



Western Dakota Energy Association
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Some of the coldest air in years blew into North Dakota in Week Five, dropping wind chills in parts of the state to a bone-chilling 60°F below zero. Bottineau had the nation's low at -44°F, and there was an unofficial report of -49°F at Rugby. Schools were closed due to the cold and blowing snow, and many government offices closed as well. But the ND Legislature marched onward, undeterred by the Arctic blast.

Legislators appointed to special Ethics Committees took their first look this week at competing bills to implement the constitutional Measure One approved by voters in November. The Senate committee took testimony on [SB 2148](#), the Democrats' version sponsored by Senator Tim Mathern, D-Fargo, while the House committee heard from witnesses about [HB 1521](#), sponsored by Republican leaders Chet Pollert and Rich Wardner. Legislators asked literally dozens of questions during the two hearings, but received few clear answers. The ballot measure, which is now [Article XIV](#) in the state constitution, contains numerous undefined terms, and it's uncertain what, if anything, the legislature can do to provide clarity. Case in point was an amendment offered by Sen. Mathern to his own bill that would remove all language that would have subjected the newly-created Ethics Commission to the Administrative Agencies Practices Act. The move suggests what opponents of the measure argued during the campaign – the Ethics Commission is in effect a fourth branch of government, immune from legislative oversight. Also unclear is the meaning of the terminology requiring disclosure of the “ultimate and true source of funds” spent to “influence state government action.” Both committees will hold another hearing next week, the Senate committee on Wednesday afternoon and the House on Thursday.

The House Education Committee heard testimony this week on a trio of bills that would use money from the Common Schools Trust Fund to pay for school construction and maintenance. Several witnesses testified in support of [HB 1525](#), introduced by Rep. Larry Bellew, R-Minot. The bill directs all common schools to transfer their real property to the Board of University & School Lands, which would pay off any debt, and use the trust fund to address any new construction needs and maintain existing common school facilities. Rep. Bellew argued that the state [constitution](#) requires the Common Schools Trust Fund to pay for school maintenance, not just transfer earnings to support the state Foundation Aid formula. But opponents said using the fund's principal would mean the loss of much of the money now going into the formula. The Trust Fund is projected to transfer \$366.8 million in the next two years, or about \$1,600 per student. Bellew's bill and two others received not pass recommendations from the committee, as did [HB 1152](#), introduced by Rep. Mike Brandenburg, R-Edgeley, that would reduce imputation of in-lieu-of property tax revenue from 75% to 65%.

Several bills we're following met their demise this week. Most prominent was [SB 2336](#), sponsored by Senator Merrill Piepkorn, D-Fargo, which would have raised the oil extraction tax from 5.0% to 6.5% as it had been before the 2015 Legislature reduced it, while also removing a trigger that would have reduced the extraction tax to zero when oil prices dropped. Had the trigger not been removed, the state would have lost \$942 million during the period after oil prices [tanked](#) in 2015. The Senate killed the bill on a party-line 36-10 vote.

Among other bills defeated this week was [HB 1352](#), proposed by Dickinson Rep. Vicky Steiner, which would have used \$10 million from the Strategic Investment and Improvements Fund for a motor vehicle ferry across Lake Sakakawea. The bill received just 17 votes on the House floor. Also defeated this week on a 69-22 vote was [HB 1306](#), which would have removed the attorney general from the state Land Board and the Industrial Commission. Sponsor Rep. Marvin Nelson [argued](#) that any legal advice provided by the attorney general amounted to a conflict of interest. The House also defeated by a vote of 85-6 a bill related to the passage of Measure One. [HB 1505](#) introduced by Rep. Keith Kempenich would have allowed legislators to claim reimbursement for meals during the legislative session. Legislators receive \$177/day, but aren't allowed a per diem for meals. Kempenich noted that many organizations have cancelled legislative dinners and receptions in response to the lobbyist gift ban imposed by passage of the ballot measure. By a vote of 37-8 the Senate defeated [SB 2337](#), a bill that would have required all public school districts to establish a random drug testing program for their employees. Opponents said it would violate the 4th Amendment rights of teachers and others.

Moving on in the legislative process is [HB 1439](#), a bill aimed at incentivizing the use of CO2 from coal-fired power plants for use in enhanced oil recovery. The bill received unanimous 92-0 approval in the House. By a vote of 26-19, the Senate narrowly passed [SB 2061](#), a bill that would impose an annual road use fee on electric and hybrid vehicles.

Click [here](#) to see next week's schedule of committee hearings on bills that WDEA is tracking.