



# Legislative Research Council

# MINUTES

## Oil and Gas Study Interim Committee

**Final Meeting  
2012 Interim  
October 30, 2012**

**Room 413  
State Capitol  
Pierre, South Dakota**

**Tuesday, October 30, 2012**

**Representative Roger Solum**, Chair, called to order the final 2012 interim meeting of the Legislative Research Council Oil and Gas Study Committee at 10:00 a.m. (CT), October 30, 2012, in Room 413 of the State Capitol, Pierre, South Dakota.

**Senator Rampelberg moved, seconded by Representative Hoffman that the minutes of the September 26, 2012 meeting be approved. The motion passed by voice vote.**

A quorum was determined with the following members answering the roll call: Senators Ryan Maher, Bruce Rampelberg, Larry Rhoden, Billie Sutton and Craig Tieszen; Representatives H. Paul Dennert, Spencer Hawley, Charles Hoffman, Melissa Magstadt, Betty Olson, Tona Rozum and Dean Schrepp; Senator Tom Nelson (Vice Chair) and Representative Roger Solum (Chair). Senator Tim Rave was absent. Legislative Research Council staff members present were Reuben Bezpaletz, Chief Legal Counsel; Fred Baatz, Principal Research Analyst; Amanda Reiss, Legislative Attorney; and Rena Ortbahn, Committee Secretary.

**(Note):** For the purpose of continuity, these minutes are not necessarily in chronological order. Also, all material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.state.sd.us> under "Interim Information – Minutes and Agendas." At this same site, under Committee Documents, several documents as presented are available.

**Chair Roger Solum** welcomed the committee and audience to the committee's final meeting. He reviewed the day's agenda and explained that at the end of the day the committee would take final action on seventeen bill drafts.

### **Presentation of Draft Legislation**

**[Draft Bill No. 1 – An Act to revise the provisions regarding plugging and performance bonds for oil and gas wells and to repeal the supplemental restoration bond requirement.](#) (Document 1)**

**Fred Baatz, Principal Research Analyst**, said this bill is drafted to bring SDCL 49-9-15 more in conformance with North Dakota statutes as follows. It changes the plugging and performance bond amounts per well and blanket amount to fifty and one hundred thousand dollars and would limit the number of wells and well pads not in compliance with state regulations to six. He said the committee should keep in mind the volume of wells in North Dakota versus South Dakota.

**Senator Dennert** questioned whether the bonding cost would make it prohibitive for companies to come into South Dakota. Mr. Baatz said since many of these companies operate in both states, it would make their bonding requirements more uniform. Mr. Bezpaletz added that bonding provides the assurance that money is there to cover damages and acts as a filter to determine if a company is economically viable.

[Draft Bill No. 2 – An Act to revise the bonds required to obtain a mineral drilling permit.](#) (Document 2)

**Amanda Reiss, Legislative Attorney**, said this bill draft is presented as an alternative to Bill Draft No.1 and is based off Nebraska law. It amends SDCL 49-9-15 by changing the blanket plugging and performance bond amount to \$25,000.

**Senator Rampelberg** questioned whether in both Draft Bills No. 1 and 2 whether there are guidelines for determining whether additional bonds are needed. Ms. Reiss said it's within agency rule making authority.

[Draft Bill No. 3 – An Act to provide for mediation between mineral developers and surface owners in certain disputes over surface depredation.](#) (Document 3)

**Reuben Bezpaletz; Chief Legal Counsel**, said this bill was drafted to address needs expressed at earlier oil and gas committee meetings this summer, both in Pierre and in Harding and Perkins counties. The bill amends SDCL 45-5 to provide an opportunity for mineral developers and surface owners to come together and discuss differences in a semiformal process with a neutral referee. It is limited to surface situations only and would be located within the Department of Agriculture.

**Representative Hoffman** questioned the program cost and amount of time it would be used. Mr. Bezpaletz thought there should be no cost of hiring a special mediator; although this person would have to receive training on surface depredation. Since mediation is initiated by request, he said the program would probably start out slowly and if successful become more in use.

**Representative Rozum** asked whether mineral rights could be included. Mr. Bezpaletz said with mineral rights the parties generally have to go to court to figure out who is right.

**Senator Tieszen** asked whether there is a downside to requiring parties to come together. Mr. Bezpaletz thought legally, no, but he thought voluntary is the way to start and then it could later, if appropriate, be made mandatory. He agreed with Senator Tieszen that with mediation, neither party gives up their litigation rights.

[Draft Bill No. 4 – An Act to provide funding for unresolved surface depredation caused by oil and gas exploration and to make an appropriation therefor.](#) (Document 4)

Mr. Baatz said this bill was drafted to provide an alternative to address surface depredation issues caused from oil and gas exploration in the past and that still exist. Three hundred thousand dollars would be appropriated from the petroleum release compensation fund to the Department of Environment and Natural Resources to establish a program to address these unresolved issues. No property owner may receive more than \$30,000 through the program and the program funds are to be expended or obligated by June 30, 2016.

Senator Dennert said the petroleum release compensation fund is replenished every year and it is a good fit.

**Representative Olson** questioned whether holes blasted in the 1970's and never covered would be covered? Mr. Baatz said language could be added to cover this.

**Representative Hawley** said this program should be secondary and used after any existing bonds are exhausted. Mr. Baatz said this bill is targeted towards areas where no money exists and no operator can be found, but the depredation issues are still there.

**Senator Sutton** said that the actual amount in the petroleum release compensation fund was 3.7 million.

[Draft Bill No. 5 – An Act to require certain posting of information if hydraulic fracture stimulation is performed on oil and gas wells.](#) **(Document 5)**

Mr. Baatz said this bill was drafted as a result of the committee's earlier visit to North Dakota and at the urging of North Dakota officials. It would require that hydraulic fracture stimulation information be posted on the FracFocus Chemical Disclosure Registry. He said FracFocus is a central depository of information on each well that is fractured and serves as a means to provide information to the public. Several states are already utilizing this registry. This can be done either through legislation or rulemaking authority.

Senator Rampelberg questioned whether trade secrets would be forfeited by companies registering. Mr. Baatz said only materials, not formulas are posted on FracFocus.

[Draft Bill No. 6 – An Act to require mineral developers to give notice to surface owners before entering the land.](#) **(Document 6)**

Ms. Reiss said this bill draft is based off North Dakota statute and amends SDCL 45-5A by providing for written notice to the surface owner prior to any entry on the owner's land for mineral exploration activities that do not disturb the surface. Failure to provide such notice would allow for the surface owner to seek punitive and actual damages in the court of proper jurisdiction.

Representative Hawley questioned whether school and public lands which are leased for grazing purposes are covered. Mr. Bezpaletz said that Draft Bill No. 17 gives lessee's more control than they now have and if Draft Bills No. 6 and No. 17 were put together, this issue would be covered

[Draft Bill No. 7 – An Act to provide for the creation of a trust account for unlocatable mineral interest owners.](#) **(Document 7)**

Ms. Reiss said this bill draft is based off information provided by the North Dakota Petroleum Council. She said interested parties can petition the courts to set up a trust fund with the country treasurer as executor and administrator. The trust fund would protect the interests of unknown owners until such time these owners have filed proper notice and successfully claimed their share of the funds held in trust.

In response to questions as to why the county as trustee is entitled to 50% of the monies, Mr. Bezpaletz said the trustee takes on the responsibility of determining who is entitled to get the money and is also

exposed to liability for any wrong decisions. Ms. Reiss said this fee could also serve as an incentive for people to record their interests.

[Draft Bill No. 8 – An Act to prohibit the rustling of sheep as grand theft.](#) (Document 8)

Mr. Bezpaletz said in the western part of the state there is good reason to put sheep rustling back into SDCL 22-30A-17 as grand theft because of increased rural traffic due to drilling and pumping activities. He explained the history of criminal, civil, and common law relating to the theft of sheep.

Senator Rhoden said he thought this is not the task of the committee but rather for an individual bill.

[Draft Bill No. 9 – An Act to provide for the award of attorney fees and costs in certain surface depredation cases.](#) (Document 9)

Mr. Bezpaletz said Draft Bill No. 9 and Draft Bill No. 16 are companion pieces. Draft Bill No. 9 provides for attorney fees and costs in certain surface depredation cases; while Draft Bill No. 16 provides for the award of treble damages in certain surface depredation cases.

In response to Senator Rampelberg, Mr. Bezpaletz said the courts are reluctant to assess attorney fees in absence of statute that recognizes the difference of power between an individual and a large corporation.

[Draft Bill No. 10 – An Act to revise the compensation requirements payable to surface owners for exploration damages and to allow the payments to be made in multiple installments.](#) (Document 10)

Ms. Reiss said these amendments to SDCL 45-5A are taken from a North Dakota model. Added to existing statute would be lost use of and lost access to the surface owner's land as reasons for compensation to the surface owner; and the requirement that damages be paid in annual installments unless the surface owner elects for a one-time payment. Two added sections allow for damage payments for surface owners; with Section 2 providing for lost agricultural production and income; while Section 3 provides damages to the surface owner from mineral exploration. The payment for lost agricultural production and income in Section 2 is specifically limited to the land directly affected by mineral development. For consistency, payments for mineral exploration were separated out. Mr. Bezpaletz said the provisions in Section 2 give additional rights to the lessee.

In response to Representative Olson, Ms. Reiss said that if an owner takes a one-time payment, future owners are not entitled to any payments.

[Draft Bill No. 11 – An Act to provide sales and use tax refunds for certain oil and gas exploratory and development wells.](#) (Document 11)

Mr. Baatz said this draft bill would allow for sales and use tax refunds outside of Harding County as a way to encourage oil and gas exploration. It establishes a time frame of between June 30, 2013, and July 1, 2017, for new wells. In response to questions he said this is one alternative to get companies to explore in other sections of the state.

[Draft Bill No. 12 – An Act to provide additional highway patrol and additional motor carrier service in northwestern South Dakota and to make an appropriation therefor.](#) (Document 12)

Ms. Reiss said the \$400,000 to be appropriated to the Department of Public Safety for the provision of one additional highway patrolman and one additional motor carrier to service Harding, Perkins, and Butte counties is based on numbers provided by DPS.

Representative Olson told of the need for additional patrolmen in the area; Senator Tieszen said he thought the dollar numbers in the bill are negotiable.

In response to questions from Representative Solum and Representative Hawley, Mr. Bezpaletz said this need can be brought forward by the Department of Public Safety during the appropriations process or it can come out of this committee as either a recommendation or a bill.

[Draft Bill No. 13 – An Act to provide funding to the Department of Environment and Natural Resources to conduct surveys and analysis of sand and clay deposits and to make an appropriation therefor.](#)  
**(Document 13)**

Mr. Baatz said this bill draft should be used as a vehicle to determine whether there are sand and clay deposits in South Dakota that could be exported and used in North Dakota for fracturing purposes. He said the \$250,000 amount to set up and implement the project and the time line of June 30, 2015 can easily be changed as more information is provided.

[Draft Bill No. 14 – An Act to impose an excise tax to address depredation of property resulting from certain energy development activities and to establish an energy property depredation fund.](#)  
**(Document 14)**

Mr. Baatz said this bill draft doubles the conservation excise tax used to operate the department's mining program and sets aside the additional money for a depredation fund. The bill allows for the depredation fund to be administered either by the Board of Minerals and Environment entirely or the Department of Environment and Natural Resources and makes funds available to qualifying landowners in accordance with regulations promulgated by the Board of Minerals and Environment and the Department. The draft basically creates a program that will generate approximately \$300,000 per year and gives authority to the Board/Department for establishing the program.

[Draft Bill No. 15 – An Act to revise certain provisions relating to the termination of certain mineral interests.](#) **(Document 15)**

Mr. Bezpaletz said this bill is an effort to reunite surface fee and mineral fee owners and would encourage oil and gas development. It provides specifics as to how to go about searching for severed owners of mineral interests, details procedures for terminating certain mineral interests which if done in accordance with proper notices and timelines would ultimately allow for the succession of ownership of mineral interest to the surface owner.

Mr. Bezpaletz said the advantage to passing Draft Bill No. 15 is that it would bring South Dakota more in conformity with North Dakota where lawyers are used to dealing with the situations addressed in this bill draft.

Senator Rhoden said it makes sense to mirror North Dakota statutes. Mr. Bezpaletz said it is good to reunite surface fee and mineral fee owners and that these bill drafts would encourage oil and gas development.

[Draft Bill No. 16 – An Act to provide for the award of treble damages in certain surface deprecation cases.](#) (Document 16)

Mr. Bezpaletz said this Draft Bill No. 16 provides an alternative for granting legal fees to injured surface fee owners; it is a little more acceptable to the legal community; and that courts cannot award treble damages without this legislation.

[Draft Bill No. 17 – An Act to require the Commissioner of School and Public Lands to protect certain lands from surface deprecation by mineral developers.](#) (Document 17)

Mr. Bezpaletz said this Draft Bill No. 17 came out of committee meetings earlier this summer in Buffalo, Lemmon, and Bison at which there was testimony that School and Public Lands are not doing enough to protect the lessee of the property. Mr. Bezpaletz said often when land is depredated, the lessee suffers a loss and this draft is an attempt to establish a public policy to make sure that School and Public Lands take into account their interests.

Representative Solum recessed the committee at noon and reconvened it at 1:20 pm.

### **Fiscal Report on Relocation of the SD Geological Survey**

**Steve Pirner, Secretary of the Department of Energy and Natural Resources**, presented **Document 18: “[Cost Estimates for moving the Geological Survey Program, Department of Environment and Natural Resources, from Vermillion to Rapid City or Pierre.](#)”** to the committee. He reviewed the document which included the mission of and the history of why the Geological Survey Program was located on the USD campus. It has maps showing the status of county and aquifer material studies and pictures of some of the infrastructure needed to support the drilling and mapping functions located in Vermillion. It explains that also some program employees are located in Rapid City. As provided in the final summary page of the document, Mr. Pirner said there would be a total cost of \$7,676,952 to move the program to Rapid City versus a total cost of \$7,639,474 to move the program to Pierre.

**Derric Illes, State Geologist**, responded to committee questions concerning the library of core samples. He said the North Dakota core library is in Grand Forks while the Nebraska core facility is located in Lincoln. He said “where” is not as important as “what” you have in the library. He said none of the states prohibit companies from looking at core samples. Core samples are held for years, for example the Bakken samples were held for about 40 years before the recent North Dakota oil boom. He said there is a written protocol for shipping the core samples.

### **Public Testimony**

**Nathan Sanderson, Policy Advisor to the Governor**, testimony was as follows:

Draft Bill No. 1 and Draft Bill No. 2: He said an increase in bonds is warranted. If the Legislature passes one of the bills, the other isn’t needed.

Draft Bill No. 3: He agrees with the concept of mediation, but said it can be done simpler.

Draft Bill No. 4: The Governor's office is hesitant to support this bill in that it is too broad in range.

Draft Bill No. 5: He is supportive of the concept; however, preferred it be put into rule and not statute.

Draft Bill No. 8: He did not think was in the jurisdiction of this committee.

Draft Bill No. 10: He said this is a tremendously complex bill with individual components that can be moved forward as individual bills. He stated that annual payments are afforded in current statute.

Draft Bill No. 11: The Governor's office is not supportive of this bill.

Draft Bill No. 12: He agrees that there may be a need, but is not supportive of this mechanism. He suggested it should be in the form of a recommendation, rather than statute.

Draft Bill No. 13: He said DENR is already doing what this bill proposes and that the Department doesn't need additional FTE's and the appropriation.

Draft Bill No. 14: The Governor's Office is not supportive of additional tax increases.

Draft Bill No. 15: He doesn't understand the full ramifications of this bill and the Office is hesitant to support it at this time.

**Steve Willard, representing SD Electric Utilities Commission and the American Petroleum Institute,** appeared before the committee with the following testimony:

Draft Bill No. 1: He said industry is supportive of bonding as it keeps out the bad actors. He's not sure a \$50,000 threshold will keep out bad actors. He said that Section 2 of the bill is not needed. He would leave out the last sentence on page 1 regarding additional bonding.

Draft Bill No. 2: He said if the committee approves Draft Bill No. 1, they don't need this bill.

Draft Bill No. 3: He said mediation may be useful in solving some of the hardest problems; he would start off small, give it to the Department of Agriculture and see where it goes.

Draft Bill No. 4: He does not agree with taking funds from the petroleum release compensation fund.

Draft Bill No. 5: He is not opposed to the concept, but said it could be done in rule.

Draft Bill No. 6: He said this didn't appear to be an issue with the companies he represents. He thinks it overreaches and is not specific.

Draft Bill No. 7: He said this is North Dakota legislation; it hasn't been used much in North Dakota and doesn't believe it is needed in South Dakota.

Draft Bill No. 9: He said it should be for both landowners and companies, not just companies.

Draft Bill No. 10: He thought the draft bill is confusing and hard to quantify. He questions the practical impact of the bill.

Draft Bill No. 11: He said financial incentives do matter. We should promote policies to try to get the companies to the north down here, and perhaps this bill will do that. He's not sure that taxes matter, and without oil, they won't matter at all.

Draft Bill No. 13: Agrees with Mr. Sanderson that it is already being done.

Draft Bill No. 14: He won't oppose it. If in fact some have these issues, we should clean them out, without penalizing the good operators. Go out, find companies and make them fix it.

Draft Bill No. 15: He not sure of the amount of unclaimed mineral rights we have. He is concerned that the bill is cumbersome and overstated.

Draft Bill No. 16: He said it should work both for the surface owner and the mineral developer.

Representative Olson said fracking on gas wells has been done for years in South Dakota.

**Mark Hollenbeck, Powertech (USA), Edgemont, South Dakota,** provided testimony as follows:

Draft Bill No. 5: He thinks the definition of fracturing needs to be more specific.

Draft Bill No. 6: He would like to add - if don't have executed lease with landowners, then go through this proposed statute.

Draft Bill No. 10: He said that if the parties have a signed agreement then a much in this bill would not come into effect.

Draft Bill No. 11: He would rather see the words energy minerals than oil and gas.

Draft Bill No. 14: He is not interested in a new tax on energy minerals. He said years ago reclamation was not required, which is why many of these wells haven't been reclaimed.

**Jarrold Johnson, Commissioner of School and Public Lands,** spoke to Draft Bill No. 17. He said in six years as Commissioner of School and Public lands, two people have come forward with concerns about how to handle oil and mineral damages. He distributed a copy of SDCL 5-7-17.1 (**Document 19**) which he said was adequate to address the problem covered in Draft Bill No. 17. He said in three years there have been only eleven cases of damages out of thousands of leases. He said mineral leases have to be renegotiated every five years. He does not see the need for this bill draft.

In response to Representative Rozum he said that they have to contact the lessees directly.

**Dean Wagner, Ralph, South Dakota**, testified as follows:

Draft Bill No. 3: Mr. Wagner said if mediation is requested, both parties should be required to be at the mediation.

Draft Bill No. 9 and Draft Bill No. 16: He asks who determines good faith in negotiations and what are the rights of the surface owners without mineral rights?

**Ray Gilbert, Buffalo, South Dakota**, said he has damages on his land from gas wells that will never be regained; the company responsible is bankrupt and gone. He said Draft Bill No. 1 and Draft Bill No. 3 may possibly help his situation.

**Dave Niemi, Buffalo, South Dakota** provided testimony as follows:

Draft Bill No. 1: He greatly supports this bill and thinks it would be beneficial in reclamation cases. He has issues with abandoned wells that go back to 1992.

Draft Bill No. 3: He supports mediation.

Draft Bill No 6: He said notices should absolutely be provided.

Draft Bill No. 10: He thinks any compensation would be a great help.

**Robert Johnson, Buffalo, South Dakota**, thanked the committee for all work it has done and provided testimony as follows:

Bill Draft No. 11: He said that if developers in other counties are entitled to refunds, so should Harding County.

Bill Draft No. 3: He said that mediation would be a good tool and it should be required that both parties be there.

Bill Draft No. 6: He said notices are required in Harding County and should be done statewide.

**Judy McCann, Brookings, South Dakota**, and **Dale Palezewski, Reeder, South Dakota**, appeared before the committee. Ms. McCann described her ranching background and explained how she became the owner of severed mineral rights. She testified as follows:

Draft Bill No. 1 and Draft Bill No. 2: She has no problems with, landowners do need guarantees.

Draft Bill No. 3: She thinks mediation is a good idea and said severed mineral owners also have problems and should be included and considers the word depredation as being derogatory.

Draft Bill No. 10: Some people receive both site and annual payments and she thought according to this bill, they would not be able to continue to do so.

Draft Bill No. 14: She doesn't support more taxes.

Draft Bill No. 8: If you put in sheep, where are the amendments to this Section going to stop?

**Betty Joy Njos, Rhame, North Dakota**, supported the viewpoints of Ms. McCann.

### **Final Action on Draft Legislation**

Mr. Bezpaletz said that a perfect bill doesn't need to be voted out of the committee today; vote for the concept and then rely on the legislative session process to perfect the bills. He advised that for a bill to be moved out of the committee today, the majority of members appointed to the committee (8) would have to be in favor. Typically a vote yes means you are willing to be a co-sponsor.

Representative Solum said even if a bill doesn't pass out of committee today, an individual legislator can introduce it.

[Draft Bill No. 1 – An Act to revise the provisions regarding plugging and performance bonds for oil and gas wells and to repeal the supplemental restoration bond requirement.](#)

**Representative Dennert** moved, seconded by **Representative Magstadt** to remove Section 2 of **Bill Draft No. 1**. The motion prevailed on a voice vote.

**Senator Rhoden** moved, seconded by **Senator Nelson** to adopt **Draft Bill No. 1** as amended. The motion prevailed on a roll call vote (14-0-1) as follows: Ayes: Maher, Rampelberg, Rhoden, Sutton, Tieszen, Nelson; Dennert, Hawley, Hoffman, Magstadt, Olson, Rozum, Schrempp, Solum; Excused: Rave

[Draft Bill No. 2 – An Act to revise the bonds required to obtain a mineral drilling permit.](#)

**Representative Hawley** moved, seconded by **Representative Magstadt** to defer **Draft Bill No. 2**. The motion prevailed on a voice vote.

[Draft Bill No. 3 – An Act to provide for mediation between mineral developers and surface owners in certain disputes over surface depredation.](#)

Senator Tieszen would like to keep the concept of mediation, and within the Department of Agriculture. Representative Rozum thought mineral rights owners should be added.

**Representative Rozum** moved, seconded by **Senator Nelson** to amend **Draft Bill No. 3** to include “mineral owners” after “surface owners” throughout the document. The motion prevailed on a voice vote.

**Senator Nelson** moved, seconded by **Representative Rozum** to adopt **Draft Bill No. 3** as amended. The motion prevailed on a roll call vote (13-1-1) as follows: Ayes: Maher, Rampelberg, Sutton, Tieszen, Nelson; Dennert, Hawley, Hoffman, Magstadt, Olson, Rozum, Schrempp, Solum; Nays: Rhoden; Excused: Rave

[Draft Bill No. 4 – An Act to provide funding for unresolved surface depredation caused by oil and gas exploration and to make an appropriation therefor.](#)

Senator Dennert said this isn't a tax bill and he does see some need for it.

Representative Hawley has a problem with the monies coming out of the petroleum fund.

Representative Hoffman said if the bill passed, it would create more litigation.

**Representative Hawley moved, seconded by Representative Hoffman to defer Draft Bill No. 4. The motion failed on a roll call vote (7-7-1) as follows: Ayes: Rampelberg, Rhoden, Nelson; Hawley, Hoffman, Magstadt, Solum; Nays: Maher, Sutton, Tieszen; Dennert, Olson, Rozum, Schrempp; Excused: Rave**

**Senator Maher moved, seconded by Representative Schrempp to adopt Draft Bill No. 4.**

**Substitute Motion: Senator Maher moved, seconded by Representative Rozum to amend Draft Bill No. 4 by including "bankruptcy or financial insolvency" after "exploration" on page 1, line 7. The motion prevailed on a voice vote.**

**Senator Sutton moved, seconded by Representative Olson, to adopt Draft Bill No. 4 as amended. The motion prevailed on a roll call vote (13-1-1) as follows: Ayes: Maher, Rampelberg, Sutton, Tieszen, Nelson; Dennert, Hawley, Hoffman, Magstadt, Olson, Rozum, Schrempp, Solum; Nays: Rhoden; Excused: Rave**

[Draft Bill No. 5 – An Act to require certain posting of information if hydraulic fracture stimulation is performed on oil and gas wells.](#)

Representative Hoffman said it would be beneficial to have this information on the website, but prefers it be done through rulemaking authority. Representative Hawley thought the committee's passing this bill would provide an incentive for DENR to develop fracturing rules.

**Representative Magstadt moved, seconded by Representative Hawley to amend Draft Bill No. 5 on page 2, line 8 by taking out the period and adding the words "for the purpose of fracturing the host geological formation." The motion prevailed on a voice vote.**

**Senator Tieszen moved, seconded by Representative Schrempp to adopt Draft Bill No. 5 as amended. The motion prevailed on a roll call vote (13-0-2) as follows: Ayes: Maher, Rampelberg, Rhoden, Sutton, Tieszen; Dennert, Hawley, Hoffman, Magstadt, Olson, Rozum, Schrempp, Solum; Excused: Rave, Nelson**

[Draft Bill No. 6 – An Act to require mineral explorers to give notice to surface owners before entering the land.](#)

**Senator Rhoden moved, seconded by Representative Hoffman to adopt Draft Bill No. 6. The motion prevailed on a roll call vote (13-0-2) as follows: Ayes: Maher, Rampelberg, Rhoden, Sutton, Tieszen; Dennert, Hawley, Hoffman, Magstadt, Olson, Rozum, Schrempp, Solum; Excused: Rave, Nelson**

For staff to consider concerning this bill: Senator Maher hoped that trespass would be addressed; Representative Olson requests to add, after line 2, if they don't have an executed lease; and Senator Rampelberg questioned if people holding school and public lands leases would also get a notice.

[Draft Bill No. 7 – An Act to provide for the creation of a trust account for unlocatable mineral interest owners.](#)

**Senator Dennert moved, seconded by Senator Rampelberg that Draft Bill No. 7 be amended by changing “district” to “circuit” on lines 5 and 12. The motion prevailed on a voice vote.**

**Senator Maher moved, seconded by Senator Rampelberg to adopt Draft Bill No. 7 as amended. The motion prevailed on a roll call vote (13-0-2) as follows: Ayes: Maher, Rampelberg, Rhoden, Sutton, Tieszen; Dennert, Hawley, Hoffman, Magstadt, Olson, Rozum, Schrempp, Solum; Excused: Rave, Nelson**

[Draft Bill No. 8 – An Act to prohibit the rustling of sheep as grand theft.](#)

**Senator Rhoden moved, seconded by Senator Tieszen to defer action on Draft Bill No. 8. The motion prevailed on a voice vote.**

Representative Olson said she will sponsor the bill individually during session.

[Draft Bill No. 16 – An Act to provide for the award of treble damages in certain surface depredation cases.](#)

Mr. Bezpaletz said that, without this Draft Bill No. 16, statute does not allow courts to award double or triple damages. Award of attorney fees and court costs (Draft Bill No. 9) can already be awarded, but only in extreme circumstances. He noted that punitive damages are different that either one of these.

**Representative Dennert moved, seconded by Representative Rozum to adopt Draft Bill No. 16.**

**Substitute motion: Senator Rampelberg moved, seconded by Representative Hawley that Draft Bill No. 16 be amended per Mr. Bezpaletz's suggestion to provide for reciprocity between parties. The motion prevailed on a voice vote.**

**Representative Dennert moved, seconded by Senator Sutton to adopt Draft Bill No. 16 as amended. The motion prevailed on a roll call vote (12-1-2) as follows: Ayes: Maher, Rampelberg, Rhoden, Sutton; Dennert, Hawley, Hoffman, Magstadt, Olson, Rozum, Schrempp, Solum; Nays: Tieszen; Excused: Rave, Nelson**

[Draft Bill No. 9 – An Act to provide for the award of attorney fees and costs in certain surface depredation cases.](#)

Mr. Bezpaletz said there is a general statute allowing courts to grant fees if one of parties hasn't acted in good faith.

**Senator Maher moved, seconded by Representative Olson to defer Draft Bill No. 9. The motion prevailed on a voice vote.**

[Draft Bill No. 10 – An Act to revise the compensation requirements payable to surface owners for exploration damages and to allow the payments to be made in multiple installments.](#)

**Representative Rampelberg moved, seconded by Senator Rhoden that Draft Bill No. 10 be deferred. The motion prevailed on a roll call vote (8-5-2) as follows: Ayes: Rampelberg, Rhoden, Tieszen; Hawley, Hoffman, Magstadt, Rozum, Solum; Nays: Maher, Sutton; Dennert, Olson, Schrempp; Excused: Rave, Nelson**

Senator Rampelberg said the bill raises a lot of issues that need to be either further defined or cleared up.

[Draft Bill No. 12 – An Act to provide additional highway patrol and additional motor carrier service in northwestern South Dakota and to make an appropriation therefor.](#)

**Senator Maher moved, seconded by Representative Rampelberg to defer Draft Bill No. 12.**

Several committee members expressed that this draft bill brings forth a need that should be addressed.

Mr. Bezpaletz said the committee could provide the Executive Board with recommendations to be forwarded to the Department of Public Safety.

**Substitute Motion: Senator Tieszen moved, seconded by Senator Rhoden that a recommendation to that effect be drafted and forwarded accordingly and that Draft Bill No. 12 be deferred. The motion prevailed on a roll call vote (11-2-2) as follows: Ayes: Maher, Rhoden, Sutton, Tieszen; Dennert, Hawley, Magstadt, Olson, Rozum, Schrempp, Solum; Nays: Rampelberg, Hoffman; Excused: Rave, Nelson**

[Draft Bill No. 13 – An Act to provide funding to the Department of Environment and Natural Resources to conduct surveys and analysis of sand and clay deposits and to make an appropriation therefor.](#)

**Senator Rhoden moved, seconded by Representative Olson to defer Draft Bill No. 13. The motion prevailed on a voice vote.**

[Draft Bill No. 14 – An Act to impose an excise tax to address deprecation of property resulting from certain energy development activities and to establish an energy property deprecation fund.](#)

**Senator Rhoden moved, seconded by Representative Hoffman to defer Draft Bill No. 14. The motion prevailed on a roll call vote (11-2-2) as follows: Ayes: Maher, Rampelberg, Rhoden, Sutton, Tieszen; Dennert, Hoffman, Magstadt, Olson, Rozum, Solum; Nays: Hawley, Schrempp; Excused: Rave, Nelson**

[Draft Bill No. 15 – An Act to revise certain provisions relating to the termination of certain mineral interests.](#)

**Senator Maher moved, seconded by Representative Dennert to adopt Draft Bill No. 15. The motion prevailed on a roll call vote (13-0-2) as follows: Ayes: Maher, Rampelberg, Rhoden, Sutton, Tieszen; Dennert, Hawley, Hoffman, Magstadt, Olson, Rozum, Schrempp, Solum; Excused: Rave, Nelson**

[Draft Bill No. 17 – An Act to require the Commissioner of School and Public Lands to protect certain lands from surface depredation by mineral developers.](#)

**Senator Maher moved, seconded by Senator Rhoden to defer Draft Bill No. 17. The motion prevailed on a voice vote.**

[Draft Bill No. 11 – An Act to provide sales and use tax refunds for certain oil and gas exploratory and development wells.](#)

**Senator Maher moved, seconded by Representative Olson to amend Draft Bill No. 11 on page 1, line 11 by striking “outside the boundaries of Harding County” and inserting “for any formation other than the Red River formation”.**

**Substitute Motion: Representative Magstadt moved, seconded by Representative Hawley to defer Draft Bill No. 11. The motion prevailed on a roll call vote (7-6-2) as follows: Ayes: Rampelberg, Rhoden, Sutton; Dennert, Hawley, Magstadt, Solum; Nays: Maher, Tieszen; Hoffman, Olson, Rozum, Schrempp; Excused: Rave, Nelson**

**Senator Rampelberg moved, seconded by Representative Rozum to authorize Chair Solum to choose the house of origin for bills coming out of this committee and to appoint the prime sponsors. The motion passed by voice vote.**

Representative Solum thanked the committee and staff for all their work and the audience for its testimony and participation.

**Senator Rampelberg moved, seconded by Representative Olson that the committees adjourn. The motion passed by voice vote.**

The committee adjourned at 4:45 p.m.

