

**2013 HOUSE APPROPRIATIONS**

**HB 1381**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1381  
1/29/13  
Job 17918

Conference Committee

Committee Clerk Signature

*Meredith Tracholt*

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

A BILL for an Act to repeal section 57-62-06 of the North Dakota Century Code, relating to legislative intent on impact grants.

### Minutes:

You may make reference to "attached testimony."

**Chairman Delzer** opened the hearing on 1381.

**Rep. Kenton Onstad, District 4:** Introduced the bill, see Attachment 1.

07:00

**Rep. Kempenich:** Can't the county declare an impacted area, maybe not because of oil, but the county is an oil county?

**Rep. Onstad:** As soon as you become an oil county, they can qualify for that initial portion. They're part of the formula. We look at a smaller community. Because of those dollars, are they impacted? Is there primary impact? On the outskirts, like Garrison, e.g., they see the overflow from the other areas and some necessary impacts, but those are considered secondary. It goes on a priority list, and they get rejected for that reason.

**Rep. Skarphol:** Are you saying the repeal of this section would open it up so the impact office has the ability to give dollars to different counties than what they currently can?

**Rep. Onstad:** No, the impact grants are only considered for oil impacted counties, but it would expand the ability to broaden the base. We give grants to emergency services. Most areas consider that a secondary situation. This makes it more consistent.

**Rep. Skarphol:** Grantees have to have the capability to levy a mill, if I'm correct. The subsection you recommend we delete defines what are not basic governmental services. I would submit those entities capable of receiving funds could give the funds to whomever they wish, to some extent. It was very clear that the people who created this guidance did not want this to go for ongoing expenditures, but rather to alleviate impact.

**Rep. Onstad:** That portion gets repealed and expanded, then it goes to the land grant - are they willing to do that? I don't think that was the intent. But some entities are denied this

avenue. I think we need to further define primary/secondary impact. If we're not going to repeal that, I think we need to further refine the language that is there to further specify exactly what you are talking about.

**Chairman Delzer:** Further questions? Further testimony? Seeing none, the hearing was closed.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee  
Roughrider Room, State Capitol

HB 1381  
2/12/13  
Job 18852

Conference Committee

Committee Clerk Signature



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

A BILL for an Act to repeal section 57-62-06 of the North Dakota Century Code, relating to legislative intent on impact grants.

## Minutes:

You may make reference to "attached testimony."

**Chairman Delzer:** The sponsors' thoughts were this was too restrictive. I know we've dealt with this in the past, and the issue has always been that we want it to be for first line basic impact, not secondary things.

**Rep. Kempenich:** I have distributed amendment 13.0772.01002 from Rep. Onstad. This is to clean up the language. The impact grant money is run through an advisory committee now; truthfully, I think they use that as guidelines, but some of this has been used in emergency services.

**Chairman Delzer:** At the special session we put in for that allotment. I don't know that it had been used before that.

**Rep. Kempenich:** No, it hadn't.

**Rep. Skarphol:** I agree somewhat with what's here, but I'm not sure about the language. This is vague from my perspective.

**Chairman Delzer:** The original bill repeals the whole thing. I share your concerns about the language in the amendment. I don't think it should be for secondary impacts. I'm not sure emergency services are secondary.

**Rep. Glassheim:** I move amendment .01002 with the following changes: to read "do include emergency services, law enforcement, and water and sewer systems." Remove "secondary impacts, including"; motion seconded by **Rep. Guggisberg**.

**Rep. Skarphol:** Do we need to include language that basic government services include emergency services, law enforcement, and water and sewer systems? If we define them as basic services, then they don't need to be secondary impacts.

**Allen Knudson, Legislative Council:** Since you are defining basic government services, if you want that to include those three items, just include that as part of that definition. Then you still do not need to include secondary impacts, if you don't want that.

**Chairman Delzer:** I think that's okay, as far as an amendment goes.

**Rep. Monson:** Are there other places in code that talk about what is basic and what is secondary, so redefining it here would mess it up somewhere else?

**Knudson:** The language here says, "As used in this section" so it will only apply to this section.

08:15

**Rep. Kempenich:** It still comes down to the advisory committee.

**Rep. Skarphol:** How about fire?

**Chairman Delzer:** I believe emergency services would include fire and police. A voice vote on the amendment was done and the motion carried. We have the amended bill before us. We are putting an awful lot of money into these services; I'm not sure we want to open up this grant process to that many more things.

**Rep. Skarphol:** I would say it's already happening; this makes it less distasteful the way it is happening. We might as well be straight up with this, rather than make others circumvent.

**Chairman Delzer:** What are your wishes?

**Rep. Kempenich** moved Do Pass as Amended, seconded by **Rep. Glassheim**.

**Chairman Delzer:** Discussion? Seeing none, a roll call vote was done. The motion failed 7 Yes, 11 No, 4 Absent.

**Rep. Brandenburg** moved Do Not Pass as Amended, seconded by **Rep. Pollert**.

**Chairman Delzer:** Discussion? Seeing none, a roll call vote was done. The motion carried 12 Yes, 6 No, 4 Absent. **Rep. Brandenburg** will carry the bill.

**Chairman Delzer:** Anything further to come before the committee? If not, we'll stand adjourned.

VK  
2/13/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1381

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-62-06 of the North Dakota Century Code, relating to legislative intent on impact grants.

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

**SECTION 1. AMENDMENT.** Section 57-62-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-62-06. Legislative intent and guidelines on impact grants.**

The legislative assembly intends that the moneys appropriated to, and distributed by, the energy infrastructure and impact office for grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development and oil and gas development impact. As used in this section, "basic governmental services" include emergency services, law enforcement, and water and sewer systems, but do not include activities relating to marriage or guidance counseling, services or programs to alleviate other sociological impacts, or services or facilities to meet secondary impacts. All grant applications and presentations to the energy infrastructure and impact office must be made by an appointed or elected government official."

Renumber accordingly

Date: 2/12/13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1381

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number 01002

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

Motion Made By Rep. Glassheim Seconded By Rep. Guggisberg

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. Skarpol					

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

Absent \_\_\_\_\_

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

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

*plus: do include the following  
secondary impacts  
(remove word including)*

*voice vote carries*

Date: 2/12/13  
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1381

House Appropriations 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. Kempenich Seconded By Rep. Glassheim

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

Total Yes 7 No 11

Absent 4

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

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

*Motion failed*

Date: 2/12/13  
 Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1381**

House Appropriations 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. Brandenburg      Seconded By Rep. Pollert

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			Rep. Boe		X
Rep. Hawken			Rep. Glassheim		X
Rep. Kreidt	X		Rep. Guggisberg		
Rep. Martinson	X		Rep. Holman		X
Rep. Monson		X	Rep. Williams		
Rep. Nelson	X				
Rep. Pollert	X				
Rep. Sanford		X			
Rep. Skarpol		X			

Total    Yes 12      No 6

Absent 4

Floor Assignment Rep. Brandenburg

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

*Motion carries*

**REPORT OF STANDING COMMITTEE**

**HB 1381: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (12 YEAS, 6 NAYS, 4 ABSENT AND NOT VOTING). HB 1381 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 amend and reenact section 57-62-06 of the North Dakota Century Code, relating to legislative intent on impact grants.

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

**SECTION 1. AMENDMENT.** Section 57-62-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-62-06. Legislative intent and guidelines on impact grants.**

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Renumber accordingly

**2013 TESTIMONY**

**HB 1381**

**HB 1381**

**Mr. Chairman and members of the Appropriations committee... Good Afternoon**

**Rep Kenton Onstad, District 4, Parshall.**

**HB 1381 is before you and it basically requests we repeal Section 57-62-06 (section attached). It is a section of code that provides legislative intent and guidelines on impact grants.**

**When impacts were first being felt by coal development this legislation was initially drafted. The language was adopted to address the situation at that time( 3<sup>rd</sup> line of the statute). Oil and gas development came along during the late 70's and 80's and the language "oil and gas development" was added to the same statute. Instead we should have taken the time to refine the language for oil and gas use.**

**Initially the thought process was that there wouldn't ever be enough grant dollars to deal with all of the upfront impacts so they wanted to make sure all initial impacts affecting basic governmental services were covered. Then as coal extraction started taking place the secondary impacts would be covered by taxes.**

**This is how they envisioned the oil taxes working. This creates an inherent problem because there is a long time delay from the time the impacts take place until the taxes go back to the county.**

**The current statute intends the money distributed to be used for initial or primary impacts. Services or facilities that meet secondary impacts are not allowed.**

**We have been inconsistent in our funding of grants because of primary vs secondary.**

**Early Head Start---** They wanted to be able to use impact dollars because of the high turnover in staff (58%) . They can't even begin to compete with oil field wages and they wanted help to supplement salaries. They were told that this is a program to alleviate sociological impacts and thereby don't qualify.

**Hettinger County** wanted to apply for a feasibility study to see what the impacts would be on local roads and townships if a salt water disposal site was developed in the county, but they were told a feasibility study wouldn't be accepted.

**Richardton sewer system** needs replaced because it is backing up into city residences homes, but they were denied because they didn't consider that to be an initial impact. Crew camps being developed in these cities are stressing many of the infrastructure systems that are in place and cities can't begin to tax residents enough to deal with water, sewers, and other infrastructure needs.

**Gladstone** has no water pressure. If you don't get home by 5pm good luck with taking a shower. They have been denied an impact grant for more than 3 years. They resubmit it every time they can. They have also been told that a water lift station wouldn't qualify because it's a secondary impact.

**Social Services** wants to apply for impact grants to help with increasing housing costs for their employees. Once again that is a secondary impact. They are down about 5 to 6 FTE's because there is no way a new hire can find affordable housing. At the same time the work load is tripling because of the influx of oil workers. Many have no access to daycare and children get left in trucks and motels then social services get called in. Also many people coming to the area are applying for assistance until they find a job.

**Hospitals are finding themselves in the red from oil field workers and related fields stiffing them on their hospital bills and/or ambulance services. They have been denied in the past because of the secondary nature of the impact.**

**At the same time grants have been given for daycare which are desperately needed, but it creates a discrepancy between what can be covered.**

**Another example of grants that were given that were not in the guidelines was funding for emergency services. Don't get me wrong these are desperately needed, but why should one area be considered secondary and the next area considered primary?**

**By eliminating this section of code (or at the very least redefine it) it would give some of these local political subdivisions in adjoining counties a shot at being eligible for some of these oil impacts that are starting to overwhelm them.**

**By repealing this section it gives the land board more discretion to look at what is actually needed to sustain this 40 year oil play. These secondary impacts are starting to stress our communities and they need to have a chance at accessing some kind of monetary grant without having to raise property taxes. Raising property and city taxes to deal with all of the impacts from oil development isn't a path we should be going down. When we know the entire state is benefiting from the development**

**I think just repealing this section would give the land board more options and give people applying for these grants more of an acceptable idea of how these grants would be administered. Currently the belief is that the Land Board will only approve a grant if they "like" the grantee. Eliminating this section would also force the board to prioritize all impacts including hub cities and adjoining counties that are feeling the impacts, but have little or no oil revenue coming from oil production**

**taxes. Hettinger Co., Mclean Co. and the communities comprise them are perfect examples**

**Thank you Mr. Chairman and members of appropriations. I will stand for any questions.**

2. Establish procedures and provide proper forms to political subdivisions for use in making application for funds for impact assistance as provided in this chapter.
3. Make grants disbursements to counties, cities, school districts, and other taxing districts for grants awarded by the board of university and school lands pursuant to chapter 15-01, as provided in this chapter and within the appropriations made for such purposes. In determining the amount of impact grants for which political subdivisions are eligible, the amount of revenue to which such political subdivisions will be entitled from taxes upon the real property of coal and oil and gas development plants and from other tax or fund distribution formulas provided by law must be considered.
4. Receive and review applications for impact assistance pursuant to this chapter.
5. Make recommendations, not less than once each calendar quarter, to the board of university and school lands on grants to counties, cities, school districts, and other political subdivisions in oil and gas development impact areas based on identified needs, and other sources of revenue available to the political subdivision.
6. Make recommendations to the board of university and school lands providing for the distribution of thirty-five percent of moneys available in the oil and gas impact fund to incorporated cities with a population of ten thousand or more, based on the most recent official decennial federal census, that are impacted by oil and gas development. The director may not recommend that an incorporated city receive more than sixty percent of the funds available under this subsection.
7. Make recommendations to the board of university and school lands providing for the distribution of sixty-five percent of moneys available in the oil and gas impact fund to cities not otherwise eligible for funding under this section, counties, school districts, and other political subdivisions impacted by oil and gas development.

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Renumber accordingly