

2009 HOUSE FINANCE AND TAXATION

HB 1262

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1262

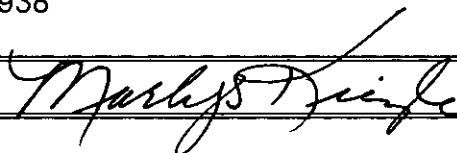
House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 27, 2009

Recorder Job Number: #7938

Committee Clerk Signature



Minutes:

**Rep Belter:** Opened the hearing for HB 1262.

**Rep Shirley Meyer:** The Representative for District 36. We like the oil industry in western North Dakota. You may have gotten different impression this morning. There impacts from this industry but some of the reason our ranchers are there now is that in the 80's these men worked in the oil industry and that allowed them to keep on ranching and farming today.

It expands the tax holiday that sunseted last July and puts this tax holiday in place for the first 75,000 barrels of oil produced horizontally. These wells are very expensive, up to \$6,000,000. And this bill was looked at as an incentive.

Everything happens so fast, up one day and down the next. The oil industry is experiencing a severe downturn. We have had substantial layoffs.

This bill is an incentive to tell the oil companies that we want them here and we can help them in any way to start drilling in the Bakken and other formations, we want to do so.

This incentive will create more income for North Dakota.,

**Vice Chairman Drovdal:** My question is to clarify for the committee, because of the prior testimony you have heard.

We heard earlier that we have a 5 1/2% to 6 1/2% extraction tax. If the Crude price stays level at a target price the 6 1/2 tax drips off and this bill will have no effect what so ever. If the crude stays up above, the 6 1/2 extraction tax drops off.

The trigger price is \$47.66. If it stays below this trigger price for 5 months this bill will have no effect. If it shoots up over the trigger price for a couple of months than we would drop we would like to see them to continue drilling.

**Ron Ness:** President of the North Dakota Petroleum Council.

Testimony # 1 Attached:

**Rep Drovdal:** You are bringing up a good point. Are you saying current language in the bill states 3 Forks under the Bakken, which may be greater than the Bakken. The holiday would not include the 3 Forks?

**Ron Ness:** Rep Meyer may have forgotten the vertical wells. We may take rigs off very expensive horizontal wells and move to vertical wells. This would change the expense from 5 to 6 million dollars to 2 to 4 million dollars. We may see that happen to keep the rig going.

**Robert Harms:** Northern Alliance of Independent Producers.

Attached testimony #2

Is there any opposition of testimony for HB 1262.

**Josh Askvig:** North Dakota Education Association.

Attached testimony #3

**Rep Weiler:** Two years ago there was a substantial increase in production. Did your organization do any numbers as to the increase to the School Trust Fund and Foundation Aid Stabilization Fund, due to the bill we passed?

**Josh Askvig:** I didn't look at that.

**Vice Chairman Drovdal:** Crude oil prices are down right now and we know that North Dakota crude are one of the highest in the nation. We also know by measure 6 that tax has made a tremendous difference if we are going to drill there or not. I am not sure about the FN, but if they do not drill there will be no money.

**Josh Askvig:** We are concerned as to what this would do to the trust Fund.

**Vice Chairman Drovdal:** The bill does not touch the 5% production tax which goes to the school.

**Josh Askvig:** That is correct this goes on the extraction tax and 20% of that goes to Educational purposes, which is the schools trust fund.

Hearing is closed

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1262**

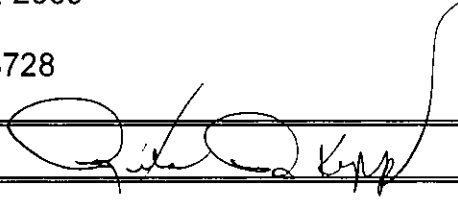
House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 4, 2009

Recorder Job Number: 8728

Committee Clerk Signature



Minutes:

**Vice Chairman Drovdal:** Is there any discussion on HB 1262? I have a **“do not pass”** motion from Representative Grande and a second from Representative Brandenburg. A roll call vote resulted in 13 ayes, 0 nays, and 0 absent/not voting. Representative Froelich will carry the bill.

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/12/2009

Bill/Resolution No.: HB 1262

**1A. 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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$94,925,000)		
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. 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 1262 reduces the oil extraction tax rate from 6.5% to 2% for new horizontal wells for the first 75,000 barrels of production within the first 18 months after well completion.

**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.*

If enacted, HB 1262 is expected to reduce permanent oil tax trust fund and resources trust fund revenues, as well as revenues distributed according to Article X of the Constitution by an estimated \$94.925 million during the 2009-11 biennium.

This analysis is based on the assumptions contained in the executive forecast regarding price (average \$62) and triggered incentives (existing incentives are assumed to remain "triggered off"). Further, it is assumed that qualifying new well production will gradually occur throughout the biennium and will total approximately 34 million barrels for the 2009-11 biennium.

**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.*

**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.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/26/2009

Date: 2/4/09

Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1262**

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

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

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended

Motion Made By Grande Seconded By Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich	/	
Vice Chairman David Drovdal	/		Representative Kelsh	/	
Representative Brandenburg	/		Representative Pinkerton	/	
Representative Froseth	/		Representative Schmidt	/	
Representative Grande	/		Representative Winrich	/	
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Representative Froelich

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



**REPORT OF STANDING COMMITTEE**

**HB 1262: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1262 was placed on the Eleventh order on the calendar.**

2009 TESTIMONY

HB 1262



Ron Ness  
President  
Marsha Reimnitz  
Office Manager

120 N. 3rd Street • Suite 200 • P.O. Box 1395 • Bismarck, ND 58502-1395  
Phone: 701-223-6380 • Fax: 701-222-0006 • Email: ndpc@ndoll.org

Testimony

**House Bill 1262**  
**House Finance & Taxation Committee**  
**January 27, 2009**

Chairman Belter and Members of the Committee. My name is Ron Ness. I am the President of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents 160 companies involved in all aspects of the oil and gas industry and has been representing the industry since 1952.

**OIL INDUSTRY FACTS:**

**JANUARY 2007**

ND 9th largest oil producing state  
ND produces 113,000 barrels of oil per day  
42 rigs drilling new wells  
3,600 producing oil wells

**JANUARY 2009**

4<sup>th</sup>  
215,000 barrels per day  
72 drilling rigs  
4,200 producing wells

The question asked in the 2007 Legislature was "What can be done to not only maintain this incredible economic growth but expand our state's oil production to 150,000 or 200,000 barrels of oil per day?" The question before the 2009 legislature should be "How we maintain this incredible economic growth and keep this Bakken Play rolling. Last session this Committee and the legislature went to work and passed several bills that incentivized pipeline infrastructure, created the Pipeline Authority to facilitate pipeline construction, and passed a Bakken tax incentive. These efforts were successful, the Bakken Play has taken-off and the State of North Dakota has reaped the benefits.

The Bakken tax incentive passed last session was successful by any measurement. There were a number of reasons that lead to the explosion of Bakken development but the positive message you sent to industry and investors that North Dakota is open for business and we support your investment in the Bakken was an essential piece of the puzzle. The Bakken continues to face many challenges and all other formations have been left in the dust.

**Bakken Challenges:**

- Oil Prices
- Challenging Geology
- High Cost Oil Play - \$70,000 per day drilling costs
- Pipelines at Capacity
- Lack of Investment Capital
- Housing/Workforce/Infrastructure

Stimulating economic activity and investment works, just look at what Washington is trying to do to kick-start the economy. The past two-years have shown that oil development can set our state apart from others and bring great prosperity to our citizens. We all know the potential of the Bakken and what it can mean to our state if it continues to be productive. This bill is another small piece to keep the “Bakken Rockin”. Current economics do not support investment in the Bakken and the high costs of exploration have made virtually every other oil formation too expensive for the expected rate of return.

The Petroleum Council supports HB 1262 and strongly supports encouraging activity in all producing formations not just the Bakken. Jobs, revenues, and economic development happen when a well is drilled in any formation.

January 27, 2009

House Finance and Tax Committee

Testimony in SUPPORT of HB 1262

Northern Alliance of Independent Producers

Bismarck, North Dakota

The Northern Alliance of Independent Producers is an oil producers trade association representing over 60 members operating in the Dakotas and Montana. We represent only the producers perspective. Collectively, our members spent well in excess of \$1 billion in North Dakota just in drilling wells last year.

We support HB 1262 with a couple of amendments. HB 1262 renews the tax incentive for Bakken wells approved in the 2007 Legislative Session, reducing extraction tax from 6.5% to 2% for 75,000 barrels of oil within 18 months following completion.

We support HB 1262, for the reason expressed earlier on HB 1235 but suggest 2 amendments:

1. That the incentive be raised to 100,000 barrels to make it more attractive
2. Eliminate the 18 month time frame within which the exemption applies, to encourage continued exploration for those wells that wouldn't achieve the incentive within 18 months.

We also believe that this too will be one the most important oil tax policy bills that you address this session and ask for your careful consideration and a DO PASS of HB 1262.

Testimony 3  
January 27, 2009

Josh Askvig  
North Dakota Education Association  
Testimony on HB1262

Mr. Chairman, members of the committee my name is Josh Askvig with the North Dakota Education Association. I appreciate the chance to testify on House Bill 1262 this morning. The NDEA opposes HB1262.

Our opposition is based the fiscal impact that this legislation would have on the Common School Trust Fund and the Foundation Aid Stabilization Fund. As you know, this bill would reduce the oil extraction tax from 6 ½ percent to 2% for new horizontal wells for the first 75,000 barrels of production within the first 18 months after well completion. As the fiscal note states, the cost of this legislation is roughly \$95 million. Of this reduction 20% of it would come from education purposes. This bill would cost the Common School Trust Fund roughly \$9.5 million and the Foundation Aid Stabilization Fund another roughly \$9.5 million for a total of approximately \$19 million. We cannot support the reduction of funds that would go to enhance North Dakota's public schools.

Again, Mr. Chairman and members of the committee thank you for the time. We ask that you give this bill a Do Not Pass Recommendation. I would be happy to answer any questions.