2013 SENATE FINANCE AND TAXATION

SB 2370

2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2370
2/5/2013
Job Number 18309

☐ Conference Committee

Committee Clerk Signature	Angela Pittman

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact section 57-06-17.5 and a new subsection to section 57-51-02.2 of the North Dakota Century Code, relating to a new natural gas gathering and collection systems property tax exemption and oil and gas gross production tax exemption; and to provide an effective date.

Minutes: Testimony Attached

Chairman Cook opened the hearing on SB 2370.

Senator Triplett introduced SB 2370.

Chairman Cook - Do you know roughly what the property tax is on a gathering system like this?

Senator Triplett - I'm not entirely sure what it is and I think from the tax department that there's some question that they even have an idea where they are. Maybe this bill needs work in the sense that maybe we need to add some requirements about people reporting their assets to the tax department so they know how to assess them.

Robert Harms - See attached testimony 1 in favor of SB 2370.

Senator Miller - Is this enough incentive to actually do anything? Give me a scale of what the economics is to the individual putting in the line.

Robert Harms - What we had hoped to accomplish, section 2 really was we thought the bigger incentive. The people in the industry that I was visiting with wanted to go as high as $.50 an MCF but when we were having the bill drafted there was talk about we'd run up against the gift clause. A $.50 MCF per MCF would equate to about $55,000-$75,000 a year and depending upon if you're building a half mile to a mile gathering line that would be a fairly useful incentive to cover the cost of that gathering line. (13:17)

Senator Miller - What's it cost to put in a line versus what are saving here and furthermore the problem is, is these guys that are way out and away from the main line, that's the problem. I think we're getting the lines built in the easy spots but what about the hard to reach spots?

Robert Harms - I would say that we may not be getting the lines built in the easy spots either. I have a home in Williams County, I'm not there regularly and we have wells that are close to lines that I think should be built but more specifically to answer your question with regard to the incentive, I'm doing some math while I'm standing here, but of $.50 on an average well, an average well will do about 300 MCF, so if we use that as a metric it would get you about $55,000 a year. (14:42)

Senator Miller - The reason I'm asking is I want to know should it be a better incentive.

Robert Harms - The more incentive I think that we can add to the bill the better I think it is for the public.

Alexis Brinkman, North Dakota Petroleum Council - We just wanted to note that we are in support of the concept.

Jolene Vidal, Tax Department - I do the valuations for the gathering lines in the state. Just for reference for some information, in 2012 there was over $439 million in value added for gathering lines.

Chairman Cook - You're talking property tax value?

Jolene Vidal - Market value. There was over 2,000 miles of gathering line added. For 2012 the total value with gathering lines was over $1.2 billion for the state. There's over 15,000 miles of pipeline across the entire state, for gathering it was over 8,700.

Chairman Cook - Do you have it all identified or is there gathering lines out there that you don't know about?

Jolene Vidal - I do have omitted property over 200 miles that I need to add for 2012 but without further information from the company I haven't been able to yet.

Chairman Cook - How do you get the information?

Jolene Vidal - Ask, very politely. The company has been willing to work with me, it's just because this particular company has added so many miles this year they are having a hard time keeping up with locating their property, but they are working on it so we can get it added.

Chairman Cook - This is one company you know is putting in gathering pipelines and they are willing to work with you. You don't know the companies that are putting them I that don't want you to know they are putting them in.

Jolene Vidal - Right, there's no permitting requirements for them to let us know in the state.

Senator Oehlke - Is there permitting at the county level?

Jolene Vidal - I don't know the answer to that.

Senator Dotzenrod - I'm curious to know how when you centrally assess this, how you are able to come up with a value.

Jolene Vidal - The companies are required to report their financial information to us as on May 1st each year. When the companies report that cost, then we use that information that they report to us to come up with a market value.

Chairman Cook - Does your department have anything to do with gathering pipelines?

Lynn Helms, Department of Mineral Resources - The only thing we have to do with gathering pipelines is spill reporting. (23:16)

Chairman Cook - So if you require permitting process and that they report all of the gathering lines since 2011 that will be a lot of work for your office, you will probably need another FTE and that will be an expense and we'll probably have to have a fee on them which will make the cost of doing it greater, and then I suppose we'll have to add an increase in incentives to get them to do it.

Lynn Helms - We are asking for an FTE to be added to our IT department and initially fulltime spent on this project but we needed part of that person's time for public requests for mapping information anyway. (25:40)

Chairman Cook - Your close to the oil industry out there, how many of these wells because of their remote location probably would never be feasible to put in a gathering line and try to stop flaring?

Lynn Helms - We place that somewhere between 5-10%. In the 1990's we had gotten the flared gas volume down to approximately 5% of our total gas production. One of the things we are struggling with is the high price of pipeline right of way at this point in time. This would help offset that. It has gotten to the point where pipeline right of way and easements are now approaching $100,000 a mile. (28:30)

Chairman Cook - That's being paid to, that cost to the surface owner?

Lynn Helms - That's correct.

Senator Miller - What happens to somebody who digs into a gathering line that's not marked?

Lynn Helms - They of course are supposed to have called 811 and had those gathering systems marked. The problem is that the companies that installed those often don't know where they are at this point in time. They maybe were installed a decade or 2 ago and the individual who actually put the line in is no longer working with the company.

Chairman Cook - We had legislation last session dealing with gathering lines, the marking of them. I thought they were working together during this biennium to come up with a solution. Do you know if that's happened?

Lynn Helms - I believe that is taking place through HB 1333.

Senator Oehlke - Doesn't an easement have to be filed with the county or something?

Lynn Helms - Not to my knowledge. There is a legal requirement under our statute that when you bury drill cuttings on the site that it has to be recorded at the county recorder's office. (33:26)

Senator Triplett - You mentioned that HB 1333 is going to require people to go back to 2011, why would we not just make them tell us what's there and go back to 1980 or whatever, get it done once and for all?

Lynn Helms - Our goal is to go back past 2011 but that was the date that was set in statute for the 811 system when that law was passed. (35:13)

Lynn Helms then spoke of an amendment he is working on to adjust some language in the bill and discussion followed.

Chairman Cook closed the hearing on SB 2370.

2013 SENATE STANDING COMMITTEE MINUTES

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

SB 2370
2/12/2013
Job Number 18806

☐ Conference Committee

Committee Clerk Signature	Angela Rittenmiller

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact section 57-06-17.5 and a new subsection to section 57-51-02.2 of the North Dakota Century Code, relating to a new natural gas gathering and collection systems property tax exemption and oil and gas gross production tax exemption; and to provide an effective date.

Minutes:

Committee Work

Chairman Cook opened discussion on SB 2370.

Senator Triplett - I have an informal amendment (no LC number) produced by Bob Harms who consulted with Lynn Helms and I believe received some information in advance from the tax department and it's just an effort to tighten up the bill to make sure that, as Mr. Helms said, that we are offering an exemption to those people who might not otherwise get in to the gas gathering business but we don't want to give the exemption to people who would clearly be engaged in that work anyway and so the notion is to talk about size of lines.

Senator Triplett then went through the specifics of her amendment.

Senator Triplett - I would move those amendments.

Seconded by **Senator Oehlke**.

Chairman Cook - This is centrally assessed property isn't it?

Senator Triplett - Yes it is.

Chairman Cook - Can you or anybody tell me will this be the first place that we exempt for 1 year from the production tax?

Jolene Vidal, Tax Department - I can find out.

Senator Triplett - I think I mentioned this before but I'm not sure I made the motion. There is a typo on line 16 and 17. Where each of them says transmission line, the word transmission should be struck and the word gathering pipeline should be in its place. That was just a typo in the drafting. So that would be part of my motion also to correct that.

Verbal Vote on Amendment 7-0-0

Senator Triplett - I would move a **Do Pass as Amended and re-refer to Appropriations**.

Seconded by **Senator Dotzenrod**.

Roll Call Vote 7-0-0

Carried by **Senator Triplett**.

FISCAL NOTE
Requested by Legislative Council
01/28/2013

Bill/Resolution No.: SB 2370

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				$(14,100,000)		
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		$(1,900,000)	
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).*

SB 2370 provides a property tax exemption and an oil and gas gross production tax exemption relative to certain new natural gas gathering 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.*

Section 1 of SB 2370 provides a graduated property tax exemption for qualifying new natural gas gathering and collection systems. Section 2 of SB 2370 provides a one-year exemption from the oil and gas gross production tax for gas gathered from a qualifying new gathering system.

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.*

The amount of property tax that might be exempted by the provisions of Section 1 of SB 2370 cannot be determined. The one-year exemption from the oil and gas gross production tax is expected to total an estimated $16 million in the 2013-15 biennium. A reduction in oil and gas gross production tax affects county distributions as well as the legacy and strategic investment and improvements 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: 02/02/2013

13.8261.01001
Title.02000

Adopted by the Finance and Taxation Committee
February 12, 2013

2-12-13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2370

Page 1, line 10, after "three-inch" insert "[7.62-centimeter]"

Page 1, line 10, replace "larger" with "smaller, or having a pressure of twenty-five pounds per square inch [1.75 per kilograms per square centimeter] or less"

Page 1, line 16, replace "transmission line" with "gathering pipeline"

Page 1, line 17, replace "transmission line" with "gathering pipeline"

Page 2, line 4, after "liquid" insert "or dense phase fluid"

Renumber accordingly

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

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2370

Senate Finance & Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.8261.01001 title.02000

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Triplett Seconded By Senator Oehlke

Senators	Yes	No	Senator	Yes	No
Chariman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Tom Campbell			Senator Connie Triplett		
Senator Joe Miller					
Senator Dave Oehlke					
Senator Randy Burckhard					

Total (Yes) 7 No 0

Absent 0

Floor Assignment

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

Verbal Vote

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

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2370

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 Triplett Seconded By Senator Dotzenrod

Senators	Yes	No	Senator	Yes	No
Chariman 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				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Triplett

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

REPORT OF STANDING COMMITTEE

SB 2370: 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** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2370 was placed on the Sixth order on the calendar.

Page 1, line 10, after "three-inch" insert "[7.62-centimeter]"

Page 1, line 10, replace "larger" with "smaller, or having a pressure of twenty-five pounds per square inch [1.75 per kilograms per square centimeter] or less"

Page 1, line 16, replace "transmission line" with "gathering pipeline"

Page 1, line 17, replace "transmission line" with "gathering pipeline"

Page 2, line 4, after "liquid" insert "or dense phase fluid"

Renumber accordingly

2013 SENATE APPROPRIATIONS

SB 2370

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

SB 2370
02-20-2013
Job # 19288

☐ Conference Committee

Committee Clerk Signature	Alice Dolzer

Explanation or reason for introduction of bill/resolution:

A BILL regarding new natural gas gathering and collection systems property tax exemption & oil & gas gross production tax exemption

Minutes: Testimony and amendments attached

Chairman Holmberg called the committee to order on Wednesday, February 20, 2013 at 4:30 pm in regards to SB 2370. All committee members were present except Senator Mathern. Joe Morissette, OMB and Brady Larson, Legislative Council.

Senator Triplett, District 18 Grand Forks: Prime sponsor of SB 2370, I am here to day to explain the bill and offer an amendment. This bill is an effort to put two different incentives in place to encourage the reduction of flaring. She provided Testimony attached # 1 and Amendment # 02002. (:30-6:27)

Vice Chairman Bowman: I commend you for trying to take care of this problem. Do the facilities that are going to collect this gas rapidly have the capacity to handle all this as they are trying to build more gas plants?

Senator Triplett: This bill doesn't require anyone to do anything, it is just says if you want to pick up the pace we will give you a tax exemption. The thinking is giving them a tax break, the midstream companies the ones that take the oil from the edge of the well pad and move it off; it allows them to put more of their capital into easements, supplies and labor to get these things into the ground. There are a couple of companies that do both, the production and the gas gathering.

Senator Warner: In the amendment you have the phrase natural gas produced in association with oil. Do we have any gas wells in this state producing only natural gas? It refers in code that it has to deal with jurisdictional issues.

Senator Triplett: The first one, I don't know if there are any wells that are holding just natural gas. This is intended for the oil fields because the oil companies are there to produce oil; oil is the product they are after. Right now natural gas is low in price and it is easy for them to consider it to be a waster product.

Senator Warner: There is nothing here that is a limiter as to what the public service commission jurisdiction is.

Senator Triplett: The public service jurisdiction was just a way of drawing a line.

Robert Harms: In favor of SB 2370. I am a mineral owner and a lifelong resident of North Dakota. Testimony attached # 2. (11:45-17:20)

Vice Chairman Bowman: I understand the reason for getting these lines built but when that line is full of gas, it has to go someplace. Somebody has to have the capacity to take it after the lines have been built. We give them the incentive to build the lines but is there enough space somewhere to collect this so when can eliminate the problem once the lines are built.

Robert Harms: I agree and I think what this bill does is, it gives that pipe line company, that midstream company, a little more incentive to help them make the decision that if they want to build the gathering line they know they got room in the transmission line or in the gas plant that they are building to in order to accommodate that additional gas.

Chairman Holmberg: We will close the hearing.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

SB 2370
February 21, 2013
Job # 19298

☐ Conference Committee

Committee Clerk Signature	Rose Laning

Explanation or reason for introduction of bill/resolution:

A BILL regarding Natural gas gathering & collection - property tax exemption & oil & gas gross production tax exemption .

Minutes:

Chairman Holmberg opened the hearing on SB 2370 and said that everything he heard from the Finance and Tax Committee was that they thought this was a good idea.

Senator Warner moved amendment 13.8261.02002.
V.Chairman Bowman seconded.
Voice vote - carried.

Senator Robinson moved Do Pass as Amended.
V.Chairman Bowman seconded the motion.

A roll call vote was taken. Yea: 12 Nay: 0 Absent: 1
The bill goes back to Finance & Tax and Senator Triplett will carry the bill.

FISCAL NOTE
Requested by Legislative Council
02/13/2013

Amendment to: SB 2370

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	
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Expenditures						
Appropriations						

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

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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 SB 2370 provides a property tax exemption and an oil and gas gross production tax exemption relative to certain new natural gas gathering 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.*

Section 1 of engrossed SB 2370 provides a graduated property tax exemption for qualifying new natural gas gathering and collection systems. Section 2 of engrossed SB 2370 provides a one-year exemption from the oil and gas gross production tax for gas gathered from a qualifying new gathering system.

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.*

The amount of property tax that might be exempted by the provisions of Section 1 of engrossed SB 2370 cannot be determined. The one-year exemption from the oil and gas gross production tax is expected to total an estimated $16 million in the 2013-15 biennium. A reduction in oil and gas gross production tax affects county distributions as well as the legacy and strategic investment and improvements 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: 02/15/2013

FISCAL NOTE
Requested by Legislative Council
01/28/2013

Bill/Resolution No.: SB 2370

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.*

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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
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School Districts			
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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).*

SB 2370 provides a property tax exemption and an oil and gas gross production tax exemption relative to certain new natural gas gathering 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.*

Section 1 of SB 2370 provides a graduated property tax exemption for qualifying new natural gas gathering and collection systems. Section 2 of SB 2370 provides a one-year exemption from the oil and gas gross production tax for gas gathered from a qualifying new gathering system.

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.*

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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: 02/02/2013

13.8261.02002
Title.03000

Prepared by the Legislative Council staff for
Senator Triplett
February 19, 2013

2/21/13
TD

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2370

Page 1, line 10, remove "of a three-inch [7.62-centimeter] diameter or smaller, or"

Page 1, remove line 11

Page 1, line 12, remove "centimeter] or less"

Page 1, line 17, after "pipeline" insert "or collection system"

Page 1, line 18, after "pipeline" insert "or collection system"

Page 1, line 21, replace "and" with "or"

Page 1, line 21, replace "systems are" with "system is"

Page 1, line 22, after the underscored period insert "For purposes of this section, "natural gas gathering pipeline" means an underground gas or liquid pipeline that is designed for or capable of transporting natural gas produced in association with oil and which is not subject to public service commission jurisdiction as a gas or liquid transmission line under chapter 49-22."

Renumber accordingly

Date: 2-21-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2370

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number amend 13.8261 .02002

Action Taken

Motion Made By Robinson Seconded By Bowm

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) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote Passed

Date: 2.26.13

Roll Call Vote # 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2370

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DPA

Motion Made By Robinson Seconded By Bowman

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) 12 No 0

Absent 1

Floor Assignment F + T Triplett

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

REPORT OF STANDING COMMITTEE

SB 2370, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2370 was placed on the Sixth order on the calendar.

Page 1, line 10, remove "of a three-inch [7.62-centimeter] diameter or smaller, or"

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Page 1, line 12, remove "centimeter] or less"

Page 1, line 17, after "pipeline" insert "or collection system"

Page 1, line 18, after "pipeline" insert "or collection system"

Page 1, line 21, replace "and" with "or"

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Renumber accordingly

2013 HOUSE FINANCE AND TAXATION

SB 2370

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2370
March 19, 2013
Job #20132

☐ Conference Committee

Committee Clerk Signature Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to a new natural gas gathering and collection systems property tax exemption and oil and gas gross production tax exemption.

Minutes: *Attached testimony #1, 2, 3, 4*

Chairman Belter: Opened hearing on SB 2370.

Senator Triplett: Introduced bill. This is a modest effort to encourage the reduction of flaring. We have learned that the flaring issue is more of an issue for the midstreamers than it is for the oil companies themselves. Some oil companies have made serious investments where they do the drilling and producing of oil and also have done commercial gas gathering facilities. Some have not gotten into the business of gas gathering and consider their corporate work to be obtaining leases, drilling wells, producing the oil and the natural gas that comes with it then getting it to the edge of the oil pad and rely on third party vendors who build the gas gathering system out. There is a lot of positive effort going on in the oil industry to build out these systems as quickly as possible but so far it isn't working. There is 30-35% of natural gas being flared and keeps growing as the oil production goes up causing it to become a larger and larger impact. The flaring issue is a problem for a variety of reasons; we are wasting a valuable natural resource, it's bad public relations in the world, it's contributing to the concerns of global climate change, an annoyance to those who have to look out their windows and see a night sky that never gets dark, a potential for causing wildfires in high wind situations, and many more reasons. This bill has two separate parts intended to work in that direction. Section 1 of the bill provides that for new gas gathering and collection systems there would be a property tax exemption on a declining four year schedule from 100% the first to 75, 50, 25, then by the fourth year the company would be paying the full amount of property taxes. The systems are centrally assessed so it doesn't leave any discretion to the county but the lobbyists for the county government have indicated they don't intend to oppose this because it's money that is not being collected now. If the companies aren't paying full property taxes for the first four years they will be able to put more money into the capital costs of getting the gas gathering lines on the ground and have more money available to pay local land owners for the easements. Section 2 is a tax incentive from the gross production tax for a period of one from the time the natural gas is first collected.

Representative Drovdal: You mention the $1.9 million that goes back to the oil producing counties which goes into infrastructure needs. Did you give any consideration of replacing that money because they need it for the impact from the oil activity? Under present law the oil companies have one year and they will have to run these lines anyway or start paying that tax anyway.

Senator Triplett: The current flaring law almost gives an indefinite exemption. It allows them to have a year at no cost and then it allows them to ask for an exemption from the industrial commission if they can prove it is not economically feasible to gather the gas. If they get that exemption they can go on for as long as they can keep making that case. If they can't prove that they can continue flaring virtually indefinitely as long as they are willing to pay the tax to the royalty owners and to the state. We really have no limits on flaring in the state right now.

Representative Drovdal: This bill doesn't eliminate that option to the industrial commission?

Senator Triplett: Correct.

Representative Marie Strinden: Why four years and not a shorter amount of time?

Senator Triplett: It really isn't intended that they have four years to get the job done it is just giving them some benefit after they get the job done. They are exempt from taxation the first taxable year after the line is initially put into service then it is a declining exemption. It's based on the notion that giving property tax abatements is used for economic development issue and it gives some certainty.

Vice Chairman Headland: You brought up the fact that we're not gaining on the amount of the percentage of gas that is flared. Is there any evidence to suggest this will change if we pass this bill? We drill 365 days a year but infrastructure and getting that put in the ground is more seasonal.

Senator Triplett: I don't have specific evidence to this exactly. There are a few companies in the state that are focusing all their attention on the gas gathering lines. By having more money available they are able to hire employees and buy pipelines. The idea suggests that it should go in the right direction. Lynn Helms believes this bill will help but I don't know how much it will help.

Representative Haak: Is this a conservative estimate on this fiscal note?

Senator Triplett: The amount of property tax that can be exempted cannot be determined. The fiscal note is related to section 2 of the bill regarding the gross production tax. There would be a fiscal effect on the counties because of the deferred property taxes but she didn't make an attempt to answer that question. I think the $1.9 million is the counties' share of the gross production tax that comes to the state and then goes back.

Chairman Belter: What does the property tax amount to on a per mile basis?

Senator Triplett: I can get that information for you.

Chairman Belter: Further testimony in support?

Robert Harms, mineral owner: See attached proposed amendments and testimony #1 and 2. Ended 22:20

Representative Klein: In your amendment it would give the land owner tax relief but I don't see it in there.

Robert Harms: The reference to section 57-02-08 of the century code includes a list of properties that are exempt from property taxes. We added subsection 43 which will be the land that a landowner agrees to use as hosting a pipeline.

Vice Chairman Headland: We would be talking about the whole tract of property being exempt?

Robert Harms: No. If I gave an easement across an 80 acre parcel of land that wouldn't be fully tax exempt; the companies create a plat and record that plat so it would be a portion of that 80 acres upon which the easement is granted.

Representative Froseth: If this amendment was attached to the bill it would include any pipeline in the ground no matter where it is at?

Robert Harms: No it should be limited to oil and gas. Our intent was to limit the tax exemption to oil and gas pipelines.

Representative Froseth: It would be for any pipeline put in the ground between July 1, 2013 and December 31, 2018?

Robert Harms: You make a good point. Our intent is to get to the gathering lines not the emission lines. It was not our intent to give Alliance Pipeline or Northern Border or MBI a large property tax exemption because that's really not the issue. We would welcome refinement of that amendment.

Representative Hatlestad: Would you suggest this would double the fiscal note by attaching that additional exemption?

Robert Harms: I don't know. In the flaring hearings during this session one of the key problems these companies have is the land owner fatigue issue. We are trying to provide the land owner with an incentive to help them if they choose to provide an easement.

Chairman Belter: Further testimony in support of 2370?

Dwight Wrangham, President of the Landowners Association of North Dakota: We support this bill and the amendment. We need to do what we can to slow down the flaring. We know that the land owners need a little help to put up with what they are putting up with and this would give them a little incentive.

Chairman Belter: Further testimony in support to 2370? Any opposition to 2370? Any neutral testimony?

Don Morrison, Executive Director of the Dakota Resource Council: See attached testimony #3 and proposed amendment #4. Ended at 34:02

Chairman Belter: Further neutral testimony? We have a question of the tax department.

Representative Drovdal: If we're going to determine how to catch up to this flaring we need to know if we are increasing our production of the flaring or the selling of the production or are we just stable?

Sara Meier, Property Tax Specialist for the Office of Tax Commissioner: I don't have an answer for you but I can find out.

Representative Froseth: Is all the flared gas metered so they know how much of the gas is being burned?

Sara Meier: I'm not sure.

Representative Drovdal: This exemption for surface owners is a great idea but is it going to create a lot of bookwork and is it really going to amount to many dollars in agriculture land for a 50 foot right of way on 180 acres?

Sara Meier: If it is a surface exemption then it would be a pretty small percentage taken off your property tax. Keeping track of it would be very difficult. Someone mentioned the property tax for the pipeline and I looked at Arrow Pipeline which is located in McKenzie and Dunn Counties and the tax per mile is $1,975 at a mill levy of 158 and that was McKenzie's average mill levy in 2011. The tax in Dunn is $2,754 per mile and that's at a mill levy of 221. Arrow is a relatively new pipeline; we only began assessing that in 2010. We depreciate gathering systems at 5% per year to a floor of 35 percent.

Representative Froseth: Did you prepare the fiscal note on the original bill?

Sara Meier: No I did not. The only part listed is the amount for section 2 of the bill; it doesn't have anything to do with the property tax.

Representative Froseth: The numbers you gave give tremendous property tax on the pipelines.

Sara Meier: We're looking at the new pipeline and what would start in 2014 is what would have the exemption.

Senator Triplett: On the back side of the fiscal note is Kathy Strombeck's signature. The tradition in writing fiscal notes is not to focus on what hasn't happened yet which is probably why they left it off because these things aren't in place. There is going to be some loss to

the counties. The Association of Counties did not oppose the bill because they probably see it as a long term benefit to get a handle on the flaring.

Kevin Schatz, Supervisor for the oil and gas tax: Flares are connected to a meter so they know how many MCFs are flared per month. That is reported to the industrial commission.

Representative Drovdal: On the oil and gas website it shows the barrels produced, the barrels sold, the flaring, along with the gas produced and the gas sold.

Kevin Schatz: That is the industrial commission website. Each operator of a well has to report both oil productions, gas production, how many barrels of oil, runs off the lease, how many barrels are still in inventory in a tank on the lease, and how many MCFs are produced, flared and sold.

Representative Kelsh: At what point does a pipeline begin to pay property tax and when does it end?

Kevin Schatz: Sara can answer that for you.

Sara Meier: Pipelines begin their assessment as soon as there is construction work. An abandoned pipeline is exempt.

Representative Zaiser: What's the process regarding abandoned pipeline; does it remain in the books? After a certain amount of time after its abandoned are there requirements for them to be pulled out of the ground?

Sara Meier: We don't track the abandoned pipeline. We have no value for it. I don't believe the public service commission tracks that abandoned line. Some of that pipeline still has inert gas in it to keep it from collapsing but other than that it doesn't have any value in it.

Representative Zaiser: What happens to the abandoned line?

Sara Meier: I don't believe there is anybody in charge of removing that pipeline.

Representative Zaiser: Should there be?

Sara Meier: From an environmental standpoint I would think so.

Representative Zaiser: I think we need to get to that issue. Would one of these bills be appropriate to deal with abandoned lines?

Sara Meier: I don't know that this would be the vehicle for such an amendment.

Representative Froseth: The industrial commission has rules in place with regard to those situations. I don't think any of those pipelines are removed unless they present a source of contamination. It's the owner's responsibility to take care of any problems but if

they can't find the owners there is a fund established that takes care of getting the problem taken care of.

Chairman Belter: Further testimony to 2370?

Aaron Birst, Association of Counties: I would ask that we have some time in case there are some amendments.

Chairman Belter: Further testimony? If not, we will close the hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2370
March 27, 2013
Job #20542

☐ Conference Committee

Committee Clerk Signature	Mary Brucker

Minutes:

Attached amendments #1.

Vice Chairman Headland: There are some good things in this bill but I think it would be a nightmare for the tax community that has to implement it. Made a motion for a Do Not Pass.

Representative Haak: I have amendments. These were the amendments brought to us by the natural resources council. Distributed amendments .03001 and explained. See attached amendments #1.

Vice Chairman Headland: Do you think this will effectively shut down the oil industry?

Representative Haak: I cannot say what would effectively shut down the oil industry in North Dakota.

Vice Chairman Headland: I have to believe that if we allow them to flare for 30 days then that's exactly what's going to happen because there is no possibility of getting infrastructure to these wells in that short period of time.

Representative Klein: Has anyone made an estimate of how many wells it would effect and how many would be shut down?

Representative Haak: No, I have not seen that.

Representative Drovdal: The oil industry has been trying to get pipelines in the ground. If they don't flare a certain percentage there will be a buildup of toxic chemicals so a little bit of flaring is required. The developing company is not the pipeline or the production company. I believe when the drilling slows down we will be able to take care of it again. If they have to shut down a well because they can't get a pipeline to it then that well is going to seal up and they will have go back in with a rig and re-drill it and that is very expensive. I think we have to be a little careful because of the technology used in drilling these rigs. I like the idea about paying royalty owners but I'm a little worried about it.

Chairman Belter: Before we debate this any further is there a motion to adopt the amendments?

Representative Zaiser: Made a motion to adopt the 3001 amendments.

Representative Kelsh: Seconded.

Representative Froseth: I think what will happen if there's a 60 day period is that the oil companies will have to wait until a pipeline is run in first before they move on to the second and drill a hole. They aren't going to invest anywhere from $6 to 10 million knowing they might have to shut it down 60 days after it comes in. They will have to wait for the pipeline to be constructed first. Representative Haak, who is the company that suggested the amendment?

Representative Haak: They came in and testified neutral; it was the Dakota Resource Council.

Representative Zaiser: What would you say would be an appropriate time frame to do this? I think there should be some encouragement to push them to do this.

Representative Drovdal: It all depends on the location of the well and the capability of the existing pipeline. If they produce one on the edge of the field it's a little harder to get a line to it. We left that up to the industrial commission to monitor all the wells. They don't want to flare any more than we want them to flare because 80% of that value is theirs; they're burning up their own money.

Representative Zaiser: We should have a fixed standard stating when they should get to that point.

Representative Drovdal: My attitude is in helping with the credit rather than this "must" language.

Representative Froseth: I think everyone gets impatient with this oil boom and for everything to catch up; things have been happening too fast. I think two years from now will make a big difference in the flaring and the building of gas gathering lines and things. There are three or four new gas plants being built right now and what are you going to do with the gas until they can produce it into a usable commodity and bring the lines to those.

Representative Zaiser: I think there should be something more finite and concrete than saying "we encourage you."

Representative Drovdal: We have the year stated in there.

VOICE VOTE: MOTION DEFEATED TO ACCEPT THE AMENDMENTS .03001.

Chairman Belter: What are your wishes?

Vice Chairman Headland: Made a motion for a Do Not Pass.

Representative Dockter: Seconded.

ROLL CALL VOTE: 10 YES 3 NO 1 ABSENT

Representative Drovdal will carry this bill.

FISCAL NOTE
Requested by Legislative Council
02/22/2013

Amendment to: SB 2370

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				$(14,100,000)		
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		$(1,900,000)	
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).*

SB 2370 Second Engrossment provides a property tax exemption and an oil and gas gross production tax exemption relative to certain new natural gas gathering 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.*

Section 1 of SB 2370 Second Engrossment provides a graduated property tax exemption for qualifying new natural gas gathering and collection systems. Section 2 provides a one-year exemption from the oil and gas gross production tax for gas gathered from a qualifying new gathering system.

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.*

The amount of property tax that might be exempted by the provisions of Section 1 of SB 2370 Second Engrossment cannot be determined. The one-year exemption from the oil and gas gross production tax is expected to total an estimated $16 million in the 2013-15 biennium. A reduction in oil and gas gross production tax affects county distributions as well as the legacy and strategic investment and improvements 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: 02/15/2013

FISCAL NOTE
Requested by Legislative Council
02/13/2013

Amendment to: SB 2370

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				$(14,100,000)		
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		$(1,900,000)	
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 SB 2370 provides a property tax exemption and an oil and gas gross production tax exemption relative to certain new natural gas gathering 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.*

Section 1 of engrossed SB 2370 provides a graduated property tax exemption for qualifying new natural gas gathering and collection systems. Section 2 of engrossed SB 2370 provides a one-year exemption from the oil and gas gross production tax for gas gathered from a qualifying new gathering system.

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.*

The amount of property tax that might be exempted by the provisions of Section 1 of engrossed SB 2370 cannot be determined. The one-year exemption from the oil and gas gross production tax is expected to total an estimated $16 million in the 2013-15 biennium. A reduction in oil and gas gross production tax affects county distributions as well as the legacy and strategic investment and improvements 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: 02/15/2013

FISCAL NOTE
Requested by Legislative Council
01/28/2013

Bill/Resolution No.: SB 2370

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				$(14,100,000)		
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		$(1,900,000)	
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).*

SB 2370 provides a property tax exemption and an oil and gas gross production tax exemption relative to certain new natural gas gathering 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.*

Section 1 of SB 2370 provides a graduated property tax exemption for qualifying new natural gas gathering and collection systems. Section 2 of SB 2370 provides a one-year exemption from the oil and gas gross production tax for gas gathered from a qualifying new gathering system.

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.*

The amount of property tax that might be exempted by the provisions of Section 1 of SB 2370 cannot be determined. The one-year exemption from the oil and gas gross production tax is expected to total an estimated $16 million in the 2013-15 biennium. A reduction in oil and gas gross production tax affects county distributions as well as the legacy and strategic investment and improvements 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: 02/02/2013

Date: 3-27-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2370

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

WITHDRAWN

Motion Made By Rep. Headland Seconded By

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:

Date: 3-27-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2370

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☐ Do Pass ☐ Do Not Pass ☒ Amended .3001 ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Zaiser Seconded By Rep. Kelsh

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					

VOICE VOTE = MOTION FAILED

Total (Yes) No

Absent

Floor Assignment

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

.3001 amendments from Rep. Haak.

Date: 3-27-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2370

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		✓
Rep. David Drovdal	✓		Rep. Marie Strinden	AB	
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Rep. Drovdal

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

REPORT OF STANDING COMMITTEE

SB 2370, as reengrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2370 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2370

THE HARMS GROUP

Senate
Finance and Taxation Committee

ND Legislature

SUPPORT SB 2370

Chairman Cook and Members of the Committee:

My name is Robert Harms. I am a mineral owner and a life-long resident of North Dakota—born and raised in Tioga—the heart of the oil industry. Most of my family (mother, brother, sister, aunts, uncles cousins, second-cousins, etc.) still live and work in Williams and McKenzie County. I've worked in or with the oil industry for much of the last 30 years. I offer these comments in SUPPORT of SB 2370.

As you know, North Dakota burns approximately 30% of the natural gas being produced today—a waste that we as a State should do as much as possible to reduce or eliminate. SB 2370 is a step in the right direction. As a lawyer, and consultant I have worked with a number of companies that have attempted to help solve this problem, such as Bakken Express and Blaise Energy---both of whom testified before the Legislature in 2011 in an effort to address this problem. (I am not speaking on their behalf by the way). I have spoken to and met with a number of companies and organizations who have a common goal of reducing flaring in North Dakota (we have formed a non-profit corporation to begin a more collaborative effort to reach that goal). One of the products of those discussions was support for the concepts contained in SB 2370.

Some metrics of the problem might be useful as you work to solve this issue.

Why is flaring of this magnitude happening in our State?

- -state policy (no royalty or tax is paid on flared gas)
- -capital directed towards drilling oil wells (greater economic value)
- -urgency to secure leases by establishing production on existing oil and gas leases
- -geographic size of the Bakken resource (wells are often far from transmission lines).

Value of flared gas:

Produce approximately 13,000,000 mcf @ mo.—flare approximately 30%.
Flared Gas: 3,900,000 mcf @ mo. = 46.8 million annually
Value:
Dry gas: 46.8 million mcf x $3.50 mcf (NYMEX) =$163.8 million annually
(Flared gas includes "dry" gas and liquids---both being flared)
Liquids (ethane, propane, etc.) which are 2-3 times the value of dry natural gas.
Estimate 2 x value of flared gas = $300 million annually

Total Annual value of flared gas: Estimate $450-500 million annually.

This is certainly an issue we all should be interested in solving. SB 2370 is one tool that begins a process to help move us in the right direction. The bill—offers a couple of modest incentives to direct capital towards building gathering/collections systems to capture gas that is now being flared.

I suggest one minor substantive change that you might consider:

1. Page 2, line 4 refers to compression to "liquid". It should refer to compression to "dense phase, fluids" to be technically accurate. (The concern is that if we are trying to attract capital or investment into this arena we don't want a technical error in the statute to impede capital formation. Thus we suggest this minor change.

And, since we are talking about gathering lines, I would ask you to explore one other tool that our state should consider, which is an inventory, and confidential repository of the thousands of miles of gathering lines that are likely to be built in the coming decade. At present many of the gathering lines are not inventoried. They are not permitted by ND-DMR, or ND-PSC. But, we should begin a discussion to have that inventory done in a way that the companies, landowners, emergency response personnel, utilities and others know the location of what will be a large, expansive system that covers much of northwest North Dakota.

In short, I SUPPORT HB 2370, and believe it moves us in the right direction. Thank you and I look forward to working with you to craft thoughtful a creative solutions to this challenge in our State.

Robert W. Harms, JD
The Harms Group
815 N. Mandan St.
Bismarck, ND 58501

NORTH DAKOTA PETROLEUM COUNCIL

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Phone: 701-223-6380 • Fax: 701-222-0006 • Email: ndpc@ndoil.org

SB. 2370

House ~~Bill 1179~~

House Natural Resources Committee

January 21, 2013

Chairman Belter and members of the Committee, my name is Ron Ness. I am President of the North Dakota Petroleum Council. The Petroleum Council represents more than 400 companies involved in all aspects of the oil and gas industry including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oil field service activities in North Dakota. Our members produced 98% of the more than 200 million barrels of oil produced in North Dakota last year. I appear before you today in opposition to House Bill 1179.

+ 40,000 employees in ND

The budget projection for 2013 – 2015 biennium indicates that the oil and gas industry will pay more than five billion in oil and gas production taxes. I believe **HB 1179 is the only tax increase bill I've seen this session other than a couple of fee or fine increases.** $105 million Over the past nine years the oil industry and royalty owners have seen their composite tax rate increase every year since the price based tax incentives triggered off in October of 2004. HB 1179 would once again result in an increase the overall composite tax rate. How much should one industry pay?

Stripper properties, or marginal wells, are the foundation of the domestic oil industry. Marginal or low producing oil wells represent 20% of our nation's domestic oil production. Oil industry investment is always driven by price and economics and keeping a favorable tax rate to encourage re-investment in a 2nd well after the first has not worked is good policy. The wells we are referring to in this bill typically include marginal Bakken and Three Forks wells that weren't necessarily productive or economic the first time and now with new technology might be much more productive with a second

well in that field but the operator and investors might have $20 million into those two wells. I'm not sure we want to discourage that risk taker. In addition, this bill also includes other oil producing formations which are not as prolific as the Bakken or Three Forks and the operators project might be based on having a lower fixed tax rate for additional wells.

History on Stripper Wells in North Dakota:

"Stripper wells" were exempted from the oil extraction tax under Section 3 of Initiated Measure No. 6 which was passed by the voters of North Dakota in November, 1980. In 1981, the legislature approved HB 1651 which added the concept of a "stripper well property." HB 1651 was introduced by Majority Leader Strinden, approved by the delayed bills committee, and had an effective date of January 1, 1981, which was the also effective date of Measure No. 6. So stripper properties have always been exempt from the ~~gross production~~ Extraction tax.

"Stripper well properties" were a concept under the federal Emergency Petroleum Act of 1973 which, in response to the Arab oil embargo, attempted to freeze buyer/seller relationships as they existed in 1972. That's the reason for the reference in the stripper property definition to any 12-month period following December 31, 1972. Stripper oil was basically decontrolled under the EPAA. The so-called Gypsy Rose Lee Rule ("once a stripper always a stripper") was incorporated from the Federal price control rules. Decontrolled prices, like reduced taxes, were intended to provide an incentive to development as well as to prevent premature abandonment, and that was accomplished by maintaining stripper property status for new wells on stripper properties.

The industry does support a comprehensive revision of the state's overall oil tax structure which would include changes in the stripper property provisions to acknowledge new technologies in the Bakken and Three Forks formations as long as it's balanced with other changes that provide certainty to the industry and investors. The oil and gas industry is paying more than its fair-share in taxes to North Dakota. This bill represents a tax increase. We urge a Do Not Pass on HB 1179. I would be happy to answer any questions.

North Dakota Extraction Tax Incentives Eliminated Under This Bill

The reduced rate provisions for new wells, horizontal reentry wells, and enhanced recovery wells are ineffective if the average price a barrel of crude oil exceeds the trigger price (thirty-five dollars and fifty cents, as indexed for inflation) for each month in any consecutive five-month period. Except for incremental oil produced from enhanced recovery wells, exemptions for the above wells also become ineffective if the average price of a barrel of crude exceeds the trigger price for the same consecutive five-month period. The reduced rates and exemptions are reinstated if the average price falls below the trigger price for each month in any consecutive five-month period.

Existing Well Incentives

- All existing oil wells producing since 1987 will have the oil extraction tax reduced from 6.5% to 4%.

New Well Incentives

- A new vertical well is eligible for a 15-month oil extraction tax exemption. (Suspended)
- A new horizontal well is eligible for a 24-month oil extraction tax exemption. (Suspended)
- A new well is eligible for a reduced oil extraction tax rate of 4%. (Suspended)

Horizontal Re-Entry Incentive

- A horizontal reentry well, which is a vertical well bore reentered and recompleted horizontally, is eligible for a 9-month oil extraction tax exemption for reach reentry. (Suspended)

Inactive Well Incentive

- A well that has been inactive for two-years is eligible for a 10-year oil extraction tax exemption. (Suspended)

Workover Incentives

- A work-over project well is eligible for a 12-month oil extraction tax exemption starting from the first day of the third month after completion of the work-over. (Suspended)
- A work-over project, completed on a well originally reported with a WW well code is eligible for a reduced oil extraction tax rate of 4% after the 12-month exempt period. (Suspended)

The trigger price effective for calendar years through December 31, 2012 are as follows:

Time Period	Trigger Price
Jan. 1, 2010 - Dec. 31, 2010	$46.79*
Jan. 1, 2011 - Dec. 31, 2011	$46.78*
Jan. 1, 2012 - Dec. 31, 2012	$50.07*

*North Dakota price has a $2.50 differential.

Comprehensive Oil Tax Structure Bill:

Purpose: To address changes necessary to the ND oil tax structure to ensure adequate tax revenues while providing a long-term solution to broken oil tax structure.

This bill makes four major changes to the ND oil tax structure:

1.) Requires the oil operator to withhold income taxes from non-resident royalty owners.

   a. Producers with annual production volumes of 350,000 bbls or less are not required to withhold

   b. Shifts Responsibility to the oil operator from the state.

   c. Effective date – July 1, 2013

   d. Fiscal Impact = + $4.1 million to the state

2.) Addresses technical changes to Bakken/Three Forks Stripper properties, address escalated costs of horizontal drilling and fracking of Bakken/Three Forks wells on stripper well threshold.

   a. Requires each Bakken/Three Forks well to quality as a stripper well on it' own.

   b. Increases the threshold for stripper status for wells >10,000 feet (total depth of the well) from 30 barrels per day to 45 barrels per day. The well must average this for one-year before qualifying as a stripper well.

   c. Effective Data – wells drilled and completed after July 1, 2013.

   d. Stripper Property Fiscal Impact + 83 million to the state in the 13/15 biennium. That amount again the next biennium and multiplying thereafter.

   e. Increase from 30 to 45 bbls per day = - $24 million to the state

3.) Provides a non-Bakken/Three Forks new well incentive to spread-out oil activity to other areas and ensure that all of North Dakota's oil production is not reliant on the Bakken/Three Forks only. Currently, only 2 of the 182 drilling rigs in North Dakota are drilling non-Bakken/Three Forks wells.

   a. This is the same incentive provided to Bakken wells in 2007 which helped spur the Bakken. Projected to drill 70 wells in the next biennium under this incentive.

   b. The tax is reduced by 4% for the first 18 months or 75,000 barrels.

   c. The high-cost associated with the Bakken and increased regulations have increased the costs of drilling non-Bakken wells to a point where the wells with lower production levels are not economic. Tax incentives work, we've seen it work before.

d. Effective Date – wells drilled and completed after July 1, 2013.

e. Fiscal Impact = -$35 million to the state.

4.) Effective January 1, 2017 – creates a flat oil extraction tax of 4.5% instead of 6.5% and eliminates potentially $2.1 billion in oil price triggered tax incentives that occur if the oil price is below $52.50 for five consecutive months.

a. Nobody can predict the oil price in 2017, under the current tax structure the oil tax rate on a new well could be 5% or 11.5%. It was 5% from 1997 to October 2004, under that structure, water, schools, and other sources get very little revenue since the extraction tax is triggered off or reduced to 9% on all oil production.

b. The industry is willing to trade that price triggered safety net for a certain while competitive tax rate of 9.5%. That rate provides adequate revenues while providing a competitive and fair rate for producers and royalty owners.

c. Elimination of 10 price triggered tax incentives.

d. Effective Date – January 1, 2017 for new oil production from wells drilled and completed after January 1, 2017.

e. Fiscal Impact – no impact in 13-15 biennium – depending upon the oil price in 2017 the impact could be -$214 million or +$2.1 billion if the price is below $52.50.

Net Fiscal Impact in 2013/2015 biennium = +$28 million to the state.

13.8261.02002
Title.03000

Prepared by the Legislative Council staff for
Senator Triplett
February 19, 2013

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2370

Page 1, line 10, remove "of a three-inch [7.62-centimeter] diameter or smaller, or"

Page 1, remove line 11

Page 1, line 12, remove "centimeter] or less"

Page 1, line 17, after "pipeline" insert "or collection system"

Page 1, line 18, after "pipeline" insert "or collection system"

Page 1, line 21, replace "and" with "or"

Page 1, line 21, replace "systems are" with "system is"

Page 1, line 22, after the underscored period insert "For purposes of this section, "natural gas gathering pipeline" means an underground gas or liquid pipeline that is designed for or capable of transporting natural gas produced in association with oil and which is not subject to public service commission jurisdiction as a gas or liquid transmission line under chapter 49-22."

Renumber accordingly

THE HARMS GROUP

February 20, 2013

Senate
Appropriations Committee
ND Legislature

SUPPORT SB 2370

Chairman Holmberg and Members of the Committee:

My name is Robert Harms. I am a mineral owner and a life-long resident of North Dakota—born and raised in Tioga—the heart of the oil industry. Most of my family (mother, brother, sister, aunts, uncles cousins, second-cousins, etc.) still live and work in Williams and McKenzie County. I've worked in or with the oil industry for much of the last 30 years. I offer these comments in SUPPORT of SB 2370.

As you know, North Dakota burns approximately 30% of the natural gas being produced today—a waste that we as a State should do as much as possible to reduce or eliminate. SB 2370 is a step in the right direction. As a lawyer, and consultant I have worked with a number of companies that have attempted to help solve this problem, such as Bakken Express and Blaise Energy---both of whom testified before the Legislature in 2011 in an effort to address this problem. (I am not speaking on their behalf by the way). I have spoken to and met with a number of companies and organizations who have a common goal of reducing flaring in North Dakota (we have formed a non-profit corporation to begin a more collaborative effort to reach that goal). One of the products of those discussions was support for the concepts contained in SB 2370.

Some metrics of the problem might be useful as you work to solve this issue.

Why is flaring of this magnitude happening in our State?

-state policy (no royalty or tax is paid on flared gas—before or after 1 year)
Economic infeasibility at end of year, rather than near the front
-capital directed towards drilling oil wells (greater economic value)
-urgency to secure leases by establishing production on existing oil and gas leases
-geographic size of the Bakken resource (wells are often far from transmission lines).

Value of flared gas:

Produce approximately 13,000,000 mcf @ mo.—flare approximately 30%.
Flared Gas: 3,900,000 mcf @ mo. = 46.8 million annually
Value:
Dry gas: 46.8 million mcf x $3.50 mcf (NYMEX) =$163.8 million annually
(Flared gas includes "dry" gas and liquids---both being flared)
Liquids (ethane, propane, etc.) which are 2-3 times the value of dry natural gas.
Estimate 2 x value of flared gas = $300 million annually

Total Annual value of flared gas: Estimate $450 million annually.

Estimated value of 1/6th royalty, if we captured 50% of the gas: $37.5 million annually
Estimated tax @ $.1143 @ mcf of 50% captured gas: $2.7 million annually

This is certainly an issue we all should be interested in solving. SB 2370 is one tool that begins a process to help move us in the right direction. The bill—offers a couple of modest incentives to direct capital towards building gathering/collections systems to capture gas that is now being flared.

In short, I SUPPORT HB 2370, and believe it moves us in the right direction. Thank you and I look forward to working with you to craft thoughtful a creative solutions to this challenge in our State.

Robert W. Harms, JD
The Harms Group
815 N. Mandan St.
Bismarck, ND 58501

PROPOSED AMENDMENT TO SECOND ENGROSSMENT SB 2370 March 19, 2013

Page 2, line 20 insert the following:

SECTION 4. Subsection 43 to Section 57-02-08 of the North Dakota Century Code is created and enacted as follows:

43. Notwithstanding any other law, all property, including any possessory interest therein, leased, after July 1, 2013 and before December 31, 2018, to an oil or natural gas gathering company for the sole purpose of installing oil or natural gas gathering or transportation pipeline.
For purposes of this section, an oil or natural gas gathering company is one which engages in the business of gathering, processing, compressing, pumping or otherwise transporting oil or natural gas by pipeline.

THE HARMS GROUP

March 18, 2013

House of Representatives
Finance and Taxation Committee
ND Legislature

SUPPORT SB 2370

Chairman Belter and Members of the Committee:

My name is Robert Harms. I am a mineral owner and a life-long resident of North Dakota—born and raised in Tioga—the heart of the oil industry. Most of my family (mother, brother, sister, aunts, uncles cousins, second-cousins, etc.) still live and work in Williams and McKenzie County. I've worked in or with the oil industry for much of the last 30 years. I offer these comments in SUPPORT of SB 2370.

As you know, North Dakota burns approximately 30% of the natural gas being produced today—a waste that we as a State should do as much as possible to reduce or eliminate. SB 2370 is a step in the right direction. As a lawyer, and consultant I have worked with a number of companies that have attempted to help solve this problem, such as Bakken Express and Blaise Energy---both of whom testified before the Legislature in 2011 in an effort to address this problem. (I am not speaking on their behalf by the way). I have spoken to and met with a number of companies and organizations who have a common goal of reducing flaring in North Dakota (we have formed a non-profit corporation to begin a more collaborative effort to reach that goal). One of the products of those discussions was support for the concepts contained in SB 2370.

Some metrics of the problem might be useful as you work to solve this issue.

Why is flaring of this magnitude happening in our State?

-state policy (no royalty or tax is paid on flared gas—before or after 1 year)
Economic infeasibility at end of year, rather than near the front
-capital directed towards drilling oil wells (greater economic value)
-urgency to secure leases by establishing production on existing oil and gas leases
-geographic size of the Bakken resource (wells are often far from transmission lines).
-landowner fatigue, resistance to pipelines, gathering lines to capture/transport gas

Value of flared gas:

Produce approximately 13,000,000 mcf @ mo.—flare approximately 30%.
Flared Gas: 3,900,000 mcf @ mo. = 46.8 million annually
Value:
Dry gas: 46.8 million mcf x $3.50 mcf (NYMEX) =$163.8 million annually
(Flared gas includes "dry" gas and liquids---both being flared)
Liquids (ethane, propane, etc.) which are 2-3 times the value of dry natural gas.
Estimate 2 x value of flared gas = $300 million annually

Total Annual value of flared gas: Estimate $450 million annually.

Estimated value of 1/6th royalty, if we captured 50% of the gas: $37.5 million annually
Estimated tax @ $.1143 @ mcf of 50% captured gas: $2.7 million annually

This is certainly an issue we all should be interested in solving. SB 2370 is one tool that begins a process to help move us in the right direction. The bill—offers a couple of modest incentives to direct capital towards building gathering/collections systems to capture gas that is now being flared.

In short, I SUPPORT HB 2370, and believe it moves us in the right direction. Thank you and I look forward to working with you to craft thoughtful a creative solutions to this challenge in our State.

Robert W. Harms, JD
The Harms Group
815 N. Mandan St.
Bismarck, ND 58501

#3

SB 2370
House Finance and Taxation Committee
Don Morrison, Dakota Resource Council
March 19, 2013

Mr. Chairman and members of the House Finance and Taxation Committee, my name is Don Morrison and I am executive director of the Dakota Resource Council. We are a statewide organization of farmers, ranchers, small business people, and others who work together on energy and agriculture issues. Some of our members, who live in the western part of the state, work in the oil industry.

We are pleased that there is a great deal of attention on the problem of flaring natural gas in the Bakken. The oil industry, state officials, legislators, people who live and work in the region, and people who have to deal with the reality of living next to the flares are now all talking about how to decrease flaring. It seems that we all agree it is a waste of our natural resources and should be decreased.

This bill provides incentives to decrease flaring. However, there is still a state government provided incentive to flare. Currently, companies can flare for the first year and receive extensions after that. This means they do not pay royalties or oil taxes on the gas they are flaring. You could say we are encouraging them to flare. You could say we are subsidizing their flaring – or waste – of natural gas.

If we really are serious about reducing flaring, we can not only provide incentives to collect and use the gas, but we can also remove the incentive – or subsidy – that we currently give companies to flare. We can recognize that it may be difficult for some companies to stop flaring sometimes, but if they do waste the gas, we should make sure they pay royalties and taxes. That's pretty reasonable.

We have heard a lot about an obligation of state officials to make sure all oil and gas is extracted. We have been told many times that no oil or gas is to be "wasted" because mineral owners have a right to their money. State officials are certainly implementing that policy when it comes to extracting oil, but why not when it comes to gas? We have been burning off almost one-third of our natural gas. Isn't that wasting? Don't you think mineral owners should be paid for that?

We would like to suggest an amendment to SB 2370 that would allow companies to flare if they choose to, but would complement incentives in this bill and elsewhere by removing current incentives to flare.

#5

Proposed Amendment to SB 2370

Companies may be exempt from paying royalties and the oil gross extraction tax for flaring for 60 days. The extension of this royalty and tax exemption is eliminated.

Companies may continue to flare after the first 60 days, but if they do, they must pay royalties and the gross production tax for the gas flared after the first 60 days.

13.8261.03001
Title.

Prepared by the Legislative Council staff for
Representative Haak
March 20, 2013

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2370

Page 1, line 3, after the semicolon insert "to amend and reenact section 38-08-06.4 of the North Dakota Century Code, relating to flaring of natural gas;"

Page 1, after line 5, insert:

"**SECTION 1. AMENDMENT.** Section 38-08-06.4 of the North Dakota Century Code is amended and reenacted as follows:

38-08-06.4. Flaring of gas restricted - Imposition of tax - Payment of royalties - Industrial commission authority.

As permitted under rules of the industrial commission, gas produced with crude oil from an oil well may be flared during a ~~one-year~~sixty-day period from the date of first production from the well. Thereafter, flaring of gas from the well must cease and the well must be capped, connected to a gas gathering line, or equipped with an electrical generator that consumes at least seventy-five percent of the gas from the well. An electrical generator and its attachment units to produce electricity from gas must be considered to be personal property for all purposes. For a well operated in violation of this section, the producer shall pay royalties to royalty owners upon the value of the flared gas and shall also pay gross production tax on the flared gas at the rate imposed under section 57-51-02.2. The industrial commission may enforce this section and, for each well operator found to be in violation of this section, may determine the value of flared gas for purposes of payment of royalties under this section and its determination is final. ~~A producer may obtain an exemption from this section from the industrial commission upon application and a showing that connection of the well to a natural gas gathering line is economically infeasible at the time of the application or in the foreseeable future or that a market for the gas is not available and that equipping the well with an electrical generator to produce electricity from gas is economically infeasible.~~"

Page 2, line 18, after the second boldfaced period insert "Section 1 of this Act is effective July 1, 2013."

Page 2, line 18, replace "1" with "2"

Page 2, line 19, replace "2" with "3"

Renumber accordingly