

FISCAL NOTE
Requested by Legislative Council
01/06/2017

Amendment to: HB 1160

- 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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 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).*

The bill exempts plumbers licensed under chapter 43-18 from requiring a septage servicing permit as required in chapter 61-28-04.1 when engaging in the business of servicing septic systems.

- 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.*

The Department issues permits and conducts inspections to “persons engaging in the business of servicing septic systems” to ensure public and environmental health. This change would have a minimal impact on revenue and thus has no fiscal impact.

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.*

N/A

- 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.*

N/A

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Brenda M Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 01/11/2017

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Name: Brenda M Weisz

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Date Prepared: 01/11/2017

2017 HOUSE POLITICAL SUBDIVISIONS

HB 1160

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivision Committee
Prairie Room, State Capitol

HB 1160
2/2/2017
27841

- Subcommittee
 Conference Committee

Committee Clerk Signature

Donna Wetham

Explanation or reason for introduction of bill/resolution:

Relating to exempting plumbers from permit requirements for persons who service septic systems.

Minutes:

Attachments 1,2,3,4,5

Chairman Klemin: Opened the hearing on HB 1160.

Rep. Brandenburg, District 28: Introduced HB 1160. This is a bill dealing with costs associated with septic tank systems. Consider if they should be paying the extra costs they already have a license and then you have to pay another \$150 to clean out the septic tank and a \$50 fee to take a certification test. If you don't play by the rules then I do understand why you need that. It is really necessary to charge a certified plumber another \$150 if you already know what you are doing.

Rep. Beadle: Looking through the servicing of the septic system and that process itself, can you tell us if the septic system portion is something that most plumbers are already trained in or is the plumbers board more concerned with the trunk lines and the larger sewer lines and infrastructure and also getting that in and out of houses?

Rep. Brandenburg: This industry is plumbers and should be taken care of by the plumbers and when it deals with some of these issues the plumbing board has to step up and not pass it on to the Public Health unit. We have plumbers that put in the system and use the right application, some have been doing this 20 or 30 years and now they have the Public Health Nurse coming out with a book and a certification to say if you did it right.

Rep. Ertelt: Is the permit only valid for a single septic tank or is it over the life of the license of the plumber?

Rep. Brandenburg: I am not sure, but it is not just the permit that you have to get, you have to go get certified and go to school and you already know what you are doing. You are going after the people who have done nothing wrong.

Rep. Magrum, District 28 : In support of HB 1160. (See Attachments & handouts #1) 7:50-12:59

Rep K. Koppelman: I don't know what the training is but assume you have training in septic systems, is that correct?

Rep. Magrum: Yes, we have an 8 hour class to install septic systems every other year.

Chairman Klemin: Is the fee a one-time fee to get certified?

Rep. Magrum: For the certification fee, the application is \$50, but the \$150 is a yearly fee.

Chairman Klemin: So all the plumbers doing this are already certified?

Rep. Magrum: Yes we are certified as plumbers already and the Plumbing Board has a 3 hour continuing education as well.

Brent Beechie, Chief Inspector North Dakota State Plumbing Board: In support of HB 1160. (See attachment #2). 15:00-16:59

Rep. Beadle: Do you see any issues with regards to servicing and installing of these septic drain fields and septic systems? In North Dakota you don't need to be a licensed plumber to do that and it makes no sense for the Plumbing Board to be involved with the installation or servicing of these systems, they aren't the ones that are trained. Do you see any conflict in terms in taking all of the oversight and regulation on the install and repair and keeping that away from the Plumbing Board?

Brent Beechie: The Plumbing Board does not do inspections on a septic tank and drain fields, it has always been taken care of by the District Health Units. Responsible licensed plumbers have always been able to pump out septic tanks and dispose of it as long as they follow the rules. I think this \$150 fee is not necessary.

Rep. Beadle: Because they pay a fee for something else that is entirely different then now they shouldn't pay the fee for this, is what you are saying?

Brent Beechie: It is all related to plumbing, so yes that is exactly it.

Rep. Johnson: I am wondering what prompted the legislature to pass this when prior the implementation of the \$150 fee it was just fine?

Brent Beechie: I think they were having a lot of problems in western North Dakota and they were doing that on the run. The Health Department was finding people dumping things in a coulee and things like that. What we are asking for here is we will still have to get the license through the State Health Department but not have to pay that \$150 fee which was always exempt for licensed plumbers in the state of North Dakota.

Rep. Beadle: Can you walk us through the process, is there a difference between the permit mentioned in the bill and the other things they need to have covered by the DHS?

Brent Beechie: The permit would be basically they have to be licensed and regulated just like everybody else but not pay that licensure.

Chairman Klemm: I understood you to say that plumbers would still have to be licensed through the State Health Department but just don't have to pay the fee to be licensed. Why do they have to be licensed through the State Health Department at all?

Brent Beechie: Yes, but previously even if they didn't have to pay the \$150 fee the State Health Department needed to know who is out there pumping septic systems and what are they doing with it. They need to regulate what is going on there. The only difference here is we are asking this to go back the way it used to be and the licensed plumbers be exempt from having to pay that \$150 fee.

Erin Magrum, Licensed Plumber: In support of HB 1160. (See attachment #3).25:00-28:18.

Rep. Beadle: When you go through the continuing education process is dealing with hazardous waste and septic systems required as part of the continuing education process? Is the CE required or do you choose to do this?

Mr. Magrum: The continuing education for plumbing covers almost any class of plumbing but the septic systems are less important due to the fact that a majority of the master plumbers are working inside the homes. There are a very few that are doing it because in the larger cities the plumbers are busier and they don't need to add that to their world but we do. The continuing education for plumbing probably doesn't have everything desired to maybe have this certification but at the same time so there are many overlapping sections it is kind of common understanding.

Rep K. Koppelman: The reason for the bill previously for the law that is in place was apparently some problem associated with the oil boom where people were draining septic systems improperly?

Mr. Magrum: There have been several small hearings with the Health Department that other septic pumpers that the main reason was improper disposal by companies and dumping in wrong areas. We always want to make sure we are away from wild life and cattle as much as we can. With the certification part the problem I believe is that there are two different kinds of what we call septic pumpers the ones like us, we are offering a one stop shop from Master plumbing all the way down and then there are people that see it that seems like a neat job, I should get into that business. For those type of people, I believe a certification is absolutely necessary. It is the disposal that is the biggest trouble with the certification it is not the ability to pump the tank. I believe Master Plumbers have the knowledge to dispose of it properly.

Rep K. Koppelman: You talked about your training and your continuing education covering these kinds of things. Disposal is a part of that as well, not just the installation of the system?

Mr. Magrum: The installation is a separate system, this is just the servicing of the system and this certification lies with the Health Department, I would say disposal is 90% of the reason for the certification because in the end that is what causes the problem.

Rep K. Koppelman: Do plumbers get any training in that as well?

Mr. Magrum: They don't have a certain part that says disposal of septic waste, but there is education on different systems so you have a general understanding what goes into a septic tank. The rules and laws still need to be abided by the Health Department.

Rep. Magrum: Septic is not qualified as hazardous waste it is organic.

Chairman Klemin: Any other testimony in support of HB 1160? Seeing none. Any opposition?

Karl Rockeman, Director of the Division of Water Quality within North Dakota Department of Health Environmental Health Section: In opposition to HB 1160. (See attachment #4) 37:36-42:46.

Rep. Longmuir: We have handled a number of these illegal dumps in western in North Dakota. How many illegal dumps have you taken care of in 2016?

Mr. Rockeman: I will get that to you, but both the incidents and significance of those incidents have been greatly reduced since this law was passed.

Rep. Simons: What is an illegal dump?

Mr. Rockeman: An illegal dump would be any kind of improper disposal of waste water. When a pumper pumps a septic tank they are moving raw waste water. With a proper disposal method, the waste can be land applied on proper land or pasture land. There are certain precautions that have to be taken to prevent pathogens from moving. The proper way is incorporate that into the land or treat that waste water. Improper waste disposal would be anything besides that such as dumping it in all one spot or it could be dumping to close to residence, etc. 45:01

Rep. Hanson: If we adapt one of these recommendations what would revenue impact be to your organization and would that be detrimental to the work you do?

Mr. Rockeman: About \$350 annual revenue impact, nothing significant. The primary concern is we maintain those protections for the public environmental health.

Chairman Klemin: Referring back to the previous testimony, it sounded like the main concern was the fee, and then it was stated that the person doing this type of work would still have to get a permit and comply with all the requirements. But the bill says you wouldn't need to get a permit and that doesn't appear to be what it was previously or the intent here. Because what I heard from the plumbers they don't like the fee. You would still need a permit you just wouldn't need the fee and this bill doesn't say that.

Mr. Rockeman: You are correct. The bill was written so that it would remove the requirement for a permit altogether. The proposed changes that would accomplish what is meant which is to remove the fee while keeping those protections in place.

Chairman Klemin: We would like to see that proposed amendment.

Mr. Rockeman: Handed out proposed amendment (See attachment #5) 47:50

Chairman Klemin: Looking at the amendment one would be a revision to the administrative code, which would need another administrative hearing the legislature doesn't adopt amendments to administrative code, the second part is what we are looking at in this committee. We are looking at a different statute than the one that is in the bill.

Mr. Rockeman: The one in the bill is subsection 1 of 4.1 and this is looking at subsection 2d of 4.1. That specifically talks about the ability to establish reasonable fees.

Chairman Klemin: What happens in the case of a licensed plumber who operates more than one servicing unit?

Mr. Rockeman: Our interpretation of this language would be that they will still be exempt from the fees for a single unit but once they added a second unit or more than they would be charged fees for the additional units.

Chairman Klemin: The fee is based on the servicing unit and not on the person doing it.

Mr. Rockeman: That is correct.

Rep K. Koppelman: Are there any plumbers that you know of now that do operate more than one?

Mr. Rockeman: On our list there is only two pumpers that operate more than one unit.

Rep K. Koppelman: Are those plumbers?

Mr. Rockeman: They are company owned and also have a licensed plumber.

Chairman Klemin: Any other testimony in opposition to HB 1160? Seeing none. Any neutral testimony. Seeing none we will close the hearing on HB 1160.

Rep. Maragos: I move to adopt the amendment proposed by the State Department of Health that is paragraph 2 that changes the code to establish reasonable fee for permitting Chapter 43-18 who operates no more than one shall not be required to pay a permit or renewal fee for a septic system servicing permit.

Rep K. Koppelman: seconded.

Chairman Klemin: We have a motion to adopt the amendment proposed by the State Department of Health. We would have to change this into a hog house amendment so that

we remove the revision of Subsection 1 about exempting them from the permit. Is that included in your motion.

Rep. Maragos: I would just further amend that we remove the under struck language on line 7.

Rep K. Koppelman: seconded

Chairman Klemin: It is moved and seconded to also amend the existing bill to remove the underlined language on line 7, that actually removes the whole section 1 language and substitute the language proposed by the Department of Health. Any discussion on the motion

Rep. Guggisberg: I understand why the Health Department wants this because the bill the way it sits would not be good. My concern is setting precedence and I am sure there is other instances where we require one professional to get two different types of permits and if we allow this then everyone is going to want to come in and not pay a second fee. I am sure there is cost and labor involved with the process and that won't go away by us changing the law. I will vote for the amendment but I won't vote for the bill.

Rep. Ertelt: I am not completely opposed to the amendment although the State Health Department was saying that the fees were pretty negligible. Why we would keep any fee on there for more than one unit is beyond me. The fact that the intent was to go after the bad actors and there is no evidence that the plumbers were violating any environmental concerns so I am fine with sticking with the original bill. But I think the amendment will pass so I probably will go along with it.

Rep. Simons: Some of the things I saw out in the oil field, there was some bad things going on but these were foreign outfits coming in and they were dumping in the wrong places. The local guys didn't do any of that because they were our neighbors. I didn't see that the North Dakota people were the problem at all. The amendment, I don't see why we need it and I think the plumbers are doing a good job. If they do a bad job in the country if anyone sees something like that everyone knows it quickly, then they are out of business.

Chairman Klemin: If I understand the Legislative history of this that prior to 2013 the change in the law, this would put plumbers back where they were before. They were exempt from paying a fee but they still had to get the permit.

Rep. Simons: The amendment would do that?

Chairman Klemin: Yes.

Rep. Longmuir: For an update on oil country, we actually had a septic company from up in Stanley, they are not master plumbers, they built a sewer lagoon to the standards of the State Health Department. It turned into a local business and they were taking care of it. During my 8 years with the county we probably responded to 40 to 45 illegal dumps. Some even would drain it in the ditches as you drive down the road. It wasn't the locals. I think this bill is a good bill, we are punishing those who do a good job.

Rep. Pyle: During the oil boom when these fly by night people came in, did they have more than one unit?

Rep. Longmuir: My experience with them was it ranged from 1 truck to 10 or 15 trucks, generally they had a Wyoming or Texas license and anyone with a vac-truck was a septic hauler. That where the Department of Health really had difficulties and to

Rep K. Koppelman: I agree prior to the revision of 2013 plumbers were exempt from paying a fee. Mr. Rockeman's testimony on his second page the Department recognizes that an exemption for Master plumbers licensed in North Dakota was not carried over with the 2013 revision.

Rep. Johnson: Prior to 2013 it was based on the number of service trucks?

Rep K. Koppelman: I assume so, I don't know that part. I am just going by the testimony that they were exempt from the fee.

Vice Chairman Hatlestad: If I understand what Rep Koppelman said it says a master plumbers license? Now the amendment says a plumber's license so anyone from an apprentice on up could under the amendment run a service truck?

Rep K. Koppelman: It would be a plumbers license under Chapter 43-18 so we would have to refer to that.

Rep. Ertelt: An apprentice operates under a Masters license.

Chairman Klemin: Voice vote on the amendment. Ayes have it. Voice vote passed.

Chairman Klemin: We have an amended HB 1160 before us.

Rep. Maragos: Moved a DO PASS as amended on HB 1160.

Rep K. Koppelman: Seconded the motion.

Chairman Klemin: Any discussion? Seeing none the clerk will take a roll call vote.

Roll Call Vote: 11 yes, 4 no, 0 absent for a DO PASS as amended on HB 1160. Motion carried.

Rep. Maragos: will carry the bill. Hearing closed.

February 2, 2017

2/2/17 DO

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1160

Page 1, line 1, after "reenact" insert "subdivision d of"

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

Page 1, line 2, after "permit" insert " fee"

Page 1, replace lines 5 through 9 with:

"SECTION 1. AMENDMENT. Subdivision d of subsection 2 of section 61-28-04.1 of the North Dakota Century Code is amended and reenacted as follows:

- d. To establish reasonable fees for permitting septic system servicers, however the department may not establish or charge a permit or renewal fee for a plumber licensed under chapter 43-18 who operates no more than one servicing unit;"

Renumber accordingly

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1160**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: 17.0569.01001

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Maragos Seconded By Rep. K. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin			Rep. Guggisberg		
Vice Chairman Hatlestad			Rep. Hanson		
Rep. Beadle					
Rep. R.S. Becker					
Rep. Ertelt					
Rep. Johnson					
Rep. K. Koppelman					
Rep. Longmuir					
Rep. Maragos					
Rep. Pyle					
Rep. Simons					
Rep. Toman					
Rep. Zubke					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Presented by the Health Dept.
 Paragraph 2
 remove underlined language
 on Page 7 of the Bill*

Motion Carried

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1160**

House Political Subdivisions Committee

Subcommittee

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 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Maragos Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	✓		Rep. Guggisberg		✓
Vice Chairman Hatlestad	✓		Rep. Hanson		✓
Rep. Beadle		✓			
Rep. R.S. Becker	✓				
Rep. Ertelt	✓				
Rep. Johnson		✓			
Rep. K. Koppelman	✓				
Rep. Longmuir	✓				
Rep. Maragos	✓				
Rep. Pyle	✓				
Rep. Simons	✓				
Rep. Toman	✓				
Rep. Zubke	✓				

Total (Yes) 11 No 4

Absent 0

Floor Assignment Rep. Maragos

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

REPORT OF STANDING COMMITTEE

HB 1160: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1160 was placed on the Sixth order on the calendar.

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

Page 1, line 2, after "permit" insert " fee"

Page 1, replace lines 5 through 9 with:

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Renumber accordingly

2017 SENATE POLITICAL SUBDIVISIONS

HB 1160

2017 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

HB 1160
3/2/2017
Job # 28598

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to exempting plumbers from permit fee requirements for persons who service septic systems

Minutes:

Written testimony #1 Rep. Jeff Magrum
Written testimony #2 Karl Rockeman

Chairman Burckhard opened the hearing for Engrossed HB 1160. All senators are present.

:40- 1:00 Rep. Brandenburg introduced HB 1160. This bill comes about because we have licensed plumbers who had more requirements dealing with plumbers who are already licensed in dealing with a permit fee for septic tank systems. These same people are installing the septic tanks and know how to clean them out, they know how to do the job, they know how to work with them, so this bill came through the House which it did pass and basically it's taking away the fee for the plumbers to pay this fee.

Chairman Burckhard: What happens if oil ramps up again will the bad actors cause a problem?

Rep. Brandenburg: I thought about that too. That should be dealt with those people who deal with the man camps. Our people have been doing this for many years, and do it right, and we should haven't had to pay another fee for something they are already paying for with their license as a Master plumber.

Sen. J. Lee: So, I am thinking about my neighborhood and not just yours, but, for rural areas, and the fact that there is an absolute necessary to have septic service certifications and inspections of when a property transfers, and when there is an additional drain field, all those kinds of things that are run and inspected by the County Health Department Environmental Services people. So, is this going to exempt that requirement? Won't they still have to have county permit or authority or inspection when it's done to make sure it's right even if they are really good at it?

Rep. Brandenburg: No, they still have to have the Health Department the local people come out and certify these things are done right. No that is still in place, we've got to do it right, and go out and inspect them. It irritates them that someone is coming from the Health Department

to inspect them. Different applications apply in different situations with different land features and some of them don't quite apply. Common sense helps these people. It has to work so that it doesn't impact the environment.

Sen. J. Lee: It makes a big difference as you well know whether the ground perks or not, which it may in your country, it doesn't in mine. So it really is terribly important that the county more so than the state even, that the county health department and the plumbers figure out how to best address it. It seems to me this is a rural thing, not a statute thing. Tell me why I am wrong to think this way?

Rep. Brandenburg: It is good discussion because I actually think the plumber's kind of took a stand back position here when this all happened. They didn't know how to handle it. They had to have people understand it in those Health Units very well, then they have some that may need some help. You need to have uniformity across the state. There is some places where it's not and it is causing some problems.

Sen. J. Lee: But the point is, somebody might come from my area to your area and work and they've done it for 25 years, but your land, soil is so different and vice versa. So I think it is terribly important that it be local criteria; for the county health unit or whoever your public health unit is, that is administering, and so that whatever suits your soil conditions are recognized by the inspector as being the right thing. Because they might not be the right soil conditions at your own farm.

Rep. Brandenburg: There is a lot of difference between Fargo clay and Barnes clay or loam clay in Lamoure County, there is a whole lot of permeability issues difference so you are absolutely right there. But this is just dealing with the \$100 fee. That's all it is. I don't think they got to pay another fee for somebody. They only charge \$100 and knew somebody else was coming in and cleans up man camps, go for it, but why should the local people have too.

Sen. Anderson: The statement is made here that the plumbers are already paying for it. What are the fees that the plumbers pay now?

8:11-11:15 Rep. Jeff Magrum: District 28. Written testimony #1. We now pay \$165 for our plumbing license and then we added \$150 fee to run a truck to service the septic's and that's part of our field so we felt it was an unnecessary fee. It went through the House Political Subs with a 11-4 do pass, and the House chamber passed it 85-5, so they agreed that it was an unnecessary fee. We didn't want to get around any laws.

Chairman Burckhard: Did you run so you could fix stuff like that?

Rep. Jeff Magrum: Plumbers are over regulated heavily. It seems like everybody wants to overregulate us and I did have a couple of other bills on the House side pertaining to the drain field issue, but now there is a movement by local public health departments because of our bill. I wanted to put that back under the plumbing board. The Plumbing board would do the sewer inspections and they farmed that out so to speak to the public health department and we had some really good inspectors, but the new inspectors they just don't have the experience.

Sen. Anderson: When I am looking at the consideration of comments on the previous bill that you mentioned, that caused this problem, maybe the individual from the Health Department can answer this, but it said the provisions in this chapter do not apply to Master Plumbers, so how did you get into paying the fee when the Health Department said it doesn't apply to you?

Rep. Jeff Magrum: Well they can speak better on that.

Senator Dotzenrod: It looks to me that what the bill says is that everybody in the state that wants to do septic system servicing needs to get a permit and needs to pay the fee. However, if you are a licensed plumber with no more than one unit, you don't have to pay the fee. **Rep. Jeff Magrum:** Yes, that is correct. **Senator Dotzenrod:** Would you still have to get this permit even though you would be able to do the work. It looks like you're getting a permit and you're paying a fee to get the permit, now you're saying you don't want to pay the fee but does that mean you don't have to get the permit?

Rep. Jeff Magrum: Originally in my bill it would have exempted us from the permit as well, but the Health Department folks here and they asked for an amendment that we still have to get the permit, but we don't have to pay for it. That is the version we are looking at now. The state plumbing law inspector is not here today, but he did come to the House committee and testified that they were for this bill.

15.50- 18.47 Karl Rockeman, Director of the Division of Water Quality with the North Dakota's Department of Health's Environmental Health Section. Written testimony #2.

Chairman Burckhard: Karl, what do they do with that stuff when they clean out a septic tank, what is the proper disposal?

Mr. Karl Rockeman: There are two ways of proper disposal. One would be to take it to the waste water treatment plant like a municipal city lagoon or plants, now we have privately owned treatment plants as well. Or they may land apply on it to ground as a benefit for use of fertilizer. That is the proper way to do it. An improper way was when we had instances where they simply were dumping untreated waste water in places of where they could get into all- purpose water which would contaminate it.

Sen. Anderson: How did the plumbers got into this when the law said they were exempt from this section?

Mr. Karl Rockeman: So, originally it was renewed that plumbers were exempted from that section. When we made that revision to the rules, we took that exemption out. One of the reasons was because there was duplication between the Plumbing Board Rules and ours, and we would have had to duplicate our rule changes in the Plumbing Board rule changes as well, and at that time it was felt that it was better to have one set of rules to cover that single activity, whether it was a plumber supplying it or a septic pumper that was supplying it. We wanted to put that all in under one section.

Sen. Anderson: I am surprised the Attorney General in the Interim Rules Committee let you do something in the rules that was against it in the law.

Mr. Karl Rockeman: I don't think the law specifically addressed that. The law was changed to move whole sections that were repealed and replaced under the Water Pollution Control section. I don't believe there a violation there.

Chairman Burckhard closed the hearing on HB1160.

Senator Diane Larson move a do pass
2nd: Senator Anderson
Roll call vote: 6-0-0
Carrier: Senator Diane Larson

Date: 3.2.17
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. H.B. 1160**

Senate Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Sen. D. Larson Seconded By Sen. Anderson

Senators	Yes	No	Senators	Yes	No
Chairman Randy Burckhard	✓		Senator Jim Dotzenrod	✓	
Vice-Chairman Howard Anderson	✓				
Senator Jordan Kannianen	✓				
Senator Diane Larson	✓				
Senator Judy Lee	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Diane Larson

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

REPORT OF STANDING COMMITTEE

HB 1160, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1160 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1160

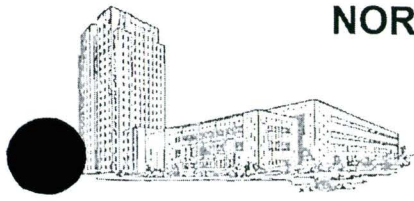
HB 1160 #1

2/2/17



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Jeffery J. Magrum

District 28
P.O. Box 467
Hazelton, ND 58544-0467

R: 701-321-2224
B: 701-321-2224
C: 701-321-2224
jmagrum@nd.gov

COMMITTEES:
Judiciary
Agriculture

02/02/17

HB 1160

Good morning chairman Klemin and committee members.

For the record I am Rep Jeff Magrum ,District 28 .

I am here to respectfully ask for a due pass on HB1160. This bill restores our exemption from being required to have another license to use our tools. Plumbers have always been able to own and operate a vacuum truck as an important tool for servicing and maintaining sewer lines and septic systems. This was always covered under plumbing license fee. At the 2013 legislative session that was changed.

These are the fees that we pay to keep this truck working.

ND contractors license	\$90
ND Commercial drivers license	
ND Commercial truck licence	\$210
ND Health dept. license	\$150
Insurance on truck	\$1697

This is part of the plumbers Scope of work. There are others that do this type of work and if they want to charge them to get into our field ,that I can understand. When the ND health dept talks about people illegally dumping in the oil fields they aren't talking about plumbers.

The plumbers are the real water protectors working on the front lines of the health care industry. I like many have committed our life to providing good quality sewer systems and high quality potable water. HB1160 helps us to continue to serve the public with a reasonable price structure.

Mr chairman and committee members I respectfully ask for a due pass on HB 1160



ENVIRONMENTAL HEALTH SECTION
 Gold Seal Center, 918 E. Divide Ave
 Bismarck, ND 58501-1947
 701.328.5200 (fax)
 www.ndhealth.gov



October 5, 2016

Magrum Excavating & Plumbing Co.
 PO Box 467
 Hazelton, ND 58544

RE: Septic Pumper Permit

Dear Magrum Excavating & Plumbing Co.:

The Department has received your completed application for renewal of your septic pumper permit(s) for the upcoming year. Included in your correspondence was the completed application packet along with the required fee associated with the septic pumper permit renewal. Enclosed is your pumper permit(s) for the 2016 season.

Should you have any questions, please contact Marty Haroldson at 701.328.5234 or Sarah Waldron at 701.328.5237.

Sincerely,

Septic Servicing Program
 Division of Water Quality

Enc

SANITARY PUMPER PERMIT
 NORTH DAKOTA DEPARTMENT OF HEALTH
 SFN 8321 (7-87) Customer Copy

EMMONS	No. 447
Issued to: Magrum Excavating & Plumbing Co.	Issue Date: 10/5/2016
Address: PO Box 467	Expiration Date: 12/31/2016
City, State, Zip Code: Hazelton ND 58544	Fee Paid: \$150.00

The above person is issued this permit to engage in the servicing of septic or holding tanks, privies, or portable restrooms.

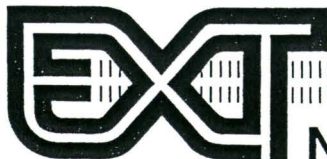
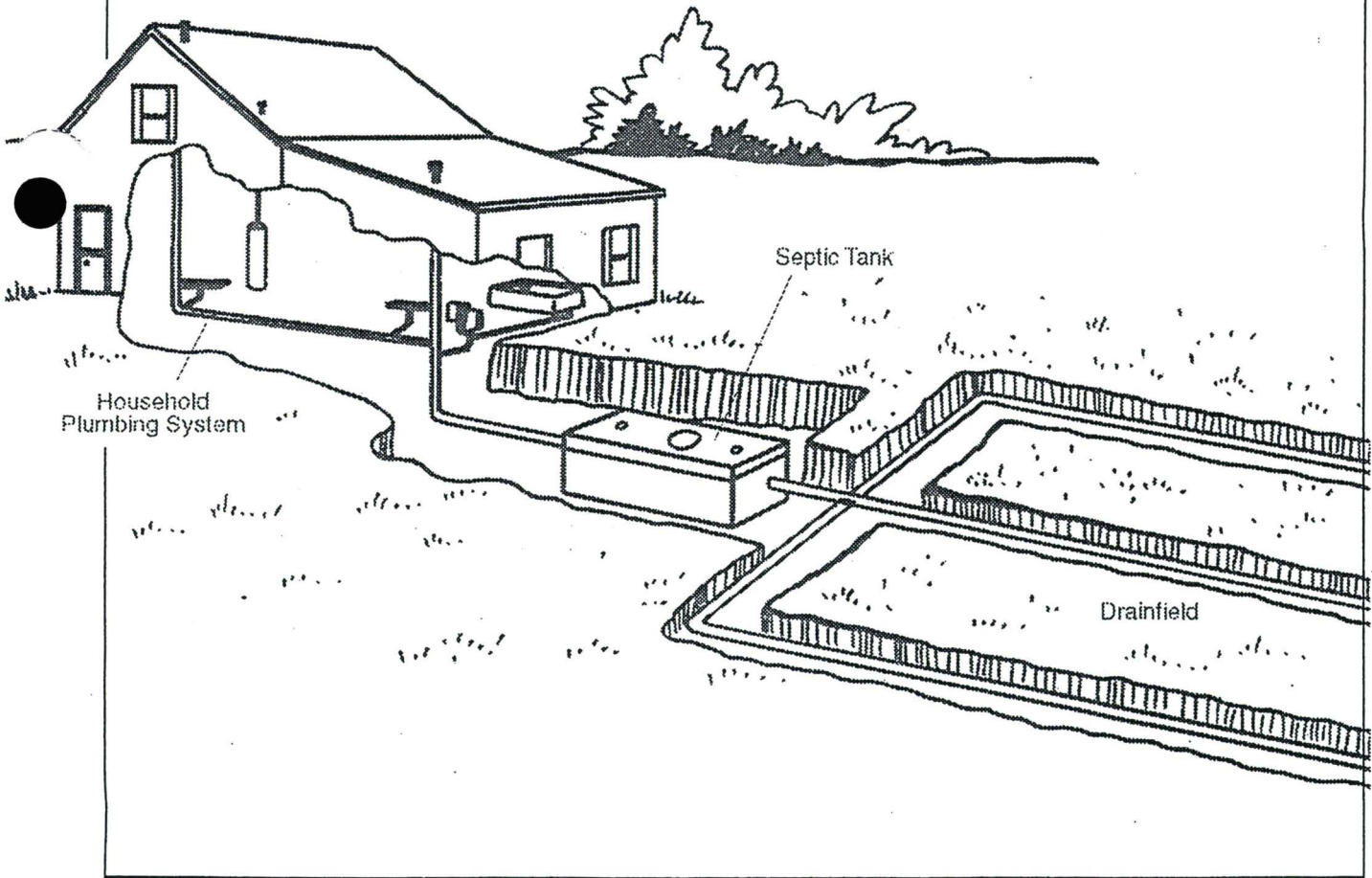
STATE DEPARTMENT OF HEALTH

NDCC 61-28

2

Individual Home Sewage Treatment Systems

Thomas F. Scherer
Extension Agricultural Engineer



2-2-17

HB 1160

2

Brent Beechie

To: Political Subdivisions
Subject: HB 1160

TESTIMONY ON HB 1160

I am in support of HB 1160.

Up until recently, licensed plumbers in North Dakota have always been exempt from having to pay an extra fee to do septic tank pumping and disposal.

There may still be only a few licensed plumbers in North Dakota that still offer that service to their customers, but I personally only know of one.

I feel the plumbing license fee that they pay to the North Dakota State Plumbing Board should be adequate to allow them to pump out septic tanks, just like it has always been until recently, and it would have very little if any revenue impact on the department collecting that additional fee.

These few licensed plumbers would still maintain a license to pump septic tanks and have to follow all the rules, regulations, keeping of records, and whatever else is asked of them by the regulating authority, but without having to pay for that extra licensure.

Let's face it – pumping out and properly disposing of septic tank waste is not a very glorious job, and I would hate to see paying an extra licensure fee as the deterrant to keep the few licensed plumbers in the business of pumping out septic tanks from providing that service to their clientele.

I believe this bill is a very reasonable request on behalf of the sponsors, and the few licensed plumbers in North Dakota who offer this service for their customers, and I would urge a "Do Pass" on HB 1160

Brent Beechie
Chief Inspector
North Dakota State Plumbing Board
1110 College Drive Suite 210
Bismarck, ND 58501
701-328-9977 Ext. 4 (office)
701-220-4434 (mobile)
bbeechie@nd.gov

Mr. Chairman and members of the committee, thank you for allowing me to speak today in this hearing. My name is Erin Magrum and I am a part of a rich history in the State of North Dakota, and that is the family owned business. I am in support of HB 1160. My mom and dad purchased Magrum Excavating from my grandpa in 1985. For over 30 years they built it into a diverse plumbing, excavating and well service business and now I have returned home to help operate it. My main duty is the septic pumping service that our company has provided for 13 years and before that was owned by two men from the city of Linton, so our septic pumping business has been in Emmons County for over 20 years providing a much needed service to the people of the area. When we originally purchased the business in 2004 we were able to operate it under my dad's Master Plumbing License, which made sense due to the fact that to be a Master Plumber required many hours of job training, the approval of the State Plumbing Board to write the tests and the ability to pass the tests to obtain a license. Now years later, the State Health Department no longer recognizes the Master Plumbers License as a valid qualification to pump septic tanks and requires us to not only pay a separate license fee to continue to operate our business, but to complete separate continued education specifically for this field. This is not only a redundant certification, but a complete over regulation of certain businesses who operate in both the field of plumbing and septic service since they are one and the same in most aspects. I am not against the licensure of septic tank pumping. I believe that every business that does not have a current Master or Journeyman's Plumbers License to work under should have a Septic Pumping License. I am merely stating that those who are licensed in the plumbing field are already going through CE hours and completing tests. Why is the State so worried about septic pumpers having all the proper licenses and training when there are contractors in the State that are not required to even have a Contractor's License if their work is under a certain amount? Anyone is qualified to alter the structural integrity of someone's home or place of business, but pumping a septic tank is considered far too complex for anyone to complete without proper training? Also why is it that businesses in good standing with every board it has a license with have to have another license to complete work that falls under the umbrella of all the other services it already provides? As a hunter, fisherman, rancher, and resident of the area I operate in I take pride in doing things the right way when it comes to the environment, especially in the case of disposal of septic waste. I have been trained by my dad over many years to understand the business we are in and the hazards it has and I believe most operators who are in the business in our local areas to a good job of not polluting water ways and applying the waste in a safe and ethical manner. Just because a few "fly by night" contractors operated outside the confines of the laws during the oil boom shouldn't mean that the real operators in this business should be punished when most of us were doing the right things in the first place. In closing, over regulation in any business usually leads to lack of production and growth. Businesses that provide crucial services such as ours need to be able to operate within the confines of the law but not be strangled by overlapping laws and certifications that make it difficult to do business and serve our customers. Thank you for your time today and for your service to our great state.

Testimony
House Bill 1160
House Political Subdivisions Committee
February 2, 2017, 9:00 a.m.
North Dakota Department of Health

Good morning Chairman Klemin and members of the House Political Subdivisions Committee. My name is Karl Rockeman, and I am the director of the Division of Water Quality within the North Dakota Department of Health's Environmental Health Section. The Division of Water Quality protects and monitors our water resources to ensure the quality of surface and ground water for the public's use.

The Division of Water Quality operates the septic pumper program through the implementation of state laws. I am here today to testify on House Bill 1160, which is an amendment to NDCC 61-28-04.1, to exempt plumbers who are licensed under chapter 43-18 from obtaining a septic pumper's permit.

Due to issues with improper disposal and illegal dumping of septic waste, a major revision of the septic pumper law took place during the 2013 Legislative Assembly Regular Session. This revision was needed to formulate a framework for tracking environmental compliance and to provide continuing education on proper disposal of septic waste. This framework has helped reduce the number of illegal disposal incidents involving untreated wastewater, resulting in improved public and environmental health protection. Critical elements include disposal requirements, vector and pathogen control, continuing education, reporting and record keeping.

The proposed language of House Bill 1160 would leave a gap in protecting public and environmental health as the plumbing code does not provide regulations or continuing education requirements for proper disposal of septic waste.

- The lack of continuing education may lead to plumbers unintentionally violating U.S. EPA's 40 C.F.R 503, which regulates biosolids and septic tank type waste, resulting in federal fines and increased scrutiny by EPA.
- Continuing education on septic pumping is important. Our state continues to see growing numbers of residential homes with increasingly complex on-site wastewater treatment systems which need to be maintained.

During the 2016 septic pumper permitting season, 165 companies that operated 381 servicing units were permitted. House Bill 1160 could impact seven licensed plumbers who operate 10 units. Of those seven, four are master plumbers who currently hold septic pumper permits and operate a total of five units.

The Department recognizes that an exemption for master plumbers licensed in North Dakota was not carried over with the 2013 revision. With this understanding and after reviewing the record of the 2013 adoption of NDAC 33-21-02, the Department respectfully proposes two possible revisions:

- The Department would revise NDAC 33-21-02-05 *Permit application and renewal* to exempt plumbers with a single servicing unit

OR

- NDCC 61-28-04.1(2)(d) could be revised *to exempt plumbers from the fee only*, leaving the permit requirements and environmental protections in place.

Either of these proposed changes would require licensed plumbers to obtain a septic servicing permit and follow all the requirements in existing law and rule; however, they would be exempt from all fees associated with the operation of a single servicing unit.

This concludes my testimony. I am happy to answer any questions you may have.

Karl Rockeman

HB 1160 #5
2/21/17

Addition of line item (e) to Subsection 6 of section NDAC 33-21-02-05 to read:

“e. An applicant who holds a valid plumber’s license within this state and operates no more than one septic servicing unit is exempt from these fees.”

Or proposed amendment to NDCC 61-28-04.1(2)(d)

2. The department shall administer and enforce a permitting program for septic system servicers and has the following powers and duties:

...

d. To establish reasonable fees for permitting septic system servicers; except that a plumber licensed under chapter 43-18 who operates no more than one servicing unit shall not be required to pay a permit or renewal fee for a septic system servicing permit.

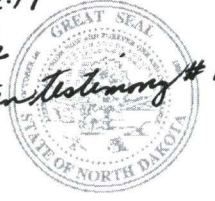
NORTH DAKOTA HOUSE OF REPRESENTATIVES

H.B. 1160

3-2-17

P. 1/2

Written testimony # 1



STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Representative Jeffery J. Magrum

District 28
P.O. Box 467
Hazelton, ND 58544-0467

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C: 701-321-2224
jmagrum@nd.gov

COMMITTEES:

Judiciary
Agriculture

03/02/2017

Good morning chairman and committee members.

For the record I am Jeff Magrum Representing district #28 and fellow plumbers in the state of North Dakota. I stand before you to testify on HB 1160.

HB 1160 is a simple bill to correct an oversight in a previous bill . At the passing of a previous bill that began charging a fee for persons other than licensed plumbers, whom service septic systems the licensed plumbers whom were already paying for this right were not exempted. HB 1160 simply exempts plumbers from the fee requirement that licensed plumbers already pay for.

At the house political subdivisions hearing the ND state plumbing board spoke in favor of this bill as well as the ND state health department. There was no opposition. HB 1160 passed committee with a due pass 11y-4n and passed the house chamber 85 yeas-5 nays.

Chairman and committee members ,thank you for your time and I ask you for a due pass on HB 1160 thank you.



ENVIRONMENTAL HEALTH SECTION
 Gold Seal Center, 918 E. Divide Ave
 Bismarck, ND 58501-1947
 701.328.5200 (fax)
 www.ndhealth.gov
 www.ndhealth.gov



N.B. 1160
 3-2-17
 2/2
 #1

October 5, 2016

Magrum Excavating & Plumbing Co.
 PO Box 467
 Hazelton, ND 58544

RE: Septic Pumper Permit

Dear Magrum Excavating & Plumbing Co.:

The Department has received your completed application for renewal of your septic pumper permit(s) for the upcoming year. Included in your correspondence was the completed application packet along with the required fee associated with the septic pumper permit renewal. Enclosed is your pumper permit(s) for the 2016 season.

Should you have any questions, please contact Marty Haroldson at 701.328.5234 or Sarah Waldron at 701.328.5237.

Sincerely,

Septic Servicing Program
 Division of Water Quality

Enc



SANITARY PUMPER PERMIT
 NORTH DAKOTA DEPARTMENT OF HEALTH
 SFN 8321 (7-87) Customer Copy

EMMONS No. 447

Issued to:	Issue Date:
Magrum Excavating & Plumbing Co.	10/5/2016
Address:	Expiration Date:
PO Box 467	12/31/2016
City, State, Zip Code:	Fee Paid:
Hazelton ND 58544	\$150.00

The above person is issued this permit to engage in the servicing of septic or holding tanks, privies, or portable restrooms.

STATE DEPARTMENT OF HEALTH

Ken Lock

NDCC 61-28

Environmental Health
 Section Chief's Office
 701-328-5150
 701-328-5150

Division of
 Air Quality
 701-328-5188
 701-328-5188

Division of
 Municipal Facilities
 701-328-5211
 701-328-5211

Division of
 Waste Management
 701-328-5166
 701-328-5166

Division of
 Water Quality
 701-328-5210
 701-328-5210

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H.B. 1160
3.2.17
p. 14
Written Testimony
#2

Testimony
House Bill 1160
Senate Political Subdivisions Committee
March 2, 2017, 9:45 a.m.
North Dakota Department of Health

Good morning Chairman Burckhard and members of the Senate Political Subdivisions Committee. My name is Karl Rockeman, and I am the director of the Division of Water Quality within the North Dakota Department of Health's Environmental Health Section. The Division of Water Quality protects and monitors our water resources to ensure the quality of surface and ground water for the public's use.

The Division of Water Quality operates the septic pumper program through the implementation of state laws. I am here today to testify on House Bill 1160, which is an amendment to NDCC 61-28-04.1(2)(d), to exempt plumbers who are licensed under chapter 43-18 from the septic pumper's permit fee, while leaving the permit requirements and environmental protections in place.

During the 2013 legislative session, a major revision of the septic pumper law took place, largely driven by problems with improper disposal and illegal dumping of septic waste across the state. The revision was needed to create a framework for tracking environmental compliance and to provide continuing education on proper disposal of septic waste. This framework has helped reduce the number of illegal disposal incidents.

Prior to the 2013 revision, individuals in the business of pumping septic systems were required to pay an annual fee of \$50 for the first servicing unit and \$15 for each additional unit. They also had to obtain a \$1,000 surety bond to receive a license. Master plumbers were exempt from these requirements. Institution of the \$50 first unit fee dates to 1979, and the \$15 per unit fee dates to 1955.

The revised rules now require septic pumpers to pay an annual \$50 fee per servicing unit, and master plumbers are no longer exempt from obtaining septic pumping permits. New companies pay a one-time \$100 new applicant fee, and there is no surety bond requirement. The department also provides annual training and annual exams free of charge.

*H.B. 1160
3-2-17
p. 2/4
Written
Testimony #2*

Fee Type	Old Rule (1979-2013)	Current Rule (2013 – present)
New Application (One-time fee unless not renewed the following year or by the March 1 deadline)	NA	\$100
Servicing Unit (renewal or new)	\$50 1 st unit +\$15 each add'l unit	\$50
Replacement Fee (pumper plate)	\$15	\$25
Surety Bond	\$1,000	NA

During the public comment period of the administrative rules process in 2013, the department received comments on the master plumber exemption and consistency among companies. The applicable comments and the department's response, as presented to the Administrative Rules Committee, are attached to this testimony.

During the 2016 septic pumper permitting season, 165 companies that operated 381 servicing units were granted permits.

The exemption in House Bill 1160 could affect an estimated seven licensed plumbers who operate 10 servicing units. Of those seven, four are master plumbers who currently hold septic pumper permits and operate a total of five units.

This concludes my testimony. I am happy to answer any questions you may have.

**Attachment to Testimony
House Bill 1160
North Dakota Department of Health
Comments Regarding 2-Class System for Septic Pumps**

*H.B. 1160
3-2-17
p. 3/4
Written
testimony #2*

Comment 1:

1. Sandon Varty, A-1 Evens Tank Septic Service, Minot, ND:

Ok. I guess my first concern is regarding the two class system, the 2 or, 3 trucks or 2 or less trucks. The first thing that's going to do is, is give the 2 truck company an advantage. In a lot of cases this gives a significant advantage because he can land apply, where the 3 trucks can't and obviously I've got more than 3 trucks, or 3 or more trucks. So by doing that, in essence the state is forcing me to add an additional cost to my customers, which some will absorb and some won't.

Comment 2:

2. Marty Beard, Bismarck, the Turd Burglar Company:

I would not be classified as a 1... I really don't agree with Evans that that would be unfair and it would give certain companies an advantage.

Comment 3:

3. Mark with 4U Septic out of Minot:

I'm kinda in agreement with the other guys as far as classifications. I would fall under classification of 2. But I think that's kinda singling out companies as far as, you know, if we set one set of rules for everyone it's a lot easier to follow. I think if you set one set of playing rules for everybody it's a lot easier.

Comments Regarding Master Plumber Exemption

Comment 1:

1. Jeff Magrum with Magrum Excavating and Plumbing Company:

A couple of comments I have are one thing that got me was you guys wanna remove the master plumber exemption. We've been installing sewers for 40 years and if there's anyone who should be pumping septic systems, it's a licensed plumber. So it fits right in our business and we're already schooled on it. We have continuing education already on it and although the plumbing board doesn't really regulate septage, we keep up to date on all the rules and regulations so there's no reason to remove our exemption. We already pay a high enough fee to the state to be able to do our work. We don't need another fee of \$50 or \$100, it's not gonna help or hurt anything. There's probably not a

H. B. 1160
3.2.17
p. 4/4
Written
Testimony
#2

Attachment to Testimony
House Bill 1160
North Dakota Department of Health

lot of master plumbers in the pumping business but we're in a rural area so we'd like to be able to service our customers. If we want to go out and work on a system, it's nice to have a truck available. So it doesn't make any sense to have another license to do the same thing we're doing already.

Department Response to Comments

Comment:

Winter land application rules do not apply equally between Class I and Class II and gives Class II companies a competitive edge.

Department Response:

The department does not feel that the Class II companies would have a competitive edge over the Class I, as both have to follow the same land application rules. The difference for the two classes in this case would be in the reporting and pre-approval for winter land application sites for Class I companies. However, the department does concur with the idea that both classes should have the same rules for winter application. The department has made the following proposed changes to 33-21-02-08(7):

"Septic system servicers may land apply septage with less than eight inches of snow and less than six percent slope on site and following general land application requirements 33-21-02-08(4)."

Comment:

There is no reason to remove the master plumber exemption for obtaining a septic pumper license, as we are up-to-date on the rules and regulations as a master plumber.

Department Response:

The master plumber exemption was stated in NDCC 23-19-01 as ... "The provisions of this chapter do not apply to master plumbers duly licensed to engage in the business of plumbing in the state of North Dakota." As a master plumber and following Chapter 62-03.1-03 "Private Sewage Disposal Systems" section 62-03.1-03-15(1) states "Every person engaged in the business of removing and disposing of the solid and liquid contents of private sewage treatment systems shall obtain an annual license from the state department of health." During the 2013 Legislative Session Senate Bill (SB) 2308 was proposed to address septage issues in the state. At this time, it was proposed to take steps to remove the contradiction between 23-19 and 62-03.1-03 and streamline the septic servicing program by accounting for all septic servicing businesses within one program.