



Western Dakota Energy Association
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How can you tell when your bill might need a little work? When opponents literally line up against you. This was the scene in the House Energy and Natural Resources Committee on Friday during a hearing on [SB 2344](#), a bill intended to facilitate the storage of produced natural gas. The bill sailed through the Senate 45-0, but concern arose when landowner rights groups noticed the bill contained a new definition of land. The legislation defines land as “the solid material of earth, regardless of ingredients, but excludes pore space.” However, as was pointed out in the hearing, existing law NDCC 47-31-03 says, “Title to pore space in all strata underlying the surface of lands and waters is vested in the owner of the overlying surface estate.” Driving the discussion is a 2017 ND Supreme Court case ([Mosser vs. Denbury Resources](#)), which concluded that a mineral developer may be liable to a surface owner for saltwater disposal into pore space under NDCC 38-11.1. The challenge for saltwater disposal well operators is that, according to testimony during the hearing, it is not possible to track the movement of water injected into underground formations. The state currently has 461 active saltwater disposal wells. The committee took no action on the bill and instead appointed a subcommittee that includes Reps. George Keiser, Dick Anderson, Shannon Roers-Jones and Alisa Mitzkog.



Governor Doug Burgum and MHA Nation Chairman Mark Fox signed a compact this week establishing a new agreement for sharing tax revenue from oil produced on the Fort Berthold Reservation. The compact changes the current 50-50 tax revenue split so that 80 percent of the production and extraction tax revenue from new wells on tribal trust lands would go to the tribe and 20 percent would go to the state. On fee land, 80 percent of the revenue would go to the state and 20 percent to the tribe. The compact is contingent upon the passage of [SB 2312](#), which is scheduled to be heard next Tuesday in the House Finance and Taxation Committee.

Word arrived this week that the Senate Finance and Taxation Committee would conduct a hearing Tuesday, March 5, on [HB 1066](#), affectionately known as Operation Prairie Dog. Proponents of the legislation, which provides funding to Hub Cities and oil-impacted communities and would create new infrastructure “buckets” for non-oil cities, counties and townships, have laid out preliminary plans for supporting testimony. The parade of supporters won’t be quite as long as it was when the bill was first heard in the House on January 15 ([Week Three](#)), but it will definitely stretch the capacity of the relatively small Lewis and Clark Room where the hearing will begin at 9:00 a.m.

The Senate Appropriations Committee heard testimony this week on [HB 1013](#), the budget bill for the North Dakota Department of Trust Lands. Lands Commissioner Jodi Smith said the department objected to language inserted in the House that requires the investment of the Common Schools Trust Fund and other permanent funds to be under the supervision of the state investment board. Smith also renewed the department’s request for an in-house attorney to handle the growing number of legal issues confronting the Land Board. The request for an attorney was rejected by the House Appropriations Committee. Smith also told the Senate committee the department would support House action to insert a \$4 million appropriation into the Oil & Gas Impact Grant Fund.

The composition of the Land Board was the subject of a resolution defeated on a 69-17 vote by the House on Friday. [HCR 3012](#) introduced by Rep. Marvin Nelson, D-Rolla, would have replaced the attorney general with the state tax commissioner. Nelson argued that because the attorney general is a member of the board and also provides legal advice to the board, it presents a conflict that should be eliminated.

In the wake of the confusion and uncertainty created by passage of Measure One in November, ballot measure reform resolutions advanced this week. By a vote of 77-14, the House approved [HCR 3007](#), that would require the sponsoring committee of a constitutional amendment to consult with Legislative Council in drafting the measure’s language. The House also approved [HCR 3034](#) that would allow votes on constitutional amendments to only be placed on the general election ballot. The Senate Judiciary Committee is also considering [HCR 3010](#), that would require 60% voter approval to enact a constitutional amendment. If passed by the legislature, all three measures would still require voter approval. Lawmakers have a busy week ahead with around 500 bills still alive in the legislative process. Click [here](#) to see a list of next week’s committee hearings on bills of interest to WDEA members.