened? In the last go around, Cass County was criticized for other counties because they did what we thought should be done. Every county needs to do a similar format so we get apples to apples comparison between counties. Is that included?

Rep. Belter: I believe Section 1 covers the specifics of that, and hopefully all the counties will comply with the provisions of Section 1 on the amendments.

Rep. Skarphol: If they don't, then what? Because there are also provisions in law that requires a county notify a property owner as to more than a 10% increase, and there were counties that did not do that as well; they were supposed to do it in a certain timeframe in

order to give the property owner the opportunity to make the equalization meetings. It was not done. I know it was not done in counties in western ND, and there are no provisions with regard to is the effect of not complying with the law in these cases.

Rep. Belter: Other than violating state law, I don't believe there are any punitive provisions for the counties if they don't put it on.

Chairman Delzer: In your Finance and Tax committee, has there been any discussion about the possibility of putting some sort of fiscal effects when they do not follow. We would appreciate it if your committee would discuss this during the second half. Because I'm sure you will be doing this same thing with a number of the Senate bills to get the reporting requirements on.

Rep. Belter: That is certainly something we could look at, we were just under the assumption that counties would comply with the rules. If they don't, we will have to look at some type of punitive damages that can be forced upon them.

Rep. Skarphol: We kind of assume that all of us follow the speed limit as well, and obviously that's not true. We are the lawmakers.

Rep. Belter: There are punitive damages for us if we don't abide, just like for the rest of the citizens.

Rep. Brandenburg: If they don't put it on the tax statement, the following year in looking at state aid distribution, let's address it.

Rep. Skarphol: I move the amendment 13.0476.03006 to HB 1198.

Rep. Boe: Second the motion.

Ch. Delzer: Voice vote on amendment carries. We now have the bill before us as amended.

Rep. Brandenburg: I move a Do Pass as amended.

Rep. Sanford: Second the motion.

Ch. Delzer: Rep. Headland, were you the carrier out of policy, even though we amended this, we may just kick it right back to you.

Rep. Glassheim: Am I right that we took \$119 million out of the other one and this is \$147 million. So we're spending \$28 million more.

Ch. Delzer: Must be.

Rep. Bellew: It says it's reducing the amount of property tax from 17% to 8.5%.

Chairman Delzer: Right, the reduction.

Rep. Bellew: If you take away half the dollars, it should be \$160 million for the fiscal note.

Chairman Delzer: This has all been done between Council and the tax committee, so I would certainly hope that they knew what they were doing. I don't think we can compare it that simply, because it works for first year and second year valuations and all of that.

Rep. Monson: I think I heard Rep. Belter say the schools were not included in this, that school property tax has been addressed in 1319; but I am wondering if by taking the schools out if that didn't leave more money for property tax relief in other areas.

Chairman Delzer: Like every other bill we have, we'll be voting on it 2 or 3 times more before the session is over if it carries through. The clerk will call the roll for a Do Pass as amended on HB 1198.

22 YES 0 NO 0 ABSENT

DO PASS AS AMENDED

CARRIER: Rep. Delzer

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/14/2013**

Amendment to: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |                 | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-----------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds     | General Fund       | Other Funds |
| Revenues       |                    |             | \$341,790,000      | \$(341,790,000) |                    |             |
| Expenditures   |                    |             | \$384,300,000      |                 |                    |             |
| Appropriations |                    |             | \$775,200,000      |                 |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1198 creates state-paid property tax relief credits, and makes some modifications to the mill levy reduction grant program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of engrossed HB 1198 provides for state-paid property tax relief credits equal to 17% of property taxes. Section 5 enables all school districts to receive the full 75-mill levy reduction grant amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 9 of engrossed HB 1198 authorizes a transfer of \$341,790,000 from the property tax relief sustainability fund to the general fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of Section 1 of engrossed HB 1198 are expected to require a total expenditure of \$339.3 million for state-paid property tax credits in the 2013-15 biennium. Section 5 of engrossed HB 1198 will increase expenditures for the existing mill levy reduction grant program by \$45 million, from \$403 million to \$448 million for the 2013-15 biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 7 of engrossed HB 1198 contains an appropriation of \$448 million from the state general fund to the superintendent of public instruction for the current and expanded mill levy reduction grant program. Section 8 contains an appropriation of \$327,200,000 from the state general fund to the state treasurer for the purpose of state-paid property tax relief credits.

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 02/20/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/14/2013**

Revised  
 Bill/Resolution No.: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |                 | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-----------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds     | General Fund       | Other Funds |
| Revenues       |                    |             | \$341,790,000      | \$(341,790,000) |                    |             |
| Expenditures   |                    |             |                    |                 |                    |             |
| Appropriations |                    |             | \$448,000,000      |                 |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 makes some modifications to the mill levy reduction grant program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1198 shifts \$106,210,000 from the strategic investment and improvements fund to the property tax sustainability fund. Section 2 enables all school districts to receive the full 75-mill grant amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 5 is a transfer of \$341,790,000 from the property tax relief sustainability fund to the general fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of HB 1198 are expected to require a total expenditure of \$437,850,000 for mill levy reduction grants in the 2013-15 biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 4 contains an appropriation of \$448 million to DPI for the mill levy reduction grants to school districts.

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/17/2013

VK  
2/26/13  
1082

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1198

Page 1, line 2, after "sections" insert "57-20-07.1,"

Page 1, line 2, after the comma insert "and"

Page 1, line 3, remove ", 57-51.1-07.5, 57-64-02, and 57-64-03"

Page 1, line 4, after "to" insert "property tax statement information to identify legislative property tax relief for the subject property,"

Page 1, line 4, after the first "taxes" insert a comma

Page 1, line 4, remove ", deposits of"

Page 1, remove line 5

Page 1, line 6, remove "to school districts for mill levy reduction grants"

Page 1, line 6, remove "to provide for a"

Page 1, line 7, remove "transfer;"

Page 1, after line 8, insert:

**"SECTION 1. AMENDMENT.** Section 57-20-07.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-20-07.1. County treasurer to mail real estate tax statement - Contents of statement.**

On or before December twenty-sixth of each year, the county treasurer shall mail a real estate tax statement to the owner of each parcel of real property at the owner's last-known address. The statement must be provided in a manner that allows the taxpayer to retain a printed record of the obligation for payment of taxes and special assessments as provided in the statement. If a parcel of real property is owned by more than one individual, the county treasurer shall send only one statement to one of the owners of that property. Additional copies of the tax statement will be sent to the other owners upon their request and the furnishing of their names and addresses to the county treasurer. The tax statement must include:

1. Include a dollar valuation of the true and full value as defined by law of the property and the total mill levy applicable. ~~The tax statement must include~~
2. Include, or be accompanied by a separate sheet, with three columns showing, for the taxable year to which the tax statement applies and the two immediately preceding taxable years, the property tax levy in dollars against the parcel by the county and school district and any city or township that levied taxes against the parcel.
3. Include, for the taxable year to which the tax statement applies and the two immediately preceding taxable years, a line item identified as "legislative property tax relief" showing the amount in dollars paid through legislative



appropriation pursuant to section 57-20-07.2 and chapter 57-64 or 15.1-27 against the property taxes levied against the property.

Failure of an owner to receive a statement will not relieve that owner of liability, nor extend the discount privilege past the February fifteenth deadline."

Page 1, line 14, replace "seventeen" with "eight and one-half"

Page 3, remove lines 24 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 31

Page 7, remove lines 1 and 2

Page 7, line 4, replace "\$327,200,000" with "\$147,600,000"

Page 7, remove lines 8 through 10

Renumber accordingly

Date: 2/26/13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1198

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number .03004

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Skarphol Seconded By Rep. Boe

| Representatives         | Yes | No | Representatives | Yes | No |
|-------------------------|-----|----|-----------------|-----|----|
| Chairman Delzer         |     |    | Rep. Streyle    |     |    |
| Vice Chairman Kempenich |     |    | Rep. Thoreson   |     |    |
| Rep. Bellew             |     |    | Rep. Wieland    |     |    |
| Rep. Brandenburg        |     |    |                 |     |    |
| Rep. Dosch              |     |    |                 |     |    |
| Rep. Grande             |     |    | Rep. Boe        |     |    |
| Rep. Hawken             |     |    | Rep. Glassheim  |     |    |
| Rep. Kreidt             |     |    | Rep. Guggisberg |     |    |
| Rep. Martinson          |     |    | Rep. Holman     |     |    |
| Rep. Monson             |     |    | Rep. Williams   |     |    |
| Rep. Nelson             |     |    |                 |     |    |
| Rep. Pollert            |     |    |                 |     |    |
| Rep. Sanford            |     |    |                 |     |    |
| Rep. Skarphol           |     |    |                 |     |    |

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*voice vote carries*

Date: 2/26/13  
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1198**

House Appropriations Committee

Check here for Conference Committee 13.0476.03006

Legislative Council Amendment Number ~~13.0595.02001~~

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Brandenburg Seconded By Rep. Sanford

| Representatives         | Yes | No | Representatives | Yes | No |
|-------------------------|-----|----|-----------------|-----|----|
| Chairman Delzer         | X   |    | Rep. Streyle    | X   |    |
| Vice Chairman Kempenich | X   |    | Rep. Thoreson   | X   |    |
| Rep. Bellew             | X   |    | Rep. Wieland    | X   |    |
| Rep. Brandenburg        | X   |    |                 |     |    |
| Rep. Dosch              | X   |    |                 |     |    |
| Rep. Grande             | X   |    | Rep. Boe        | X   |    |
| Rep. Hawken             | X   |    | Rep. Glassheim  | X   |    |
| Rep. Kreidt             | X   |    | Rep. Guggisberg | X   |    |
| Rep. Martinson          | X   |    | Rep. Holman     | X   |    |
| Rep. Monson             | X   |    | Rep. Williams   | X   |    |
| Rep. Nelson             | X   |    |                 |     |    |
| Rep. Pollert            | X   |    |                 |     |    |
| Rep. Sanford            | X   |    |                 |     |    |
| Rep. Skarphol           | X   |    |                 |     |    |

Total Yes 22 No 0

Absent 0

Floor Assignment Rep. Delzer

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

**REPORT OF STANDING COMMITTEE**

**HB 1198, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (22 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1198 was placed on the Sixth order on the calendar.

Page 1, line 2, after "sections" insert "57-20-07.1,"

Page 1, line 2, after the comma insert "and"

Page 1, line 3, remove ", 57-51.1-07.5, 57-64-02, and 57-64-03"

Page 1, line 4, after "to" insert "property tax statement information to identify legislative property tax relief for the subject property,"

Page 1, line 4, after the first "taxes" insert a comma

Page 1, line 4, remove ", deposits of"

Page 1, remove line 5

Page 1, line 6, remove "to school districts for mill levy reduction grants"

Page 1, line 6, remove "to provide for a"

Page 1, line 7, remove "transfer;"

Page 1, after line 8, insert:

**"SECTION 1. AMENDMENT.** Section 57-20-07.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-20-07.1. County treasurer to mail real estate tax statement - Contents of statement.**

On or before December twenty-sixth of each year, the county treasurer shall mail a real estate tax statement to the owner of each parcel of real property at the owner's last-known address. The statement must be provided in a manner that allows the taxpayer to retain a printed record of the obligation for payment of taxes and special assessments as provided in the statement. If a parcel of real property is owned by more than one individual, the county treasurer shall send only one statement to one of the owners of that property. Additional copies of the tax statement will be sent to the other owners upon their request and the furnishing of their names and addresses to the county treasurer. The tax statement must include:

1. Include a dollar valuation of the true and full value as defined by law of the property and the total mill levy applicable. ~~The tax statement must include~~
2. Include, or be accompanied by a separate sheet, with three columns showing, for the taxable year to which the tax statement applies and the two immediately preceding taxable years, the property tax levy in dollars against the parcel by the county and school district and any city or township that levied taxes against the parcel.
3. Include, for the taxable year to which the tax statement applies and the two immediately preceding taxable years, a line item identified as "legislative property tax relief" showing the amount in dollars paid through legislative appropriation pursuant to section 57-20-07.2 and chapter 57-64 or 15.1-27 against the property taxes levied against the property.

Failure of an owner to receive a statement will not relieve that owner of liability, nor extend the discount privilege past the February fifteenth deadline."

Page 1, line 14, replace "seventeen" with "eight and one-half"

Page 3, remove lines 24 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 31

Page 7, remove lines 1 and 2

Page 7, line 4, replace "\$327,200,000" with "\$147,600,000"

Page 7, remove lines 8 through 10

Renumber accordingly

**2013 SENATE FINANCE AND TAXATION**

**HB 1198**

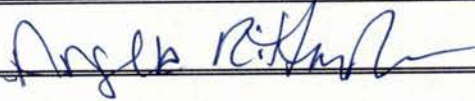
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

HB 1198  
3/12/2013  
Job Number 19660

Conference Committee

Committee Clerk Signature



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

A BILL for an Act to create and enact section 57-20-07.2 of the North Dakota Century Code, relating to a state-paid property tax relief credit; to amend and reenact sections 57-20-07.1, 57-20-09, and 57-20-21.1 of the North Dakota Century Code, relating to property tax statement information to identify legislative property tax relief for the subject property, priority for delinquent taxes, and the discount for early payment of property taxes; to provide an appropriation; and to provide an effective date.

## Minutes:

Testimony Attached

**Chairman Cook** opened the hearing on HB 1198.

**Representative Headland** introduced HB 1198.

**Chairman Cook** - How come the appropriation is not equal to the amount they figure this will cost?

**Representative Headland** - I was not aware that they had changed it.

**Bill Shalhoob**, Greater North Dakota Chamber - See attached testimony 1 in favor of HB 1198.

**Senator Triplett** - You state in your testimony that you believe the current mill levy reduction grant program is not sustainable, the current fiscal note that we have says that the estimate assumes the continuation of the existing mill reduction grant program at the current 75 mill buy down level so how this is sustainable but this is not?

**Bill Shalhoob** - At this point we believe the replacement of the plan with the educational plan contained in HB 1319 is a better way to go. So that our assumption is that HB 1319 or that kind of plan with an element like HB1198 and possibly with a couple elements like the homestead tax credit passed by the senate before crossover and maybe some elements of social service, I think we have a feeling based on how I work on Measure 2 of a number that we think we have to get to or try to get to in order to satisfy the cry for adequate.  
(10:26)

**Senator Triplett** - Are you planning to share with us the number in your head?

**Bill Shalhoob** - We thought that property taxes should be reduced by about 33% and realizing that is a moving target based on valuations and those kinds of things. (10:55)

**Eric Asmundstad**, North Dakota Farm Bureau - See attached testimony 2 in favor of HB 1198.

**Susan Beehler** - I'm a property owner in Mandan. I am testifying in favor of this although I do agree with a previous speaker and Mr. Shalhoob that it doesn't go far enough. Some of the comments that I heard, why do we even have property tax, excise tax to pay for our local services. We pay for our schools, but we don't necessarily have children that go to school. We have people in urban areas where the population is shifting to go into apartment units and yet a unit doesn't pay as much as a home would to pay for that schooling of that child. I think it's time to think about some of the suggestions that were brought up in that maybe it's time to let the reigns go from the state legislature here and let the local governments how they want to fund their services. (49:23)

**Julie Ellingson, Stockman's Association** - Property taxes are a big deal to my members as well as land owners. Amongst the bills that you are considering on this session HB 1198 was one of our favorites. We like the delivery mechanism, it meets some of our basic criteria in property tax relief and that tax relief is extended equitably across all property classes. (53:53)

**Chairman Cook** - This amount of money that we are talking here, the Tax Commissioner shall certify to the State Treasurer for payment by June 1<sup>st</sup>. Is that the bill that I will pay in December?

**Marcy Dickerson** - That is the tax bill you would have paid any time from December up till March 1<sup>st</sup>.

**Chairman Cook** - So the tax bill I pay in December is going to be 8.5% less than what it would normally be and now the county is not going to receive that money until June 1<sup>st</sup>.

**Marcy Dickerson** - Yes, I believe that is correct.

**Chairman Cook** - Can that be moved up?

**Marcy Dickerson** - It might be helpful to have someone from the counties or NDACO.

**Marcy Dickerson, Tax Department** - Also offered an amendment, attachment 3.

**Senator Oehlke** - Does this amendment change the fiscal note at all.

**Marcy Dickerson** - This doesn't make any difference in the fiscal note.

**Bev Nielson, North Dakota Council of Educational Leaders** - I want to begin by saying we are not opposed to further property tax relief. However, when we say it simple and



people will understand it, I need you to understand that this not simple for school districts and it won't work for us and that is because of the timing of the payout, If that can be resolved we would have no objections to this bill as all. (1:00:04)

**Chairman Cook** - Your argument is that if I can pay my 91.5% of my share to the state ought to pay the 8.5% at their share in December.

**Senator Miller** - If we did an advance payment so the language could stay the same by you'd get at the end of your fiscal year.

**Chairman Cook** closed the hearing on HB1198.


# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

HB 1198  
4/3/2013  
Job Number 20800

Conference Committee

Committee Clerk Signature



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

A BILL for an Act to create and enact section 57-20-07.2 of the North Dakota Century Code, relating to a state-paid property tax relief credit; to amend and reenact sections 57-20-07.1, 57-20-09, and 57-20-21.1 of the North Dakota Century Code, relating to property tax statement information to identify legislative property tax relief for the subject property, priority for delinquent taxes, and the discount for early payment of property taxes; to provide an appropriation; and to provide an effective date.

## Minutes:

**Chairman Cook** opened discussion on HB 1198.

**Chairman Cook** briefly went over what is happening in HB 1319 and handed out amendments put together for him by the tax department (attachment 4).

**Senator Triplett** - If you could give me a rough overview without making me go back and find the amendment from 2007 to compare, tell me how this solves the heartburn from the tax department because my recollection was after we tried this little experiment the tax department came in and said please don't ever do this to us again. It was nearly impossible to administer and they were not happy even though we had given them an extra million dollars with which to administer it they still were not happy. How is this better from an administrative standpoint?

**Donnita Wald, Tax Department** - One of the changes we made was we just clarified some of the language about who obtained the credit and some of the issues for instance in subsection 3 one of the biggest complaints we received was from those single filers who didn't receive as much credit. We made sure that if you are a single filer owning a home you receive the same amount of credit as a married filing joint. We also took care of the property that is owned by estates and trusts, that was a very big issue that we fixed in the 2009 session. That language is on page 2 subsection 7. We also made it clear in subsection 4 for the taxpayer that you're getting the certificate, you take it to the county, we are telling them you can take it to whatever county you have property taxes in, that the county treasurer shall give you money for it or you can pay your property taxes with it. We removed the carry forward provision because that again caused a lot of confusion for taxpayers. That for the most part took care of the major issues.

**Vice Chairman Campbell** - If a person comes in and files a loss so they don't have any income tax to pay, that certificate can they carry it for another year? What would they do in that case?

**Donnita Wald** - If you had a loss, in the program as we have drafted it for HB 1198 you will get a certificate for the amount of you property tax relief, you would then take that certificate to the county treasurer and you will redeem it at that county treasurer. They will pay you. We have an online program, the county treasurer puts your certificate number into this online program, we then cut a check back to the county.

**Vice Chairman Campbell** - Did some counties actually write out checks in the past?

**Donnita Wald** - As a matter of fact most did because from what I understand some of the counties didn't have the ability in their accounting records to account for future credit. That is why there is no carry forward in the homestead property tax credit. In the commercial property tax credit there is a carry forward provision and there is no certificate.

**Senator Triplett** - Having made these changes is the program still similar enough to what you administered previously that you would not have to ask for extra staff and an extra million dollars to administer?

**Donnita Wald** - There may be some administrative costs. We will probably have to set up that website again which we no longer have. We haven't really discussed, I think we got rid of most of the people part of that. I don't think there will be a lot of upfront auditing of it.

**Chairman Cook** closed discussion on HB 1198.

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Finance and Taxation Committee  
Lewis and Clark Room, State Capitol

HB 1198  
4/4/2013  
Job Number 20842

Conference Committee

Committee Clerk Signature



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

A BILL for an Act to create and enact section 57-20-07.2 of the North Dakota Century Code, relating to a state-paid property tax relief credit; to amend and reenact sections 57-20-07.1, 57-20-09, and 57-20-21.1 of the North Dakota Century Code, relating to property tax statement information to identify legislative property tax relief for the subject property, priority for delinquent taxes, and the discount for early payment of property taxes; to provide an appropriation; and to provide an effective date.

## Minutes:

**Chairman Cook** opened discussion on HB 1198.

**Senator Miller** - I'll move we pass the amendments 13.0476.04009.

Seconded by **Vice Chairman Campbell**.

**Senator Dotzenrod** - Setting aside any consideration of what this means as far as paperwork and administration and how the tax department makes it work, I like these amendments from the standpoint that there are some disadvantages to that 8.5% on all classes of property in terms of residents and how this is going to affect people who live in the state opposed to people who don't live here. We get rid of some of the problems of benefits that seem sometimes fairly large going to people who don't live in North Dakota and my view on this is that I think this is going to take the same amount of money and give more of it to people who live in North Dakota.

**Senator Triplett** - I'm not going to support the amendment just because I think it was essentially a failed experiment last time. I think there were a lot of problems with not everyone being treated fairly. It's really difficult to give tax dollars back and I really am of the opinion that we are fixing the property problem with the states assumption of a much larger piece of education funding and that this bill if either of its forms should be unnecessary if we do that well so I'm going to vote against it for those two reasons.

**Chairman Cook** - Where we are at in property tax, \$714 million is quite an increase over what we've had in the past and there is probably going to be a fair amount of people who think that it's enough but we don't know if that is where it's going to stay. I think it's

important that we have a property tax bill in play and as far as the flaws in this there were some headaches. (4:06)

**Roll Call Vote on Amendment 6-1-0**

**Senator Oehlke - I'll move a Do Pass as Amended and re-refer to Appropriations.**

Seconded by **Senator Miller.**

**Roll Call Vote 6-1-0**

Carried by **Senator Miller.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/27/2013**

Amendment to: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |             | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    |             |                    |             |
| Expenditures   |                    |             | \$169,700,000      |             |                    |             |
| Appropriations |                    |             | \$147,600,000      |             |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 Second Engrossment creates state-paid property tax relief credits.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of HB 1198 Second Engrossment provides for state-paid property tax relief credits equal to 8.5% of property taxes.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of Section 2 of HB 1198 Second Engrossment are expected to require a total estimated expenditure of \$169.7 million for state-paid property tax credits in the 2013-15 biennium. NOTE: This estimate assumes the continuation of the existing mill levy reduction grant program at the current "75 mill buy-down" level.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 5 of HB 1198 Second Engrossment contains an appropriation of \$147.6 million from the state general fund to the state treasurer for the purpose of state-paid property tax relief credits.

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 02/28/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/14/2013**

Amendment to: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |                 | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-----------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds     | General Fund       | Other Funds |
| Revenues       |                    |             | \$341,790,000      | \$(341,790,000) |                    |             |
| Expenditures   |                    |             | \$384,300,000      |                 |                    |             |
| Appropriations |                    |             | \$775,200,000      |                 |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1198 creates state-paid property tax relief credits, and makes some modifications to the mill levy reduction grant program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of engrossed HB 1198 provides for state-paid property tax relief credits equal to 17% of property taxes. Section 5 enables all school districts to receive the full 75-mill levy reduction grant amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 9 of engrossed HB 1198 authorizes a transfer of \$341,790,000 from the property tax relief sustainability fund to the general fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of Section 1 of engrossed HB 1198 are expected to require a total expenditure of \$339.3 million for state-paid property tax credits in the 2013-15 biennium. Section 5 of engrossed HB 1198 will increase expenditures for the existing mill levy reduction grant program by \$45 million, from \$403 million to \$448 million for the 2013-15 biennium.



- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 7 of engrossed HB 1198 contains an appropriation of \$448 million from the state general fund to the superintendent of public instruction for the current and expanded mill levy reduction grant program. Section 8 contains an appropriation of \$327,200,000 from the state general fund to the state treasurer for the purpose of state-paid property tax relief credits.

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 02/20/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/14/2013**

Revised  
 Bill/Resolution No.: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |                 | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-----------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds     | General Fund       | Other Funds |
| Revenues       |                    |             | \$341,790,000      | \$(341,790,000) |                    |             |
| Expenditures   |                    |             |                    |                 |                    |             |
| Appropriations |                    |             | \$448,000,000      |                 |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 makes some modifications to the mill levy reduction grant program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1198 shifts \$106,210,000 from the strategic investment and improvements fund to the property tax sustainability fund. Section 2 enables all school districts to receive the full 75-mill grant amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 5 is a transfer of \$341,790,000 from the property tax relief sustainability fund to the general fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of HB 1198 are expected to require a total expenditure of \$437,850,000 for mill levy reduction grants in the 2013-15 biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 4 contains an appropriation of \$448 million to DPI for the mill levy reduction grants to school districts.

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/17/2013

April 3, 2013

*JS*  
4-3-13  
10f3

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1198

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 57-38 and two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to a homestead income tax credit and a commercial property income tax credit; and to provide an effective date.

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

**SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Homestead income tax credit.**

1. An individual who has a homestead in this state is entitled to a credit against the tax imposed under section 57-38-30.3 for taxable years 2013 and 2014 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against the individual's homestead, residential, or agricultural property in this state.
2. For purposes of this section:
  - a. "Homestead" means the dwelling occupied by the individual as the individual's primary residence in this state.
  - b. "Property taxes or mobile home taxes" includes taxes assessed by a local political subdivision but does not include special assessments.
3. The amount of the credit under this section may not exceed one thousand dollars for married persons filing a joint return or for a single individual, or five hundred dollars for married individuals filing separate returns. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
4.
  - a. If the credit exceeds the taxpayer's tax liability, the tax commissioner shall issue to the taxpayer a certificate in the amount of the excess credit.
  - b. The taxpayer may redeem the certificate by delivering it to the county treasurer in any county in which the taxpayer paid property or mobile home taxes. If the taxpayer owns multiple parcels of property or mobile homes that are located in different counties, only one certificate will be issued.
  - c. At the time the certificate is redeemed, the county treasurer shall issue monetary payment to the taxpayer for the amount of the certificate.

2013

- d. The county treasurer shall forward redeemed certificates to the tax commissioner, who shall issue payment to the county in the amount of the certificates.
- 5. If a parcel of property is owned by more than one taxpayer, each taxpayer is entitled to a share of the credit allowed with respect to the property or mobile home taxes levied on the parcel based on the taxpayer's respective ownership interests.
- 6. If an individual does not meet the filing requirements under section 57-38-31, the individual is entitled to receive a certificate in an amount calculated in the same manner as provided in subsections 1, 2, and 3. The individual shall file the certificate request form with the tax commissioner by the due date prescribed by the tax commissioner. The individual may redeem the certificate with the county treasurer as provided in subsection 4.
- 7. A person, estate, or trust owning agricultural property in this state is entitled to a credit under this section in the amount of ten percent of property taxes that became due during the income tax taxable year and are paid. Agricultural property that is used as the basis for the credit under subsections 1, 2, and 3 may not be used to calculate the credit under this subsection. The property tax must be passed through to the partners, shareholders, or members in proportion to their respective interest in the passthrough entity. The credit amount under this subsection is determined at the taxpayer level. The amount of the credit in excess of the taxpayer's tax liability may be carried forward for up to five taxable years unless the individual with an ownership interest in the entity has a homestead in the state as defined under subsection 2. If an individual has a homestead in this state, the individual shall receive a property tax certificate provided in subsection 4.
- 8. The tax commissioner may prescribe the forms, procedures, and guidelines necessary for the administration of this section.

**SECTION 2.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Commercial property income tax credit.**

- 1. A taxpayer is entitled to a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for taxable years 2013 and 2014 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against commercial property in this state. For purposes of this section, "property taxes" does not include any special assessments.
  - a. The amount of the credit under this section may not exceed one thousand dollars for any taxpayer.
  - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
  - c. In the case of married individuals filing separately, the credit may not exceed five hundred dollars.

- 3 of 3
2. The amount of the credit under subsection 1 in excess of the taxpayer's tax liability may be carried forward for up to five taxable years.
  3. If a parcel of property is owned by more than one taxpayer, each taxpayer is entitled to a share of the credit allowed with respect to the property or mobile home taxes levied on the parcel based on the taxpayer's respective ownership interests.
  4. A person, estate, trust, or any passthrough entity owning commercial property in this state is entitled to a credit under this section in the amount of ten percent of property taxes that became due during the income tax taxable year and are paid. Commercial property that is used as the basis for the credit under subsections 1, 2, and 3 may not be used to calculate the credit under this subsection. The total amount of property tax paid by a passthrough entity must be allocated to the partners, shareholders, or members in proportion to their respective interest in the passthrough entity. The credit amount under this subsection must be calculated on the partners', shareholders', or members' allocated share, subject to the limitations in subsection 1.
  5. The tax commissioner may prescribe the forms, procedures, and guidelines necessary for the administration of this section.

**SECTION 3.** Two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code are created and enacted as follows:

A taxpayer filing a return under this section is entitled to the credit provided under section 1 of this Act.

A taxpayer filing a return under this section is entitled to the credit provided under section 2 of this Act.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for the first two taxable years beginning after December 31, 2012."

Renumber accordingly

Date: 4-3-13  
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1198

Senate Finance & Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0476.04009 title 05000

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Miller Seconded By Senator Campbell

| Senators                   | Yes | No | Senator                 | Yes | No |
|----------------------------|-----|----|-------------------------|-----|----|
| Chairman Dwight Cook       | X   |    | Senator Jim Dotzenrod   | X   |    |
| Vice Chairman Tom Campbell | X   |    | Senator Connie Triplett |     | X  |
| Senator Joe Miller         | X   |    |                         |     |    |
| Senator Dave Oehlke        | X   |    |                         |     |    |
| Senator Randy Burckhard    | X   |    |                         |     |    |
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Total (Yes) 6 No 1

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 4-3-13  
 Roll Call Vote #: 2

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1198**

Senate Finance & Taxation 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 Senator Oehlke Seconded By Senator Miller

| Senators                   | Yes | No | Senator                 | Yes | No |
|----------------------------|-----|----|-------------------------|-----|----|
| Chairman Dwight Cook       | X   |    | Senator Jim Dotzenrod   | X   |    |
| Vice Chairman Tom Campbell | X   |    | Senator Connie Triplett |     | X  |
| Senator Joe Miller         | X   |    |                         |     |    |
| Senator Dave Oehlke        | X   |    |                         |     |    |
| Senator Randy Burckhard    | X   |    |                         |     |    |
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Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Miller

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



**REPORT OF STANDING COMMITTEE**

**HB 1198, 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** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1198 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 two new sections to chapter 57-38 and two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to a homestead income tax credit and a commercial property income tax credit; and to provide an effective date.

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

**SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Homestead income tax credit.**

1. An individual who has a homestead in this state is entitled to a credit against the tax imposed under section 57-38-30.3 for taxable years 2013 and 2014 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against the individual's homestead, residential, or agricultural property in this state.
2. For purposes of this section:
  - a. "Homestead" means the dwelling occupied by the individual as the individual's primary residence in this state.
  - b. "Property taxes or mobile home taxes" includes taxes assessed by a local political subdivision but does not include special assessments.
3. The amount of the credit under this section may not exceed one thousand dollars for married persons filing a joint return or for a single individual, or five hundred dollars for married individuals filing separate returns. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
4.
  - a. If the credit exceeds the taxpayer's tax liability, the tax commissioner shall issue to the taxpayer a certificate in the amount of the excess credit.
  - b. The taxpayer may redeem the certificate by delivering it to the county treasurer in any county in which the taxpayer paid property or mobile home taxes. If the taxpayer owns multiple parcels of property or mobile homes that are located in different counties, only one certificate will be issued.
  - c. At the time the certificate is redeemed, the county treasurer shall issue monetary payment to the taxpayer for the amount of the certificate.
  - d. The county treasurer shall forward redeemed certificates to the tax commissioner, who shall issue payment to the county in the amount of the certificates.
5. If a parcel of property is owned by more than one taxpayer, each taxpayer is entitled to a share of the credit allowed with respect to the

property or mobile home taxes levied on the parcel based on the taxpayer's respective ownership interests.

6. If an individual does not meet the filing requirements under section 57-38-31, the individual is entitled to receive a certificate in an amount calculated in the same manner as provided in subsections 1, 2, and 3. The individual shall file the certificate request form with the tax commissioner by the due date prescribed by the tax commissioner. The individual may redeem the certificate with the county treasurer as provided in subsection 4.
7. A person, estate, or trust owning agricultural property in this state is entitled to a credit under this section in the amount of ten percent of property taxes that became due during the income tax taxable year and are paid. Agricultural property that is used as the basis for the credit under subsections 1, 2, and 3 may not be used to calculate the credit under this subsection. The property tax must be passed through to the partners, shareholders, or members in proportion to their respective interest in the passthrough entity. The credit amount under this subsection is determined at the taxpayer level. The amount of the credit in excess of the taxpayer's tax liability may be carried forward for up to five taxable years unless the individual with an ownership interest in the entity has a homestead in the state as defined under subsection 2. If an individual has a homestead in this state, the individual shall receive a property tax certificate provided in subsection 4.
8. The tax commissioner may prescribe the forms, procedures, and guidelines necessary for the administration of this section.

**SECTION 2.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Commercial property income tax credit.**

1. A taxpayer is entitled to a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for taxable years 2013 and 2014 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against commercial property in this state. For purposes of this section, "property taxes" does not include any special assessments.
  - a. The amount of the credit under this section may not exceed one thousand dollars for any taxpayer.
  - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
  - c. In the case of married individuals filing separately, the credit may not exceed five hundred dollars.
2. The amount of the credit under subsection 1 in excess of the taxpayer's tax liability may be carried forward for up to five taxable years.
3. If a parcel of property is owned by more than one taxpayer, each taxpayer is entitled to a share of the credit allowed with respect to the property or mobile home taxes levied on the parcel based on the taxpayer's respective ownership interests.
4. A person, estate, trust, or any passthrough entity owning commercial property in this state is entitled to a credit under this section in the amount of ten percent of property taxes that became due during the

income tax taxable year and are paid. Commercial property that is used as the basis for the credit under subsections 1, 2, and 3 may not be used to calculate the credit under this subsection. The total amount of property tax paid by a passthrough entity must be allocated to the partners, shareholders, or members in proportion to their respective interest in the passthrough entity. The credit amount under this subsection must be calculated on the partners', shareholders', or members' allocated share, subject to the limitations in subsection 1.

5. The tax commissioner may prescribe the forms, procedures, and guidelines necessary for the administration of this section.

**SECTION 3.** Two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code are created and enacted as follows:

A taxpayer filing a return under this section is entitled to the credit provided under section 1 of this Act.

A taxpayer filing a return under this section is entitled to the credit provided under section 2 of this Act.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for the first two taxable years beginning after December 31, 2012."

Renumber accordingly

**2013 SENATE APPROPRIATIONS**

**HB 1198**

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

HB 1198  
04-08-2013  
Job # 20948

Conference Committee

*Alice DeJoy*

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

A BILL relating to a homestead income tax credit and a commercial property income tax credit

## Minutes:

See attached testimony.

**Chairman Holmberg** called the committee to order on Monday, April 08, 2013, at 8:00 am in regard to HB 1198. Roll call was taken. All committee members were present.

Becky J. Keller - Legislative Council  
Joe Morrissette - OMB

**Chairman Holmberg:** We will open our hearing on 1198. Is there anyone here that has a fiscal note that indicates any changes that were made?

**Senator Dwight Cook, District 34,** explained HB 1198 and the Estimated Cost of Proposed Amendments to HB 1198. See attached testimony # 1. (1:00 to 5:57)

**Chairman Holmberg:** A new fiscal note is being filed this morning.

**Senator Mathern:** What is the consequence of this in terms of a married couple? Do they get \$1000 as a couple or is it or \$2000?

**Senator Dwight Cook:** It would be capped at \$1000 per couple. We no longer penalize you for being single.

**Senator Wanzek** mentioned the amendments they adopted for this bill and said it was to address the schools that weren't at full mill levy cap. (06:50 to 07:30)

**Senator Dwight Cook:** The House amended your bill. The issue of the schools that weren't at full mill levy cap was put to rest with HB 1319. This just becomes a vehicle to deliver more property tax relief.

**Chairman Holmberg:** One of the things the committee has to consider is getting it into conference committee.

**Chairman Holmberg:** Who would like to speak to their concerns on the bill?

**Cory Fong, Tax Commissioner:** I am here to raise some concerns about the concepts in what is left of 1198. If you remember, this was passed in the 11<sup>th</sup> hour of 2007. Judging from the calls from tax payers, they did not like it. They had to file, there was confusion over the certificates and the filling out of the returns. It does not give tax relief. There is a significant disconnect from property taxes. He recognizes that this is part of a jigsaw puzzle, but it is not a good piece. While Senator Cook said it is a good alternative, we feel it is not. (09:13 to 13:04)

**Cory Fong** expressed that he appreciates that Senator Koch has worked hard to find a solution to the property tax relief puzzle, but this is not the solution. He listed some of the pitfalls of the proposed solution. (13:06 to 14:50)

**Terry Traynor, Assistant Director of ND Association of Counties,** testified against the bill. See attached testimony #2.

**Sandy Clark, representing ND Taxpayers Association,** expressed concerns about this bill. The ND Taxpayers Association supports property tax relief, income tax relief and corporate income tax relief. They are concerned with the delivery method. It has caused confusion. A percentage based system would be simpler for the tax payers and for administration. It would also be less costly to administer. (Ends at 18:54)

**Bill Shalhoob, Department of Commerce,** expressed concerns with the bill. He feels it is not fair regarding commercial property tax. (19:05 to 20:00)

**Bev Nielson, ND Council of Educational Leaders,** spoke in support of the bill. They like the Senate amendments better than the original. With the amendments at least the payout would be in a timelier manner and wouldn't cause cash flow problems. (20:10 to 21:10)

**Senator Carlisle** asked what the cost to administer this would be.

**Chairman Holmberg** said the fiscal note says \$3M. He closed the hearing on HB 1198.

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1198  
04-11-2013  
Job # 21104

Conference Committee

Committee Clerk Signature



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

A BILL relating to a homestead income tax credit and a commercial property income tax credit. (DO PASS)

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee to order on Thursday, April 11, 2013 in regards to HB 1198. All committee members were present.

Becky J. Keller- Legislative Council  
Joe Morrissette - OMB

**Chairman Holmberg:** If you recall 1198, and you go back to 2007, this is roughly what we did for property tax relief in 2007 with some tweaks. It is a bill that the Senate Finance and Tax Committee really likes as a way to do some additional property tax relief. The signals coming from across the hall appear that they don't really like this at all. But we'll have to see.

**Senator Robinson** moved a do pass. 2<sup>nd</sup> by **Senator Erbele**.

**Chairman Holmberg** This is \$123 plus again if it goes into law, then there will have to be an additional reconciliation because the tax department feels that it would cost them \$3M to get ready for it and administer the program That has to be part of the discussion as the bill goes through the conference committee route.

**Senator Wanzek:** (1.47) I know there is some angst over this bill. I think it has some merit; we need to keep it alive to the very end. This might be the puzzle piece that we are looking for. It's a good bill because of the sponsor. I am in the mood to cut some taxes today.

**Vice Chairman Bowman** Between this bill and the school bill we are talking close to a Billion dollars in property tax relief. That's more money or just about as much money as we're giving to western ND, just in property tax relief, not counting all the additions to every other bill that we've added on. I don't know how much relief we can give and meet our obligations in two years because none of us know what's out there but we can surely do it but somebody is going to get choked sooner or later and when we get choked we're going

to have to figure out a way to explain that to the people because we're giving property tax relief, income tax relief, sales tax relief, not sales tax, but corporate income tax and all these things come out of that total pool of money and if we don't meet all the obligation to the people before we give all the taxes back to them, then we're missing the boat. Somewhere along the line, because that should be the most critical part of what we're doing this session and it seems like it's just tax relief, over and over, I like tax relief myself but I also know the obligation that we have to the people that are putting the money into the pool of money that we're giving the relief on. I think we're neglecting them to a certain degree at the expense of everybody else's benefit.

**Senator Wanzek (4.21)** I understand Senator Bowman's comments. We're probably not going to do all , I just would like to keep it alive, including the discussion. I understand when we get to the end we'll have to come to a point where we can balance this budget.

**Chairman Holmberg:** This is a two year bill, effective for 2 years. It's not a permanent thing.

**Senator Robinson:** Senator Bowman makes some good points. The property tax issue has been #1 on the people's agenda. When it comes to corporate and individual I'm hearing no one asks for that. And it think there is give there. Property tax is very high, I appreciate your concern for western ND, and I think we will be doing more for that part of the state. And I am hearing the same vibrations from the House that they don't like this.

**Chairman Holmberg:** Would you call the roll on a Do Pass on 1198.

**A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 0.**

**Chairman Holmberg:** This goes back To Finance and Tax. **Senator Cook will carry the bill.**

The hearing was closed on HB 1198



**FISCAL NOTE**  
Requested by Legislative Council  
04/04/2013

Revised  
Amendment to: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |             | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             | \$(123,000,000)    |             |                    |             |
| Expenditures   |                    |             | \$3,000,000        |             |                    |             |
| Appropriations |                    |             |                    |             |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 Second Engrossment with Senate Amendments creates two new income tax credits based on property taxes.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1198 Second Engrossment with Senate Amendments provides for a homestead income tax credit equal to 10% of an individual's residential and agricultural property taxes up to a maximum of \$1000. Section 2 of HB 1198 Second Engrossment with Senate Amendments provides for a commercial property income tax credit equal to 10% of commercial property taxes up to \$1000.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, HB 1198 Second Engrossment with Senate Amendments is expected to reduce state general fund revenues by an estimated \$123 million in the 2013-15 biennium.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Administrative costs associated with this legislation are estimated to total \$3 million in the 2013-15 biennium. This includes costs for the Office of Tax Commissioner and assistance to counties.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 04/07/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/27/2013**

Amendment to: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |             | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    |             |                    |             |
| Expenditures   |                    |             | \$169,700,000      |             |                    |             |
| Appropriations |                    |             | \$147,600,000      |             |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 Second Engrossment creates state-paid property tax relief credits.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of HB 1198 Second Engrossment provides for state-paid property tax relief credits equal to 8.5% of property taxes.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of Section 2 of HB 1198 Second Engrossment are expected to require a total estimated expenditure of \$169.7 million for state-paid property tax credits in the 2013-15 biennium. NOTE: This estimate assumes the continuation of the existing mill levy reduction grant program at the current "75 mill buy-down" level.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 5 of HB 1198 Second Engrossment contains an appropriation of \$147.6 million from the state general fund to the state treasurer for the purpose of state-paid property tax relief credits.

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 02/28/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/14/2013**

Amendment to: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |                 | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-----------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds     | General Fund       | Other Funds |
| Revenues       |                    |             | \$341,790,000      | \$(341,790,000) |                    |             |
| Expenditures   |                    |             | \$384,300,000      |                 |                    |             |
| Appropriations |                    |             | \$775,200,000      |                 |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1198 creates state-paid property tax relief credits, and makes some modifications to the mill levy reduction grant program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of engrossed HB 1198 provides for state-paid property tax relief credits equal to 17% of property taxes. Section 5 enables all school districts to receive the full 75-mill levy reduction grant amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 9 of engrossed HB 1198 authorizes a transfer of \$341,790,000 from the property tax relief sustainability fund to the general fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of Section 1 of engrossed HB 1198 are expected to require a total expenditure of \$339.3 million for state-paid property tax credits in the 2013-15 biennium. Section 5 of engrossed HB 1198 will increase expenditures for the existing mill levy reduction grant program by \$45 million, from \$403 million to \$448 million for the 2013-15 biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 7 of engrossed HB 1198 contains an appropriation of \$448 million from the state general fund to the superintendent of public instruction for the current and expanded mill levy reduction grant program. Section 8 contains an appropriation of \$327,200,000 from the state general fund to the state treasurer for the purpose of state-paid property tax relief credits.

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 02/20/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/14/2013**

Revised  
 Bill/Resolution No.: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |                 | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-----------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds     | General Fund       | Other Funds |
| Revenues       |                    |             | \$341,790,000      | \$(341,790,000) |                    |             |
| Expenditures   |                    |             |                    |                 |                    |             |
| Appropriations |                    |             | \$448,000,000      |                 |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 makes some modifications to the mill levy reduction grant program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1198 shifts \$106,210,000 from the strategic investment and improvements fund to the property tax sustainability fund. Section 2 enables all school districts to receive the full 75-mill grant amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 5 is a transfer of \$341,790,000 from the property tax relief sustainability fund to the general fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of HB 1198 are expected to require a total expenditure of \$437,850,000 for mill levy reduction grants in the 2013-15 biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 4 contains an appropriation of \$448 million to DPI for the mill levy reduction grants to school districts.

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 01/17/2013



Date: 4-11-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1198

Senate Appropriations Committee

Check here for Conference Committee

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

Action Taken  Adopt Amendment  Do Pass  
 Do Pass as Amended  Do Not Pass

Motion Made By Robinson Seconded By Erbele

| Senators                     | Yes | No | Senator                 | Yes | No |
|------------------------------|-----|----|-------------------------|-----|----|
| Chariman Ray Holmberg        | ✓   |    | Senator Tim Mathern     | ✓   |    |
| Co-Vice Chairman Bill Bowman | ✓   |    | Senator David O'Connell | ✓   |    |
| Co-Vice Chair Tony Grindberg | ✓   |    | Senator Larry Robinson  | ✓   |    |
| Senator Ralph Kilzer         | ✓   |    | Senator John Warner     | ✓   |    |
| Senator Karen Krebsbach      | ✓   |    |                         |     |    |
| Senator Robert Erbele        | ✓   |    |                         |     |    |
| Senator Terry Wanzek         | ✓   |    |                         |     |    |
| Senator Ron Carlisle         | ✓   |    |                         |     |    |
| Senator Gary Lee             | ✓   |    |                         |     |    |
|                              |     |    |                         |     |    |
|                              |     |    |                         |     |    |
|                              |     |    |                         |     |    |
|                              |     |    |                         |     |    |
|                              |     |    |                         |     |    |

Total (Yes) 13 No 0

Absent 0

Floor Assignment F & T

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

**REPORT OF STANDING COMMITTEE**

**HB 1198, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1198, as amended, was placed on the Fourteenth order on the calendar.

**2013 CONFERENCE COMMITTEE**

**HB 1198**

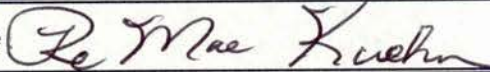
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1198  
April 19, 2013  
Job #21305

Conference Committee

Committee Clerk Signature



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

A Bill for an Act to create and enact two new sections to chapter 57-38 and two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to a homestead income tax credit and a commercial property income tax credit; and to provide an effective date.

## Minutes:

**Chairman Froseth:** There was quite a change to this bill after it left the House. I don't know how far we can go with this bill until the Appropriations Committee gets the details worked out with financing.

**Senator Cook:** I offered the amendments that made the changes to 1198. We also have 1319 that is out there and we don't know how much property tax relief will be offered to the citizens of North Dakota. The real motive behind 1319 and the desire to combine the mill levy buy-down that we had the last two sessions with the education funding formula was an effort to offer property tax reduction through the funding mechanism of education and get the legislature out of the property tax business. I support that. When HB 1198 came to the Senate it seemed to be an extension of another mill levy buy-down. It was a little different than the one we had in place. It was the percentage of all property taxes levied by all political subdivisions. But it still appeared to be a second property tax reduction program offered by the state that we would be expected to sustain. If we pass 1319, the first decision would be what role is the state legislature. HB 1198 is the same tax relief program that we had in 2007. It is a 10% reduction to your property tax liability on your income tax. If it takes it below zero you can get a voucher that you can redeem for cash or use on future taxes. I hope HB 1198 is a program that we would offer the citizens for this biennium to take some money that we have in excess and put it back in taxpayer pockets.

**Chairman Froseth:** As 1319 left the House I think it had 75 mills plus another 50 or 60 amounting to over \$700 million of property tax relief.

**Senator Cook:** I think it's \$714 million with the Senate buying all the way down to 50. The most important one to watch is 1319.

(5:53)

**Chairman Froseth:** There are two concerns I have with your amendments. The part I like it is just effective for one biennium. The part I question is the credit towards the income tax. We tried that in 2007 and it seemed like all the tax preparers hated it.

**Senator Cook:** We all hear those same comments. The constituents that I represent seem to like it. It was simple.

**Representative Headland:** 1198 was passed over to the Senate as an alternative to 1319 in case 1319 did not survive. The money was added in a new fashion with distribution out to the counties to equalize the dollar amount with 1319. The House believes that providing property tax relief through that mechanism is a fair approach because every parcel of property would receive an equal percentage of relief which doesn't occur in the current mill levy reduction program.

If we are going to provide additional money through the income tax, we would prefer to see it in rate reduction and see the discussion between the \$250 million that the Senate passed over and the \$500 million that the House passed over to the Senate.

**Representative Scot Kelsh:** My concern with the income tax credit is with the buy-down. Homeowners and people who pay their property taxes through their house payment will see a big jump in their monthly mortgage payment. They have to wait until the following year to receive the credit back on their income taxes. This was a good approach when we first tried it.

**Senator Cook:** I'm not too sure where you're getting the property tax jump. I'm assuming that if 1319 passes there is a property tax reduction.

**Representative Scot Kelsh:** My understanding is that this was an alternative to 1319 rather than a companion.

**Senator Cook:** Absolutely not. We have a property tax bill in case something happens to 1319.

**Chairman Froseth:** Meeting adjourned.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1198  
May 2, 2013  
Job #21669

Conference Committee

Committee Clerk Signature

*Mary Brucher*

## Minutes:

Chairman Headland: The house is waiting for amendments but they are not ready yet. They will be ready in the morning.

Senator Cook: Can you give us a hint?

Chairman Headland: Not that we're willing to share.

Senator Cook: How about a dollar amount?

Chairman Headland: It's similar to what's in the bill. There would be a change in direction. We're going to try and get the other \$250M.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1198  
May 3, 2013  
Job #21676 & 21677

Conference Committee

Committee Clerk Signature

*Mary Brucher*

## Minutes:

Attachments #1, 2, 3, 4

**Senator Cook:** Distributed amendments 13.0476.04013. See attachment #1. I asked Mr. Walstad to rough me a set of amendments for 1198 that was the same as 1234 as we passed it out of the senate with the exception of the tribal agreement taken out of it. Reviewed the amendments.

**Chairman Belter:** Wasn't it 35 before?

**Senator Cook:** Currently law is 30 and this bill as it passed the senate was at 40 when it got to conference committee. You offered amendments to reduce the rate to 6 ½% then it went to 35 so we need to discuss where we want it here. It has the non-Bakken incentive on the top of page 10 and is like we passed it out of the senate so it doesn't have the language about the 10 miles. It also has the legislative study in here. I'm willing to support this as is. The fiscal note on this bill as you see it right now would be a \$60M tax increase on the oil industry. It's \$105M for the stripper property fix, \$4.2M for the royalty withholding, the 40 barrel threshold is \$14M and the non-Bakken incentive without the 10 mile language is \$35.4M. Also distributed amendments 13.8144.04041 (see attachment #2) and attachment of amendments #3. This has the tribal agreement taken out of it. These changes would be to section 12 and everything else would stay the same.

**Chairman Belter:** The only difference from 1234 is the 35 versus the 40 barrel.

**Senator Cook:** The 35 versus 40, no extraction tax rate decrease, no accelerator taken from the trigger price, and the 10 mile language and the non-Bakken incentive. I don't have the figures on the fiscal effect of the tribal agreement but they should be the same as what we had in 1234. A lot of debate from the house had to do with the changes made in section 12 of the tribal agreement, reporting mechanism, and the requirement that 10% be in infrastructure. I believe the tribe is alright with this language. If we drop from 40 to 35 it will increase the tax increase by \$7M on the fiscal note. It's a \$14M fiscal decrease at 40 and at 35 it would be a \$7M revenue decrease.

**Representative Headland:** We'd be talking about \$80M plus?

**Senator Cook:** About \$67M just for the tax portion of this, excluding the tribal agreement.

**Chairman Belter:** \$60M for the stripper, if you go to 35 it would be another \$7M so it would be \$67M.

**Representative Headland:** 40 barrels was \$35M?

**Senator Cook:** 40 barrels is a \$14M revenue decrease and 35 barrels is a \$7M revenue decrease. \$35M is tied to the non-Bakken incentive and that is a revenue decrease.

**Chairman Belter:** Does this have the 60 month tribal incentive repeal?

**Senator Cook:** The language is not in front of us but if we put the tribal agreement on there I would assume we would agree that we get rid of the 60 month holiday on new wells going forward.

**Chairman Belter:** We will have to wait until Representative Carlson has finished meeting with the tribes. We will adjourn until 2pm.

Reconvened at 2:00pm.

**Chairman Belter:** We have the 4013 before us. There are a couple things; on the house side we would like to see the 35 barrel instead of the 40 barrel. I don't know if you're okay with that?

**Senator Cook:** Why don't you continue with everything you have?

**Chairman Belter:** The five year tax exemption on fee lands on new wells would be gone. We would like to see the 10 mile provision put back in for outside the Bakken.

**Senator Cook:** That's about a \$21M change in the fiscal note.

**Representative Headland:** That would move a few rigs out of the heart of the Bakken and that's some of the idea behind it to take some of the pressure off.

**Senator Cook:** What else do you have?

**Chairman Belter:** The last issue is dealing with the tribal agreement. We would like to see language dealing with 10% put into infrastructure.

**Senator Cook:** That language is in there.

**Chairman Belter:** Yes. We probably need some discussion on fees charged especially the \$100,000 spud fee.

**Senator Cook:** Maybe for a subsection c we put in something about no new fees or no additional fees.

**Chairman Belter:** I think that would be acceptable to us.



**Senator Cook:** If we changed the 40 to 35, put the 10 mile language in there and a study then do we have a chance at passing this bill?

**Chairman Belter:** Yes, I would think so.

**Senator Cook:** Then I would be in agreement with those changes.

**Chairman Belter:** John, do you know what we want to do here?

**John Walstad, Legislative Council:** The no new fees that haven't existed previously or for any existing fees or not to be increased or both?

**Senator Cook:** No additional fees.

**John Walstad:** No additional fees after the date of the new agreement signing.

**Senator Cook:** No additional fees after the effective date of this bill.

**John Walstad:** The five year exemption is gone. That means for new wells the exemption is gone not that the provision isn't in the bill.

**Senator Cook:** Could we see them by 3pm?

**John Walstad:** Sure.

**Chairman Belter:** Let's wait until the amendments are done before we act on this.

**Senator Dotzenrod:** There is a subject that was in the conference committee on 1234 that had to do with a definition of an individual stripper well. The amendments on page 6 item number 2 they had referred to a stripper well that had been re-worked and that was in a version that came out of the earlier conference committee. It said that if it was re-worked it would retain its stripper well status for 12 months then after that time the stripper exempt status is lost as of the first day of the next calendar month. Is there any interest in this conference committee in doing that?

**Representative Headland:** That was in an amendment that we had proposed early but it wasn't in the final draft of the conference committee. I think we found out that it would be a nightmare of paperwork so I don't think we want to go there.

**Senator Dotzenrod:** Ok. I understood that it was in the final version.

Reconvened at 4:20pm with job #21677

**Chairman Belter:** We will have Mr. Walstad walk us through the amendments.

**John Walstad:** Distributed and reviewed updated amendments 13.0476.04017. See attached amendments #4. The first two sections on the first page are about stripper wells being treated individually rather than as a property. Section 2 is about recertification for stripper wells that are re-entered and re-completed and those are related to those on stripper well property now. Language at the top of page 2 is from 1198 before we hog-housed it so I'm not sure how it got back in this amendment. Subsection b and 6 are not supposed to be there. Section 4 is the definition section. There is a definition of a stripper well and is for individual stripper well treatment. There are two different production levels to qualify; 10,000 foot level outside the Bakken up to 30 barrels a day and within the Bakken at 10,000 foot level is 35 barrels a day for stripper well status. There is a definition of a stripper well property that applies only for wells drilled and completed or re-entered and re-completed as a horizontal prior to July 1, 2013. This amendment will allow those exemptions to continue for wells that are drilled and completed before July 1, 2013. After that date on July 1 or later no exemption of any kind within reservation boundaries and that applies to trust land, fee land, or land owned by the tribe where the interest was acquired before August of 1997. There is a wildcat exemption for new wells outside the Bakken and Three Forks and 10 miles or more outside an established field in which the industrial commission has defined the pool to include the Bakken and Three Forks formation when the 2% rate would be available for the first 75,000 barrels during the first 18 months after completion. Individual stripper wells are also eligible for certification treatment.

**Senator Oehlke:** On page 10 on the wildcat exemption it says 24 months but you said 18 months so which is right?

**John Walstad:** It's possible they both apply. In the first sentence it says it is good for the first 18 months and then the last sentence says its eligible for horizontal wells for 24 months but that is triggered at \$52.50 then if we hit that trigger then a whole bunch of exemptions come into play that aren't currently in existence. On page 15 subsection 7 there was some language added related to future exploration and production. Subsection 12 is language added that the Three Affiliated Tribes report annually to the budget section and that report identify projects totally investment of at least 10% of tribal oil and gas gross production and oil extraction tax receipts for that year in essential infrastructure.

**Chairman Belter:** In section 7 the current agreement allows the \$100,000 spud fee so we're talking about any taxes imposed above that level.

**John Walstad:** The language that was in here briefly then removed tried to define what kind of fees applied but that language was taken out. It would be up to the terms of agreement that is signed now to determine what fees are imposed at what time would apply. There is no restriction in this language about what the agreement can do in that regard except that it should also apply to fees for exploration activities.

**Chairman Belter:** Any questions?

**Senator Cook:** We had talked about putting a revenue generator in this.

**Chairman Belter:** This actually does go to the SIF.

**Senator Cook:** Provided we reach our budget numbers.

**Chairman Belter:** There was a suggestion this would be more sellable because it is a tax increase to the oil industry if this money was directed to the impact fund that way there would be more benefit to the area where the activity is taking place.

**Senator Cook:** If we hit our budget numbers I understand how it will end up in the SIF fund. My guess it will end up in the impact grant fund or something but I am comfortable with the way it is.

**Representative Headland:** I think it's probably okay the way it is.

**Senator Cook:** Made a motion that the Senate Recede from Senate Amendments and Further Amend as printed on 13.0476.04017.

**Senator Oehlke: Seconded.**

**Representative Headland:** I'm assuming that the impact to revenues on this will be the same as it was for every section of this bill excluding what is not in this bill anymore, correct?

**Chairman Belter:** I would assume so.

**Senator Dotzenrod:** On page 14 sections 6 there is reference to production from a stripper well property to receive from the first day of eligibility a tax exemption. We are closing the stripper property provisions going forward. Stripper well properties means things that were done before July 1, 2013 and anything done before that date can't be stripper property. As time goes on beyond that date there isn't going to be eligibility for tax exemption on stripper well property. Is that right?

**Senator Oehlke:** There is still time before a property to have activity but after that then you're right.

**Senator Dotzenrod:** As I understand it we need section 6 to cover us from where we are now to July 1.

**Representative Kelsh:** The bill doesn't take effect until June 30, 2013 so I don't know that we would actually need that language.

**John Walstad:** This is a section that relates to when the certification has to be received 18 months at the end of the qualification period which is a year. Once the stripper well property kicks in and there are no more new ones then they won't be recertified under that language; it will be surplus. It was just pointed out to me that there are a couple other changes necessary in the agreement provision. The split in revenue on the reservation should be 50% and the next line where it says oil and gas gross production "and oil extraction" should be inserted.

**Senator Cook: I would make that as part of my motion too.**

**Senator Oehlke: Seconded.**

**ROLL CALL VOTE: 6 YES 0 NO 0 ABSENT**

**MOTION CARRIED.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**05/03/2013**

Amendment to: Reengrossed HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |              | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|--------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds  | General Fund       | Other Funds |
| Revenues       |                    |             | \$4,200,000        | \$86,600,000 |                    |             |
| Expenditures   |                    |             |                    |              |                    |             |
| Appropriations |                    |             |                    |              |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 Second Engrossment with Conference Committee Amendments makes changes to the oil taxes, modifies the revenue sharing agreement with the Three Affiliated Tribes, and imposes withholding on nonresidents royalty payments.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 3 authorizes income tax withholding on nonresident royalty payments. Section 4 increases the stripper incentive for Bakken wells producing 35 BOPD and eliminates the stripper tax reduction for new wells drilled in existing stripper properties. Section 5 creates a wildcat incentive for new wells drilled outside existing formations and repeals the existing 60-month oil extraction tax holiday for wells drilled on Indian nontrust lands. Section 7 makes changes to the oil and gas revenue sharing agreement with the Three Affiliated Tribes.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, HB 1198 Second Engrossment with Conference Committee Amendments is expected to increase state general fund revenues by \$4.2 million during the 2013-15 biennium due to a speed-up in individual income tax collections from the withholding on royalty provisions. The expanding of the stripper tax incentive to Bakken wells producing 35 BOPD is expected to reduce oil extraction tax revenues by an estimated \$7 million in the 2013-15 biennium. The elimination of stripper properties is expected to increase oil extraction tax revenues an estimated \$105.3 million in the 2013-15 biennium. The incentive for new wells drilled outside the Bakken and Three Forks formations is expected to reduce oil extraction tax revenues by an estimated \$17.7 million in the 2013-15 biennium. The repeal of the 60-month Indian lands incentive is expected to increase oil extraction tax revenues by an estimated \$87 million in the 2013-15 biennium. Section 8 authorizes the redistribution this additional \$87 million 50% to the Tribe, and 50% to the state's oil extraction tax "buckets". Section 8 also authorizes the redistribution of an additional estimated \$37.5 million from the state's "buckets" to the Three Affiliated Tribes under the provisions that change the split to 50% Tribe 50% State. The amount shown as "other funds" in IA is the net reduction in oil

extraction tax revenue which reduces revenues distributed to Legacy, Resources Trust, Foundation Aid Stabilization, Common Schools Trust and Strategic Investments and Improvement Funds.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 05/03/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**04/04/2013**

Revised  
 Amendment to: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |             | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             | \$(123,000,000)    |             |                    |             |
| Expenditures   |                    |             | \$3,000,000        |             |                    |             |
| Appropriations |                    |             |                    |             |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 Second Engrossment with Senate Amendments creates two new income tax credits based on property taxes.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1198 Second Engrossment with Senate Amendments provides for a homestead income tax credit equal to 10% of an individual's residential and agricultural property taxes up to a maximum of \$1000. Section 2 of HB 1198 Second Engrossment with Senate Amendments provides for a commercial property income tax credit equal to 10% of commercial property taxes up to \$1000.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, HB 1198 Second Engrossment with Senate Amendments is expected to reduce state general fund revenues by an estimated \$123 million in the 2013-15 biennium.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Administrative costs associated with this legislation are estimated to total \$3 million in the 2013-15 biennium. This includes costs for the Office of Tax Commissioner and assistance to counties.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 04/07/2013



**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/27/2013**

Amendment to: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |             | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    |             |                    |             |
| Expenditures   |                    |             | \$169,700,000      |             |                    |             |
| Appropriations |                    |             | \$147,600,000      |             |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 Second Engrossment creates state-paid property tax relief credits.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of HB 1198 Second Engrossment provides for state-paid property tax relief credits equal to 8.5% of property taxes.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of Section 2 of HB 1198 Second Engrossment are expected to require a total estimated expenditure of \$169.7 million for state-paid property tax credits in the 2013-15 biennium. NOTE: This estimate assumes the continuation of the existing mill levy reduction grant program at the current "75 mill buy-down" level.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 5 of HB 1198 Second Engrossment contains an appropriation of \$147.6 million from the state general fund to the state treasurer for the purpose of state-paid property tax relief credits.

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 02/28/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/14/2013**

Amendment to: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |                 | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-----------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds     | General Fund       | Other Funds |
| Revenues       |                    |             | \$341,790,000      | \$(341,790,000) |                    |             |
| Expenditures   |                    |             | \$384,300,000      |                 |                    |             |
| Appropriations |                    |             | \$775,200,000      |                 |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1198 creates state-paid property tax relief credits, and makes some modifications to the mill levy reduction grant program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of engrossed HB 1198 provides for state-paid property tax relief credits equal to 17% of property taxes. Section 5 enables all school districts to receive the full 75-mill levy reduction grant amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 9 of engrossed HB 1198 authorizes a transfer of \$341,790,000 from the property tax relief sustainability fund to the general fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of Section 1 of engrossed HB 1198 are expected to require a total expenditure of \$339.3 million for state-paid property tax credits in the 2013-15 biennium. Section 5 of engrossed HB 1198 will increase expenditures for the existing mill levy reduction grant program by \$45 million, from \$403 million to \$448 million for the 2013-15 biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 7 of engrossed HB 1198 contains an appropriation of \$448 million from the state general fund to the superintendent of public instruction for the current and expanded mill levy reduction grant program. Section 8 contains an appropriation of \$327,200,000 from the state general fund to the state treasurer for the purpose of state-paid property tax relief credits.

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**Telephone:** 328-3402

**Date Prepared:** 02/20/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/14/2013**

Revised  
 Bill/Resolution No.: HB 1198

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2011-2013 Biennium |             | 2013-2015 Biennium |                 | 2015-2017 Biennium |             |
|----------------|--------------------|-------------|--------------------|-----------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds     | General Fund       | Other Funds |
| Revenues       |                    |             | \$341,790,000      | \$(341,790,000) |                    |             |
| Expenditures   |                    |             |                    |                 |                    |             |
| Appropriations |                    |             | \$448,000,000      |                 |                    |             |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

|                  | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1198 makes some modifications to the mill levy reduction grant program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of HB 1198 shifts \$106,210,000 from the strategic investment and improvements fund to the property tax sustainability fund. Section 2 enables all school districts to receive the full 75-mill grant amount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Section 5 is a transfer of \$341,790,000 from the property tax relief sustainability fund to the general fund.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The provisions of HB 1198 are expected to require a total expenditure of \$437,850,000 for mill levy reduction grants in the 2013-15 biennium.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 4 contains an appropriation of \$448 million to DPI for the mill levy reduction grants to school districts.

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**Date Prepared:** 01/17/2013

May 3, 2013

VR  
5/3/13  
10/15

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1198

That the Senate recede from its amendments as printed on pages 1506-1508 of the House Journal and pages 1100-1102 of the Senate Journal and that Reengrossed House Bill No. 1198 be amended as follows:

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; to provide for a study; 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 thirty-five 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.
- ~~41-12.~~ "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.
- ~~42-13.~~ "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:
- The well is ~~located~~drilled and completed before July 1, 2013, on nontrust lands within the boundaries of an Indian reservation;
  - 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
  - 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, and ten miles or more outside an established field in which the industrial commission has defined the pool to include the Bakken or Three Forks formation, 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.~~
- 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~~

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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 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~~fifty percent of the total oil and gas gross production and oil extraction taxes collected from all production attributable to nontrust lands on the Fort Berthold Reservation 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 exploration and 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.
- 12. The agreement must require that the Three Affiliated Tribes report annually to the budget section of the legislative management and that the report:
  - a. Identifies projects totaling investment of at least ten percent of tribal oil and gas gross production and oil extraction tax receipts of the tribe for that year in essential infrastructure.
  - b. At a minimum, informs the budget section of tribal investments in essential infrastructure and fees, expenses, and charges the tribe imposes on the oil industry.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ANALYSIS OF FUTURE OIL INDUSTRY CHANGES - CONSULTANT ASSISTANCE.**

The legislative management shall study the likely changes to oil industry practices, production, impacts, and tax policy in the foreseeable future. To assist with this study, the legislative management shall obtain the services of an independent consultant with demonstrated insight into current and future production advances, including use of carbon dioxide and water or other means of enhancing production; effects of mature production areas on state and local tax policy; future infrastructure needs; and environmental considerations. The objective of the study is development of a legislative vision of appropriate long-term policy issues and revenue and expenditure expectations. The legislative management shall report its findings and recommendations, together with any legislation to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 9. 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

# 2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: FINANCE AND TAXATION

Bill/Resolution No. 1198 as (re) engrossed

Date: 5-3-13

Roll Call Vote #: 1

- Action Taken**
- HOUSE accede to Senate amendments
  - HOUSE accede to Senate amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) --

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Senator Cook Seconded by: Senator Oehlke

| Representatives                                  | 4/19 | 4/23 | Yes | No |  | Senators          | 4/19 | 4/23 | Yes | No |
|--|------|------|-----|----|--|-------------------|------|------|-----|----|
| <del>Chairman Belter</del> <del>Fraschetti</del> | ✓    | ✓    | ✓   |    |  | Senator Cook      | ✓    | ✓    | ✓   |    |
| Representative Headland                          | ✓    | ✓    | ✓   |    |  | Senator Oehlke    | ✓    | ✓    | ✓   |    |
| Representative Kelsh                             | ✓    | ✓    | ✓   |    |  | Senator Dotzenrod | ✓    | ✓    | ✓   |    |
|  |      |      |     |    |  |                   |      |      |     |    |
|  |      |      |     |    |  |                   |      |      |     |    |

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Headland Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

13.0476.04017 amendments  
with further amendments - see attached  
amendments .0401

**REPORT OF CONFERENCE COMMITTEE**

**HB 1198, as reengrossed:** Your conference committee (Sens. Cook, Oehlke, Dotzenrod and Reps. Belter, Headland, S. Kelsh) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1506-1508, adopt amendments as follows, and place HB 1198 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1506-1508 of the House Journal and pages 1100-1102 of the Senate Journal and that Reengrossed House Bill No. 1198 be amended as follows:

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; to provide for a study; 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 thirty-five 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.
- 41-12. "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.
- 42-13. "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 ~~located~~ drilled and completed before July 1, 2013, on nontrust lands 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, and ten miles or more outside an established field in which the industrial commission has defined the pool to include the Bakken or Three Forks formation, 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.
- 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 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 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~~fifty percent of the total oil and gas gross production and oil extraction taxes collected from all production attributable to nontrust lands on the Fort Berthold Reservation 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 exploration and 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.
12. The agreement must require that the Three Affiliated Tribes report annually to the budget section of the legislative management and that the report:
  - a. Identifies projects totaling investment of at least ten percent of tribal oil and gas gross production and oil extraction tax receipts of the tribe for that year in essential infrastructure.
  - b. At a minimum, informs the budget section of tribal investments in essential infrastructure and fees, expenses, and charges the tribe imposes on the oil industry.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ANALYSIS OF FUTURE OIL INDUSTRY CHANGES - CONSULTANT ASSISTANCE.** The legislative management shall study the likely changes to oil industry practices, production, impacts, and tax policy in the foreseeable future. To assist with this study, the legislative management shall obtain the services of an independent consultant with demonstrated insight into current and future production advances, including use of carbon dioxide and water or other means of enhancing production; effects of mature production areas on state and local tax policy; future infrastructure needs; and environmental considerations. The objective of the study is development of a legislative vision of appropriate long-term policy issues and revenue and expenditure expectations. The legislative management shall report its findings and recommendations, together with any legislation to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 9. 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

Reengrossed HB 1198 was placed on the Seventh order of business on the calendar.

**2013 TESTIMONY**

**HB 1198**

Chairman Belter & Members of the Finance & Taxation Committee

My name is Mitch Carlson – Superintendent of LaMoure Public School

It is my testimony to give full support to House Bill No. 1198. What this bill does is give school finance equity back to the 60 plus school districts who currently do not receive equitable and fair payment from current state education financing plan.

It has been debated if this bill and the concept of mill levy reduction grant program is an education funding issue or a taxation issue. It is my belief and my fellow colleague's belief is that when the mill levy reduction grant payment program became part of the process of funding schools and how schools operate, it immediately became a education funding issue.

For the past 4 years we have had to operate at a maximum cap of 168 mills which is a combination of our local mill levy and the mill levy reduction grant program. Our school has had to operate at this level, while the majority of the school districts operated at 185 mill maximum cap of local levy and mill levy reduction grant program.

The concept of schools operating at different mill levy caps does not seem logical or equitable. In hindsight, I wish in 2008 our school would have purchased a school bus and our school would not be in the situation we are currently in.

It now appears that the taxation committee on the Senate side has introduced SB 2036 & SB 2037 which also focuses on the mill levy reduction grant program. If either of these bills passes, they both will continue the inequitable funding of many schools such as the one I represent.

If the current funding of education stays with the same mechanism this legislative session, I strongly advocate House Bill 1198 needs to be passed to bring back equitable funding to all schools in North Dakota.

This is an issue that I along with my fellow Superintendent's that have dealt with this issue for the past three years and conversed with many legislators on this issue. It is my hope - our optimism - that this issue can be corrected this legislative session and put to rest.

Thank you Chairman Belter and members of the finance and taxation committee

I would be eager and pleased to answer any questions at this time on this topic.

Mr. Chairman and Members of the Finance and Taxation Committee

My name is Dr. Brian Duchscherer; I am the Superintendent of the Carrington School District and I am testifying in support of HB 1198. In 2008, Senate bill 2199 gave property tax relief to residents of North Dakota. With this welcomed property tax relief, also came unintended consequences to some school districts. The enacted legislation created two major concerns for the Carrington School District.

1. The taxpayers of the Carrington School District did not receive the same level of property tax relief as other school districts in the state. This occurred because back in 2008 the district was assessing 160 general fund mills. This was due to the fact the district was conservative in spending, but more so because the district recently reorganized with a neighboring school district and lowered the mill levy of the general fund levy. Senate Bill 2199, only allowed 60 mills of property tax relief to the tax payers of the Carrington School District, instead of 75 mills other districts received that were levying at or above 175 mills at the current time. The state has always encouraged school districts to reorganize, thus the Carrington school district was and is still being penalized for doing what the state wanted by reorganizing. When you look at the list of schools that did not receive the full property tax relief, most are school districts are school districts that reorganized.

2. The second concern of the district is in regard to total allowable mills a district is allowed to levy to operate. As previously stated, the Carrington district is receiving approximately 60 mills of property tax relief from the state, and is allowed to levy an additional 110 mills, for a total mill levy of 170 mills. While other school districts in the state received the full 75 mills of property tax relief, and are allowed to levy an additional 110 mills for a total of 185 mills. The Carrington school district is thus capped at 170 total mills, while other district are capped at 185 total mills. The state has created a system of having school districts being capped at different mill levy's, which creates a disadvantage for our district to provide the same opportunities for our students and employees as other districts. The current law has created a new equity issue similar to the equity discussions of several years ago.

The Carrington school district, along with other districts presented amendments and possible solutions to legislative committee's this past session. Unfortunately none of these options were passed. It is our hope that the legislative process will work and correct the inequities to the taxpayers of the Carrington School District.

Thank you for allowing me this time.



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1198

Page 1, line 1, after "Act" insert "to create and enact section 57-20-07.2 of the North Dakota Century Code, relating to a state-paid property tax relief credit;"

Page 1, line 1, after "sections" insert "57-20-09, 57-20-21.1,"

Page 1, line 2, after "to" insert "priority for delinquent taxes and the discount for early payment of property taxes,"

Page 1, after line 5, insert:

"**SECTION 1.** Section 57-20-07.2 of the North Dakota Century Code is created and enacted as follows:

**57-20-07.2. State-paid property tax relief credit.**

1. The owner of taxable property is entitled to a credit against property taxes levied against the total amount of property or mobile home taxes in dollars levied against the taxable value of the property. The credit is equal to seventeen percent of property or mobile home taxes levied in dollars against that property.
2. The owner, operator, or lessee of railroad property assessed by the state board of equalization under chapter 57-05 or public utility operative property assessed by the state board of equalization under chapter 57-06 is entitled to a credit against property taxes levied within each county against that property in the amount provided in subsection 1 against property taxes levied in dollars against that property in that county.
3. The owner, operator, or lessee of operative property of an air carrier transportation company assessed and taxed under chapter 57-32 is entitled to a credit in the amount provided in subsection 1 against property taxes in dollars levied against that property. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the air transportation fund. The credit for each air transportation company must be allocated to each city or municipal airport authority where that company makes regularly scheduled landings, in the same manner as the tax collected from that company is allocated.
4. The tax commissioner shall determine the total amount of credits under this section for each county from the abstract of the tax list filed by the county auditor under section 57-20-04, as audited and corrected by the tax commissioner. The tax commissioner shall certify to the state treasurer for payment, by June first following receipt of the abstract of the tax list, the amount determined for each county under this subsection. No penalty or interest applies to any state payment under this section, regardless of when the payment is made.

5. Upon receipt of the payment from the state treasurer under subsection 4, the county treasurer shall apportion and distribute it to the county and the taxing districts in the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.
6. After payments to counties under subsection 4 have been made, the tax commissioner shall certify to the state treasurer as necessary any supplemental amounts payable to counties or the air transportation fund or any amounts that must be returned by counties or returned from the air transportation fund for deposit in the state general fund to correct any errors in payments or reflect any abatement or compromise of taxes, court-ordered tax reduction or increase, or levy of taxes against omitted property. The county auditor shall provide any supplemental information requested by the tax commissioner after submission of the abstract of the tax list. The county treasurer shall apply to the tax commissioner for any supplemental payments to which the county treasurer believes the county is entitled.
7. Notwithstanding any other provision of law, for any property other than mobile homes, the property tax credit under this section does not apply to any property subject to payments or taxes that are stated by law to be in lieu of personal or real property taxes.

**SECTION 2. AMENDMENT.** Section 57-20-09 of the North Dakota Century Code is amended and reenacted as follows:

**57-20-09. Discount for early payment of tax.**

Except as provided in section 57-20-21.1, the county treasurer shall allow a five percent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency. Such discount applies, after deduction of any credit allowed under section 57-20-07.2, to the net remaining amount of all general real estate taxes levied for state, county, city, township, school district, fire district, park district, and any other taxing districts but does not apply to personal property taxes or special assessment installments. Whenever the board of county commissioners, by resolution, determines that an emergency exists in the county by virtue of weather or other catastrophe, it may extend the discount period for an additional thirty days.

**SECTION 3. AMENDMENT.** Section 57-20-21.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-20-21.1. Priority for delinquent taxes.**

When payment is made for any real or personal property taxes or special assessments, payments must be applied first to the oldest unpaid delinquent taxes or special assessments due, if any, shown to exist upon the property for which the tax payments are made, including any penalty and interest, except payments of state-paid property tax relief credit made by the state must be applied to taxes for the year for which the state-paid property tax relief credit is granted. The discounts applicable to payment of taxes set out in section 57-20-09 do not apply to payment of taxes made on property upon which tax payments are delinquent."

Page 4, after line 22, insert:

**"SECTION 8. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$327,200,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of state-paid property tax relief credits under section 57-20-07.2, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Renumber accordingly

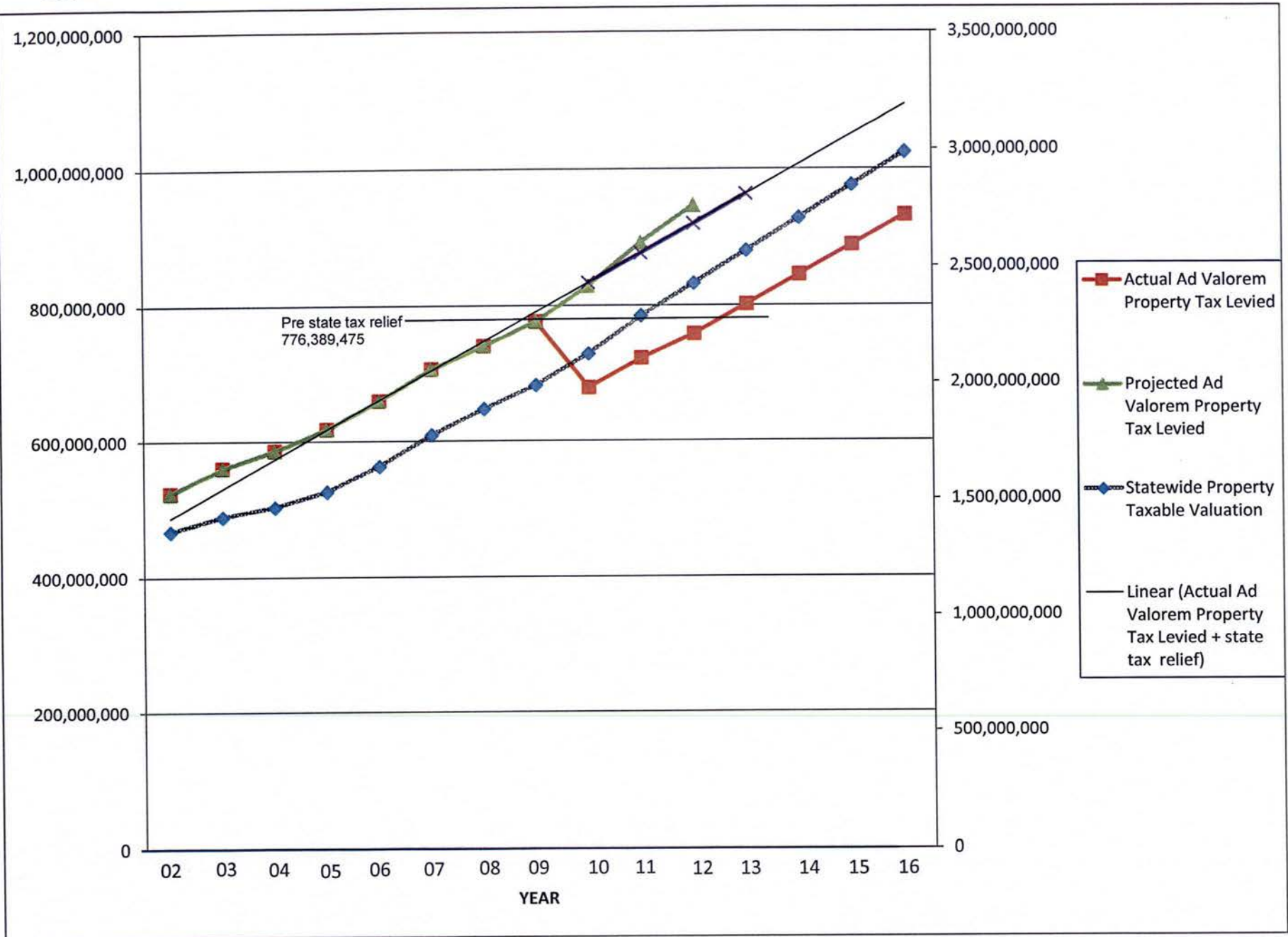
Testimony of Bill Shalhoob  
Greater North Dakota Chamber of Commerce  
HB 1198  
March 11, 2013

Mr. Chairman and members of the committee, My name is Bill Shalhoob and I am here today representing the Greater North Dakota Chamber of Commerce, the champions for business in North Dakota. GNDC is working to build the strongest business environment possible through its more than 1,100 business members as well as partnerships and coalitions with local chambers of commerce from across the state. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in support of HB 1198 and urge a do pass from your committee on the bill.

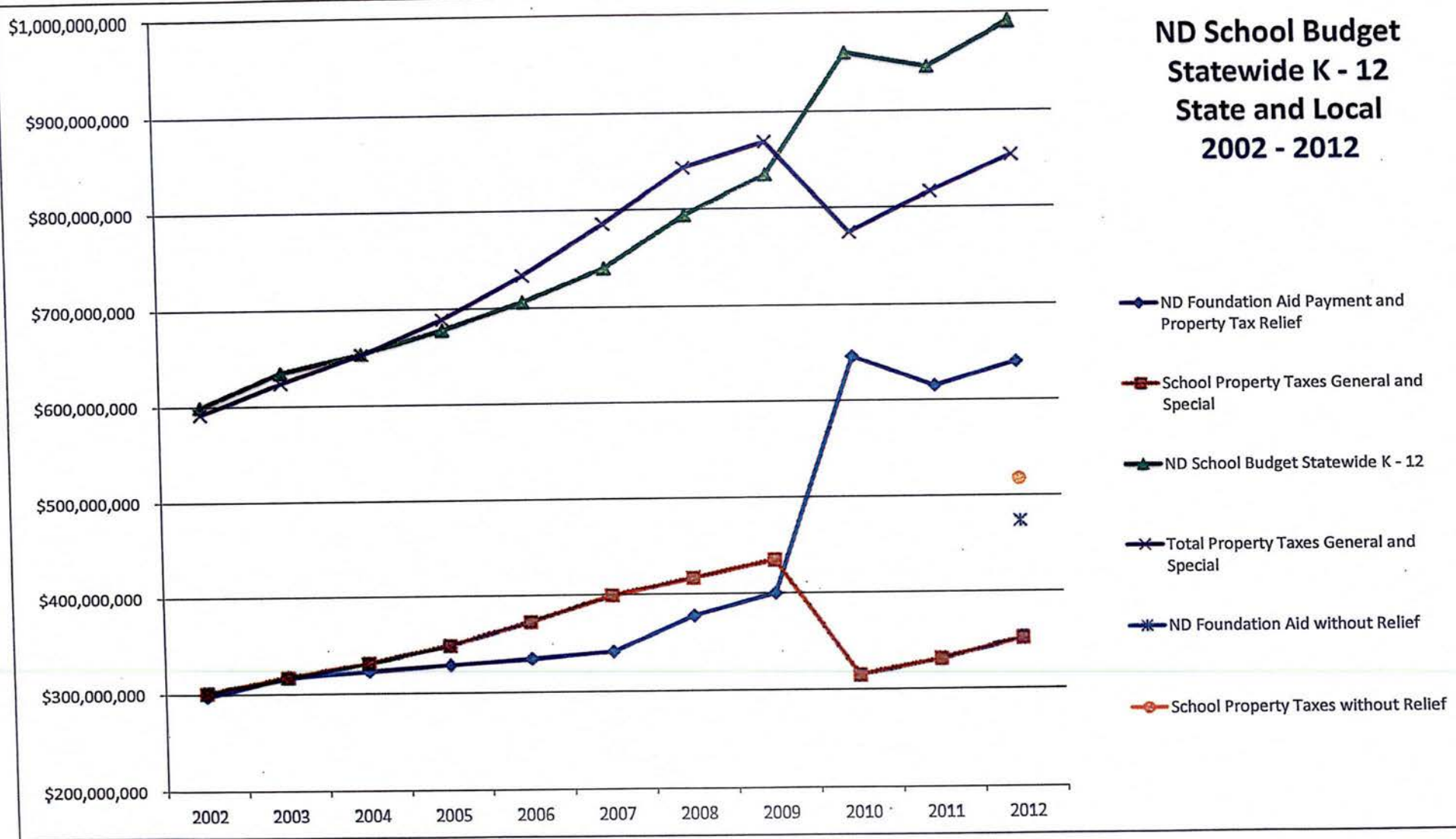
GNDC has been among the principle advocates for tax reductions in past sessions and that role continues in this session. The Chamber was the primary association that led the charge in defeating Measure 2 in the last primary election. That measure would have abolished property taxes in North Dakota. We believe we understand the property tax issues in our state and were part of numerous debates and conversations surrounding this topic. We heard from owners of all classes of property and relied on our members and other interested parties to defeat the measure. In seeking any reduction in property taxes our goal is that any relief given will be measured, fairly distributed among all classes of taxpayers and above all else sustainable for the long term.

We join others who believe the current Mill Levy Reduction Grant Program is not sustainable. Many ideas for replacement have been discussed and the most viable of them have advanced. Based on bills that survived past crossover it now appears adequate property tax relief will be delivered as a package in various forms and we support the delivery concept in HB 1198 as part of that package. Discussion on the information communicated via the tax statement is also proceeding and we believe the additions are integral to provide clarity for the taxpayer. We encourage committees to continue to discuss delivery methods and conditions and hope the legislature will develop the best means possible to deliver true tax relief to all state property tax payers.

Thank you for the opportunity to appear before you today in support of HB 1198. I would be happy to answer any questions.



## ND School Budget Statewide K - 12 State and Local 2002 - 2012





**North Dakota  
Farm Bureau**

*Bringing ag home*

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**Senate Finance and Taxation Committee**

*March 11, 2013*

**Testimony of North Dakota Farm Bureau on HB 1198**

*Presented by Eric Aasmundstad*

Good morning Mr. Chairman, committee members, my name is Eric Aasmundstad and am here representing the members of North Dakota Farm Bureau. North Dakota Farm Bureau supports the concepts in HB 1198.

While we support the bill and the provisions related to tax credits and identifying the state paid property tax relief, like others we believe HB 1198 falls short. The state cannot and should not continue down the current path of subsidizing local budgets in this manner. As the state continues this path of budget subsidies without controls on the local taxing districts our taxes will only continue to increase. The current method of property tax relief has only increased budgets but has not slowed the growth of property tax increases on a statewide basis.

Please look at the attached chart and you can see what has happened to property taxes since the state has entered the property tax arena. While taxes were certainly lowered by the measure passed in 2009 they have risen steadily since and have actually passed where we started from in 2009. The state paid relief did what it was meant to do; it lowered taxes, but as you can see that lasted only one year. The second chart you have illustrates what has happened to school budgets and the correlation to state paid property tax relief. The difference in the incline of the lines (red with square data points and purple with x data points) shows that other local taxing entities are gobbling up the relief at a faster pace than the schools but both are taking advantage of the situation.

Going back to the first chart, imagine if you will the gray and blue line being the unrealized gain on your retirement account. Now imagine the red line is a tax imposed on that unrealized gain. If a form of government whether it be state or local were to impose such a tax we would find it unconscionable. How then is it almost virtuous for our local taxing entities to continue to eat up the unrealized gains on our homes and businesses?

Mr. Chairman, committee members while we believe HB 1198 is part of property tax reform we know there is a lot more to be done. Thank you for your time.

Prepared by the Office of  
State Tax Commissioner for the  
Senate Finance and Taxation Committee  
March 11, 2013

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1198

Page 3, line 31, after "57-20-07.2" insert "and 57-55-03"

Page 4, line 21, replace "becomes effective July 1, 2013" with "is effective for taxable years beginning after December 31, 2012, for ad valorem property taxes and for taxable years beginning after December 31, 2013, for mobile home taxes"

Re-number accordingly



PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1198

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 57-38 and two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to a homestead income tax credit and a commercial property income tax credit; and to provide an effective date.

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

**SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Homestead income tax credit.**

1. An individual who has a homestead in this state is entitled to a credit against the tax imposed under section 57-38-30.3 for taxable years 2013 and 2014 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against the individual's homestead, residential, or agricultural property in this state.
2. For purposes of this section:
  - a. "Homestead" means the dwelling occupied by the individual as the individual's primary residence in this state.
  - b. "Property taxes or mobile home taxes" includes taxes assessed by a local political subdivision but does not include special assessments.
3. The amount of the credit under this section may not exceed one thousand dollars for married persons filing a joint return or for a single individual, or five hundred dollars for married individuals filing separate returns. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
4. a. If the credit exceeds the taxpayer's tax liability, the tax commissioner shall issue to the taxpayer a certificate in the amount of the excess credit.
  - b. The taxpayer may redeem the certificate by delivering it to the county treasurer in any county in which the taxpayer paid property or mobile home taxes. If the taxpayer owns multiple parcels of property or mobile

homes that are located in different counties, only one certificate will be issued.

- c. At the time the certificate is redeemed, the county treasurer shall issue monetary payment to the taxpayer for the amount of the certificate.
- d. The county treasurer shall forward redeemed certificates to the tax commissioner, who shall issue payment to the county for those certificates.
- 5. If a parcel of property is owned by more than one taxpayer, each taxpayer is entitled to a share of the credit allowed with respect to the property or mobile home taxes levied on the parcel based on the taxpayer's respective ownership interests.
- 6. If an individual does not meet the filing requirements under section 57-38-31, the individual is entitled to receive a certificate in an amount calculated in the same manner as provided in subsections 1, 2, and 3. The individual shall file the certificate request form with the tax commissioner by the due date prescribed by the tax commissioner. The individual may redeem the certificate with the county treasurer as provided in subsection 4.
- 7. A person, estate, or trust owning agricultural property in this state is entitled to a credit under this section in the amount of ten percent of property taxes that became due during the income tax taxable year and are paid. Agricultural property that is used as the basis for the credit under subsections 1, 2, and 3 of this section may not be used to calculate the credit under this subsection. The property tax must be passed through to the partners, shareholders, or members in proportion to their respective interest in the passthrough entity. The credit amount under this subsection is determined at the taxpayer level. The amount of the credit in excess of the taxpayer's tax liability may be carried forward for up to five taxable years unless the individual with an ownership interest in the entity has a homestead in the state as defined under subsection 2. If an individual has a homestead in this state, the individual shall receive a property tax certificate provided in subsection 4.

- 8. The tax commissioner may prescribe the forms, procedures, and guidelines necessary for the administration of this section.

**SECTION 2.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Commercial property income tax credit.**

- 1. A taxpayer is entitled to a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for taxable years 2013 and 2014 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against commercial property in this state. For purposes of this section, "property taxes" does not include any special assessments.
  - a. The amount of the credit under this section may not exceed one thousand dollars for any taxpayer.
  - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
  - c. In the case of married individuals filing separately, the credit may not exceed five hundred dollars.
- 2. The amount of the credit under subsection 1 in excess of the taxpayer's tax liability may be carried forward for up to five taxable years.
- 3. If a parcel of property is owned by more than one taxpayer, each taxpayer is entitled to a share of the credit allowed with respect to the property or mobile home taxes levied on the parcel based on the taxpayer's respective ownership interests.
- 4. A person, estate, trust or any passthrough entity owning commercial property in this state is entitled to a credit under this section in the amount of ten percent of property taxes that became due during the income tax taxable year and are paid. Commercial property that is used as the basis for the credit under subsections 1, 2, and 3 of this section may not be used to calculate the credit under this subsection. The total amount of property tax paid by a passthrough entity must be allocated to the partners, shareholders, or members in proportion to their respective interest in the passthrough entity. The credit

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amount under this subsection must be calculated on the partners', shareholders', or members' allocated share, subject to the limitations in subsection 1.

5. The tax commissioner may prescribe the forms, procedures, and guidelines necessary for the administration of this section.

**SECTION 3.** Two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code are created and enacted as follows:

A taxpayer filing a return under this section is entitled to the credit provided under section 1 of this Act.

A taxpayer filing a return under this section is entitled to the credit provided under section 2 of this Act.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for the first two taxable years beginning after December 31, 2012.”

Renumber accordingly

Estimated Cost of Proposed Amendments to HB 1198 - Property Tax Relief Income Tax Credit

# 1  
4-8-13  
HB 1198

|   | Residential    | Agricultural   | Commercial     | Total          |
|---|----------------|----------------|----------------|----------------|
| 2011 Property Taxes                       | \$ 340,282,925 | \$ 174,002,746 | \$ 189,980,141 | \$ 704,265,812 |
| 2012 Property Taxes (Est. 10% Growth)     | 374,311,218    | 191,403,021    | 208,978,155    | 774,692,393    |
| Approx. No. of Parcels                    | 200,000        | 101,000        | 67,000         | 368,000        |
| Av. PT Tax Per Parcel                     | \$ 1,701       | \$ 1,723       | \$ 2,836       |                |
| Gross Amt of Credit (10% of Total)        | \$ 37,431,122  | \$ 19,140,302  | \$ 20,897,816  | 77,469,239     |
| Gross credit per parcel                   | \$ 187         | \$ 190         | \$ 312         |                |
| Parcels adjusted by limiting factors      |                |                |                |                |
| Residency requirements                    | 170,000        | 95,950         | N/A            |                |
| Gross credit adjusted by limiting factors |                |                |                |                |
| Credit cap of \$1000                      | \$ 178         | \$ 161         | \$ 203         |                |
| No tax liability                          | N/A            | N/A            | \$ 193         |                |
| Estimated Annual Cost of Credit           | \$ 30,225,631  | \$ 15,455,794  | \$ 12,904,401  | \$ 58,585,826  |
| Growth in Yr 2 (Est. 10% Growth)          | \$ 33,248,194  | \$ 17,001,373  | \$ 14,194,841  | \$ 64,444,408  |
| Estimated Biennial Total                  |                |                |                | \$ 123,030,234 |

Testimony to the  
**Senate Appropriations Committee**  
Prepared April 8, 2013 by  
Terry Traynor, Assistant Director  
North Dakota Association of Counties

#2  
HB 1198  
4-8-13

**Regarding: Reengrossed House Bill No. 1198  
With Senate Amendments**

Mr. Chairman and committee, I was directed to somehow coherently communicate that:

- counties strongly support the maximum level of property tax relief the legislature deems possible,
- counties stand ready to help implement whatever method(s) the legislature chooses to select,
- HB1198 in its current form seems to be a relatively costly and inefficient method to deliver property tax relief, and
- counties feel increasing the local cost of administration (which is funded with property tax) to deliver property tax relief, is somewhat counterproductive.

County officials report that the process of implementing this type of credit after the 2007 Session was quite confusing for many, particularly elderly taxpayers, with no income tax liability. It seems that some certificates never were redeemed, and the interaction with tax preparers was quite time-consuming for everyone involved.

Counties urge you to take these thoughts into consideration as you focus in on the final property tax relief solution.

May 2, 2013

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1198

That the Senate recede from its amendments as printed on pages 1506-1508 of the House Journal and pages 1100-1102 of the Senate Journal and that Reengrossed House Bill No. 1198 be amended as follows:

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, and subsection 1 of section 57-51.1-03.1 of the North Dakota Century Code, relating to oil extraction tax definitions and exemptions; to provide for a study; 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.
- 44-12. "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.
- 42-13. "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 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 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 e.~~
- 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. LEGISLATIVE MANAGEMENT STUDY - ANALYSIS OF FUTURE OIL INDUSTRY CHANGES - CONSULTANT ASSISTANCE.** The legislative management shall study the likely changes to oil industry practices, production, impacts, and tax policy in the foreseeable future. To assist with this study, the legislative management shall obtain the services of an independent consultant with demonstrated insight into current and future production advances, including use of carbon dioxide and water or other means of enhancing production; effects of mature production areas on state and local tax policy; future infrastructure needs; and environmental considerations. The objective of the study is development of a legislative vision of appropriate long-term policy issues and revenue and expenditure expectations. The legislative management shall report its findings and recommendations, together with any legislation to implement the recommendations, to the sixty-fourth legislative assembly.

**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

May 2, 2013

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1015

That the Senate recede from its amendments as printed on pages 1760-1766 of the House Journal and pages 1605-1610 of the Senate Journal and that Engrossed House Bill No. 1015 be amended as follows:

Page 1, line 5, replace "section" with "sections"

Page 1, line 5, after "15.1-27-25" insert "and 57-51.2-02"

Page 1, line 6, after "royalties" insert "and the state-tribal oil tax agreement"

Page 6, after line 20, insert:

**"SECTION 12. 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.
12. The agreement must require that the Three Affiliated Tribes report annually to the budget section of the legislative management and that the report, at a minimum, informs the budget section of tribal investments in road improvements and fees, expenses, and charges the tribe imposes on the oil industry."

Renumber accordingly

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**Amendment**

12. The agreement must require that the Three Affiliated Tribes report annually to the budget section of the legislative management and that the report:
  - a. Identifies projects totaling investment of at least ten percent of tribal oil and gas gross production and oil extraction tax receipts of the tribe for that year in essential infrastructure.
  - b. At a minimum informs the budget section of tribal investments in essential infrastructure and fees expenses, and charges the tribe imposes on the oil industry.

#11

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1198

That the Senate recede from its amendments as printed on pages 1506-1508 of the House Journal and pages 1100-1102 of the Senate Journal and that Reengrossed House Bill No. 1198 be amended as follows:

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; to provide for a study; 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 cushioning 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 thirty-five 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.
- ~~44.~~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.
- ~~42.~~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 ~~located~~ drilled and completed before July 1, 2013, on nontrust lands 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, and ten miles or more outside an established field in which the industrial commission has defined the pool to include the Bakken or Three Forks formation, 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.~~
- 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 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 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 attributable to nontrust lands on the Fort Berthold Reservation 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 exploration and 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.
12. The agreement must require that the Three Affiliated Tribes report annually to the budget section of the legislative management and that the report:
  - a. Identifies projects totaling investment of at least ten percent of tribal oil and gas gross production and oil extraction tax receipts of the tribe for that year in essential infrastructure.
  - b. At a minimum, informs the budget section of tribal investments in essential infrastructure and fees, expenses, and charges the tribe imposes on the oil industry.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - ANALYSIS OF FUTURE OIL INDUSTRY CHANGES - CONSULTANT ASSISTANCE.** The legislative management shall study the likely changes to oil industry practices, production, impacts, and tax policy in the foreseeable future. To assist with this study, the legislative management shall obtain the services of an independent consultant with demonstrated insight into current and future production advances, including use of carbon dioxide and water or other means of enhancing production; effects of mature production areas on state and local tax policy; future infrastructure needs; and environmental considerations. The objective of the study is development of a legislative vision of appropriate long-term policy issues and revenue and expenditure expectations. The legislative management shall report its findings and recommendations, together with any legislation to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 9. 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