

**2021 HOUSE FINANCE AND TAXATION**

**HB 1358**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Room JW327E, State Capitol

HB 1358  
1/26/2021

A bill relating to oil and gas tax revenue hedging.
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**Chairman Headland** opened the hearing at 9:28am.

Representatives	Present
Representative Craig Headland	P
Representative Vicky Steiner	P
Representative Dick Anderson	P
Representative Glenn Bosch	P
Representative Jason Dockter	P
Representative Sebastian Ertelt	AB
Representative Jay Fisher	P
Representative Patrick Hatlestad	P
Representative Zachary Ista	P
Representative Tom Kading	P
Representative Ben Koppelman	P
Representative Marvin E. Nelson	P
Representative Nathan Toman	P
Representative Wayne A. Trottier	P

### Discussion Topics:

- Process for hedging oil prices
- Bank of North Dakota involvement

**Representative Kempenich** introduced the bill. Submitted a proposed amendment 21.0851.01001 (#3405).

**Tim Porter, Chief Financial Officer with the Bank of North Dakota**, testified in support (#3205 and 3206).

**Chairman Headland** closed the hearing at 10:02am.

### Additional written testimony:

**Dustin Gawrylow, North Dakota Watchdog Network**, submitted testimony in opposition. Testimony #3329.

*Mary Brucker, Committee Clerk*

21.0851.01001  
Title.

Prepared by the Legislative Council staff for  
Representative Kempenich  
January 25, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1358

Page 1, line 2, after "hedging" insert "; to provide an appropriation; to provide a continuing appropriation; to provide for a transfer; to provide a statement of legislative intent; and to declare an emergency"

Page 1, line 6, after "**hedging**" insert "**fund - Advisory committee - Continuing appropriation - Transfer to strategic investment and improvements fund**"

Page 1, overstrike line 7

Page 1, line 8, overstrike "the industrial commission, the"

Page 1, line 8, remove "Bank of North Dakota"

Page 1, line 8, overstrike "may purchase oil"

Page 1, line 9, overstrike "put options"

Page 1, line 9, remove "and enter swap agreements or any other hedging strategies with designated"

Page 1, line 10, remove "counterparts approved by the industrial commission"

Page 1, line 10, overstrike "for the office of management and budget."

Page 1, line 11, overstrike "The"

Page 1, line 11, remove "execution of any hedging strategies"

Page 1, line 11, overstrike "must be designed to offset"

Page 1, line 12, overstrike "reduced state"

Page 1, line 12, overstrike "oil and gas tax revenues due to oil and gas prices falling below"

Page 1, line 13, overstrike "levels"

Page 1, line 13, remove "included in the legislative revenue forecast at the conclusion of the most"

Page 1, line 14, remove "recently adjourned regular or special session of the legislative assembly"

Page 1, line 14, overstrike the period

Page 1, line 17, overstrike "The office of management and"

Page 1, line 18, overstrike "budget shall report any"

Page 1, line 18, remove "execution of hedging strategies"

Page 1, line 18, overstrike "to the budget"

Page 1, overstrike line 19 and insert immediately thereafter:

- "1. There is created in the state treasury the oil and gas tax revenue hedging fund. The fund consists of all moneys transferred to the fund by the legislative assembly, interest and earnings upon moneys in the fund, and proceeds from any hedging financial instruments. The moneys in the fund are appropriated to the Bank of North Dakota on a continuing basis for the purpose of implementing hedging strategies as approved by the oil and gas tax revenue hedging advisory committee and for administrative expenses.
2. The oil and gas tax revenue hedging advisory committee consists of:
  - a. The director of the office of management and budget, as chairman;
  - b. One senator appointed by the senate majority leader;
  - c. One representative appointed by the house majority leader;
  - d. The president of the Bank of North Dakota or the president's designee; and
  - e. The director of the department of mineral resources.
3. The advisory committee shall meet at least quarterly, and the Bank shall provide administrative services to the committee.
4. The advisory committee shall recommend to the Bank hedging strategies to offset any reductions to state oil and gas tax revenues due to oil and gas prices falling below levels included in the legislative revenue forecast at the conclusion of the most recently adjourned regular or special session of the legislative assembly. Hedging strategies include put options, swap agreements, or any other hedging financial instruments. The committee shall submit quarterly reports to the legislative management regarding the results of the hedging strategies.
5. The Bank may contract for consulting services to implement the hedging strategies, and any related contracting expenses must be paid from the fund.
6. On or before September fifteenth of each year, the Bank shall certify to the state treasurer the amount of accumulated funds in the oil and gas tax revenue hedging fund on June thirtieth of the preceding fiscal year which exceed the estimated hedging costs for the current fiscal year. The state treasurer shall transfer the certified amount from the oil and gas tax revenue hedging fund to the strategic investment and improvements fund by September thirtieth of each fiscal year.

**SECTION 2. APPROPRIATION - TRANSFER - INTENT - LEGACY FUND EARNINGS.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$20,000,000, which the office of management and budget shall transfer to the oil and gas tax revenue hedging fund during the period beginning with the effective date of this Act and ending June 30, 2023. It is the intent of the sixty-seventh legislative assembly that the funds appropriated be derived from legacy fund earnings transferred to the general fund during the biennium beginning July 1, 2019, and ending June 30, 2021.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."



Renumber accordingly

**TESTIMONY, HOUSE FINANCE AND TAX COMMITTEE  
JANUARY 26, 2021  
HOUSE BILL 1358**

**TIM PORTER – CHIEF FINANCIAL OFFICER  
BANK OF NORTH DAKOTA**

Mr. Chairman and members of the Committee, for the record my name is Tim Porter, Chief Financial Officer at Bank of North Dakota. I am here today to offer our thoughts on House Bill 1358 regarding establishing a process for hedging oil prices. In addition, I will provide the committee with some of the results from the Hedge Study we conducted from October 2019 through September 2020.

First of all, BND supports the amendments that you see before you in House Bill 1358. These amendments would initiate an Oil Hedging Advisory Committee who would review hedge strategies and have the authority to hire an outside consultant that specializes in developing oil hedge strategies. We think it's important that the oversight of this function rest with a committee that has representation across state government, including the legislative branch.

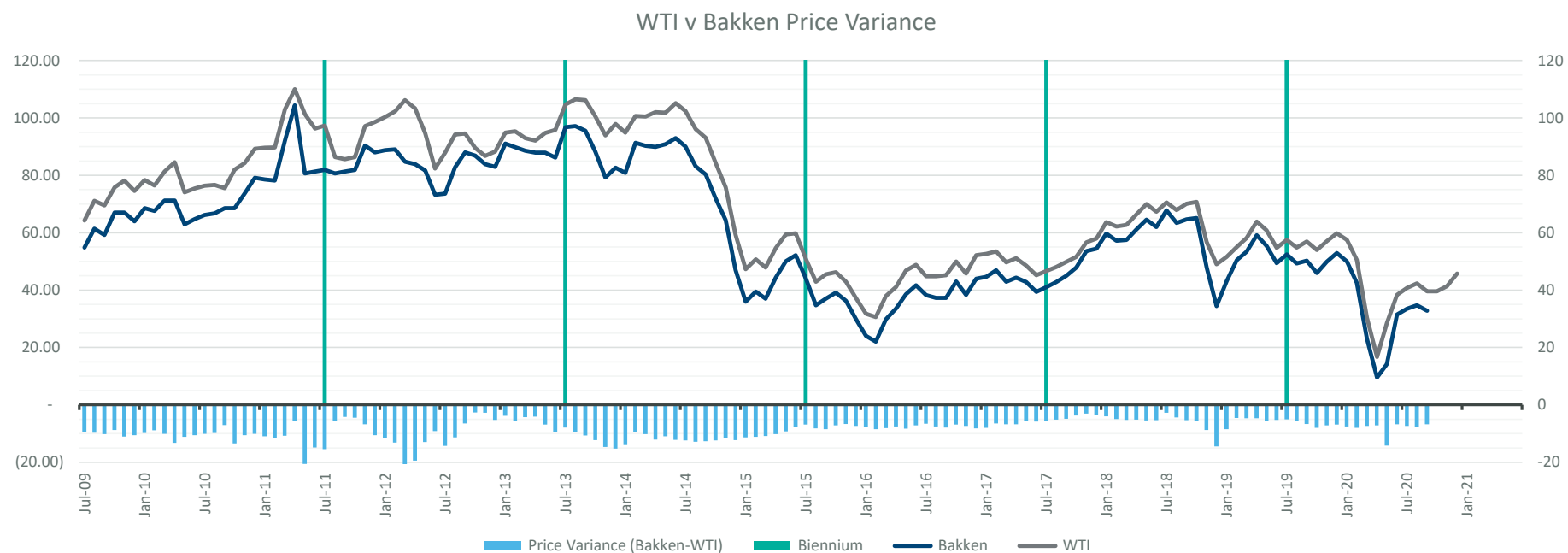
The legislation also addresses an appropriation of \$20,000,000 which will be helpful in establishing an overall strategy to adequately cover the risk of falling oil prices.

I've also included four pages from the hedge study that BND completed. These pages include historical perspectives of oil prices broken down by biennium and includes a look at the basis risk (WTI vs. Bakken price) as well as the biennial budget oil price versus the actual price for the past few bienniums. Page three describes the types of hedging instruments used in our study, and page four provides a monetary summary of the premiums we paid to purchase puts and the settlement values we realized when the oil price dropped below the floors established in our trades.

Overall, BND can play a role in establishing a strategy to reduce the risk of falling oil prices, but this risk needs to be on the state's balance sheet, not BND's. By establishing the Oil Hedging Advisory Committee and providing an appropriation, these amendments open an important dialogue for the legislature to debate whether it's desire is to pay for the insurance to help protect a portion of the state's budget.

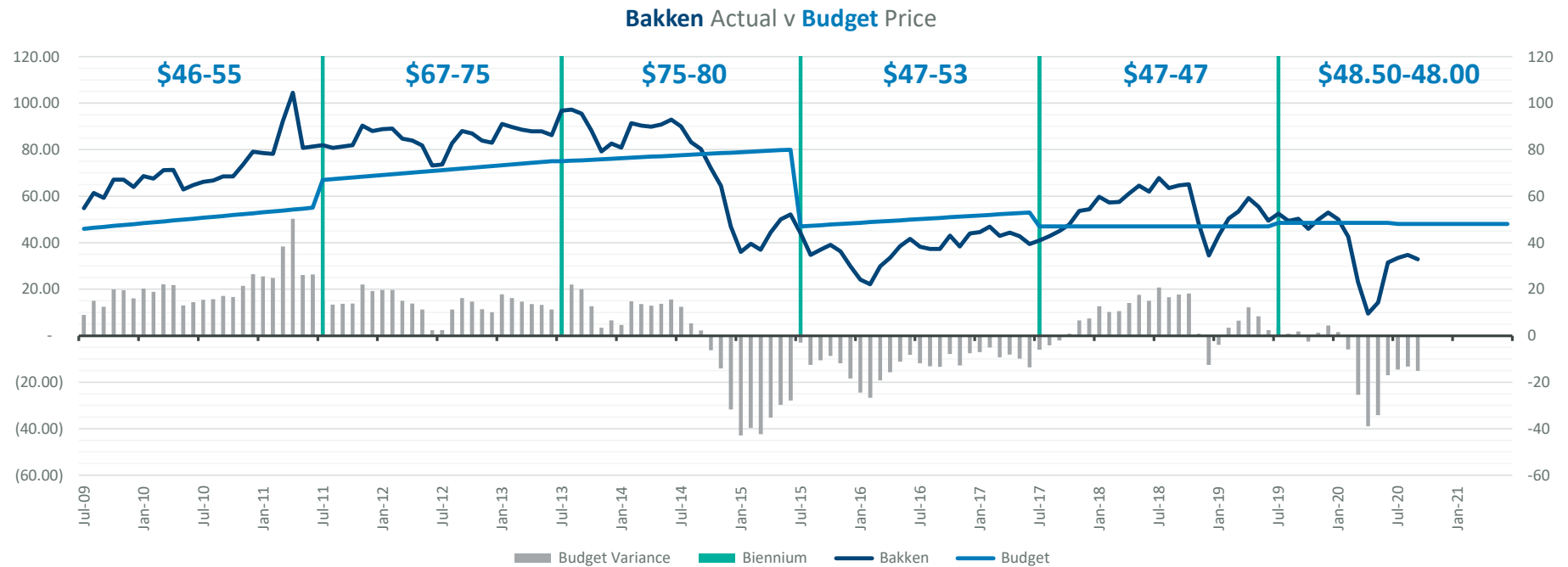
That concludes my testimony, Mr. Chairman and I would be happy to answer any questions.

## Historical Price Perspective – WTI v Bakken



Price Variance (Bakken - WTI)	2009-11	2011-13	2013-15	2015-17	2017-19	2019-21
	(10.82)	(8.85)	(11.41)	(7.35)	(5.47)	(7.49)

## Historical Price Perspective – Biennial Budget Oil Price v Actual



Price Variance (Actual - Budget)	2009-11	2011-13	2013-15	2015-17	2017-19	2019-21
	21.09	13.80	(3.68)	(12.09)	7.21	(10.22)

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## Hedging Instruments Primarily Used in Project

- Put Option

- Pay a premium, and establish a floor
  - May not receive any payment if price does not reach floor
- Minimize downside risk while still participating in upside

- Costless Collar

- No upfront cost or premium
- Lock in a ceiling and floor price
  - Minimizes downside risk and upside opportunity



## Payment summary

The hedge portfolio has so far earned BND more than \$94 million in payouts

- The drop in oil prices led to significant payouts on hedges between April and September.
- In total, employing the hypothetical hedging program would have **netted ~\$80mm over 12 months**, mitigating the losses caused by declining oil prices.
- *If oil instead had a strong year, BND would not have recovered any of the \$14mm in premium payments, but this cost may be offset by increasing oil-related revenues.*
- In addition to payouts already received, the portfolio of remaining active trades has a value of **\$29.6 million**, with coverage extending to September 2022.

Date	Premiums	Settlements	Additional notes
Sep-19	-5,597,640	0	Purchased put option
Oct-19	0	0	
Nov-19	0	0	
Dec-19	-1,379,974	0	Purchased put option
Jan-20	0	0	
Feb-20	0	0	New costless collars (no premiums)
Mar-20	0	20,472,202	First payout following WTI collapse
Apr-20	0	33,910,944	
May-20	0	20,116,260	
Jun-20	-7,774,500	6,275,317	Purchased put option
Jul-20	0	4,686,728	
Aug-20	0	3,434,774	
Sep-20	0	5,425,305	
<b>Total</b>	<b>-14,752,114</b>	<b>94,321,530</b>	

**HB 1358 – Testimony by Dustin Gawrylow (Lobbyist #266) North Dakota Watchdog Network**

While the volatility of oil prices is a major issue for North Dakota, the amount of money the state would have to put at risk in hedge swaps during good years to offset the bad years would far exceed the public's willingness for such a strategy.

Hopefully, there will be other witnesses more able to explain this from a position of expertise.

Instead of trying to hedge oil price risk, the State of North Dakota should simply stop relying on oil tax revenue to support such a large part of its baseline budgeting.

The real problem is out-spending the revenue created by oil (both directly and indirectly).

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Room JW327E, State Capitol

HB 1358  
2/1/2021

A bill relating to oil and gas tax revenue hedging.
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**Chairman Headland** opened the committee discussion at 2:42pm.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	AB
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	AB
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

### Discussion Topics:

- Amendment 21.0851.01001
- Possible study

Reviewed Representative Kempenich's amendment 21.0851.01001 (#3405).

**Representative Dockter made a motion to turn this bill into a study.**

**Representative Fisher seconded the motion.**

Committee discussion.

**Motions were withdrawn.**

**Representative Dockter made a motion for a Do Not Pass.**

**Representative D. Anderson seconded the motion.**

Committee discussion.

**Motions withdrawn.**

Committee will discuss further with other agencies and will bring back to committee.

**Chairman Headland** closed the discussion at 3:06pm.

*Mary Brucker, Committee Clerk*

21.0851.01001  
Title.

Prepared by the Legislative Council staff for  
Representative Kempenich  
January 25, 2021

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2. The oil and gas tax revenue hedging advisory committee consists of:
  - a. The director of the office of management and budget, as chairman;
  - b. One senator appointed by the senate majority leader;
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# 2021 HOUSE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Room JW327E, State Capitol

HB 1358  
2/2/2021

A bill relating to oil and gas tax revenue hedging.
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**Chairman Headland** opened up for discussion at 2:53pm.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	AB
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	AB
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

### Discussion Topics:

- Amendment 21.0851.01001
- Committee decision

**Representative Dockter** made a motion to adopt amendment 21.0851.01001 (#3405).

**Representative Bosch** seconded the motion.

**Voice vote-motion** carried.

**Representative D. Anderson** made a motion for a Do Pass As Amended and Rerefer to Appropriations.

**Representative Dockter** seconded the motion.

### Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y

Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	N
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	AB
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	AB
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

**Motion carried 11-1-2**

**Representative D. Anderson is the bill carrier.**

**Chairman Headland** closed discussion at 2:58pm.

*Mary Brucker, Committee Clerk*

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2. The oil and gas tax revenue hedging advisory committee consists of:
  - a. The director of the office of management and budget, as chairman;
  - b. One senator appointed by the senate majority leader;
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Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1358: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1358 was placed on the Sixth order on the calendar.

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21.0851.01001  
Title.

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Representative Kempenich  
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3. The advisory committee shall meet at least quarterly, and the Bank shall provide administrative services to the committee.
4. The advisory committee shall recommend to the Bank hedging strategies to offset any reductions to state oil and gas tax revenues due to oil and gas prices falling below levels included in the legislative revenue forecast at the conclusion of the most recently adjourned regular or special session of the legislative assembly. Hedging strategies include put options, swap agreements, or any other hedging financial instruments. The committee shall submit quarterly reports to the legislative management regarding the results of the hedging strategies.
5. The Bank may contract for consulting services to implement the hedging strategies, and any related contracting expenses must be paid from the fund.
6. On or before September fifteenth of each year, the Bank shall certify to the state treasurer the amount of accumulated funds in the oil and gas tax revenue hedging fund on June thirtieth of the preceding fiscal year which exceed the estimated hedging costs for the current fiscal year. The state treasurer shall transfer the certified amount from the oil and gas tax revenue hedging fund to the strategic investment and improvements fund by September thirtieth of each fiscal year.

**SECTION 2. APPROPRIATION - TRANSFER - INTENT - LEGACY FUND EARNINGS.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$20,000,000, which the office of management and budget shall transfer to the oil and gas tax revenue hedging fund during the period beginning with the effective date of this Act and ending June 30, 2023. It is the intent of the sixty-seventh legislative assembly that the funds appropriated be derived from legacy fund earnings transferred to the general fund during the biennium beginning July 1, 2019, and ending June 30, 2021.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**2021 HOUSE APPROPRIATIONS**

**HB 1358**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Brynhild Haugland Room, State Capitol

HB 1358  
2/5/2021

Relating to oil and gas tax revenue hedging; to provide an appropriation; to provide a continuing appropriation; to provide for a transfer;

**9:21 Chairman Delzer** Called the meeting to order;

Representatives	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	P
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	P
Representative Mike Brandenburg	P
Representative Michael Howe	P
Representative Gary Kreidt	P
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	P
Representative David Monson	P
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	P
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigesaa	P

### Discussion Topics:

- Advisory committee
- Hedging Fund for Oil

**9:22 Representative Headland**-Introduces the bill and testifies in favor.

**Additional written testimony:** No written testimony

**9:48 Chairman Delzer**- Closed the hearing for HB1358

*Risa Berube, House Appropriations Committee Clerk*

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Brynhild Haugland Room, State Capitol

HB 1358  
2/18/2021

Relating to oil and gas tax revenue hedging; to provide an appropriation
--

**6:00PM Chairman Delzer-** Opened the meeting for HB 1358

Attendance	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	P
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	P
Representative Mike Brandenburg	P
Representative Michael Howe	P
Representative Gary Kreidt	P
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	P
Representative David Monson	A
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	P
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigesaa	P

### Discussion Topics:

- Amendment

**6:04 Representative Kempenich-** Passes out and reviews amendment 21.0851.02001

**6:09 Representative Kempenich** Makes a motion to adopt 02001

**Representative Brandenburg** Second

**6:09 Voice Vote-** Motion carries

**6:13 Representative Kempenich** Makes a motion for a Do Pass as Amended

**Representative Brandenburg** Second  
Further discussion

**6:14 Roll call vote was taken;**

<b>Representatives</b>	<b>Vote</b>
Representative Jeff Delzer	N
Representative Keith Kempenich	Y
Representative Bert Anderson	N
Representative Larry Bellew	N
Representative Tracy Boe	Y
Representative Mike Brandenburg	Y
Representative Michael Howe	Y
Representative Gary Kreidt	N
Representative Bob Martinson	N
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative Corey Mock	Y
Representative David Monson	A
Representative Mike Nathe	N
Representative Jon O. Nelson	Y
Representative Mark Sanford	Y
Representative Mike Schatz	Y
Representative Jim Schmidt	N
Representative Randy A. Schobinger	N
Representative Michelle Strinden	N
Representative Don Vigasaa	Y

**Motion Carries 11-9-1 Representative Kempenich will carry the bill**

**Additional written testimony:** No written testimony

**6:14 Chairman Delzer-** Closes the meeting for HB 1358

*Risa Berube,*

*House Appropriations Committee Clerk*

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1358

Page 2, line 11, after "any" insert "potential"

Page 2, line 15, after "put" insert "and call"

Page 2, line 15, remove "swap agreements."

Page 2, line 16, after the underscored period insert "The committee may recommend to the Bank that hedging strategies not be implemented."

Page 2, line 26, remove "- **LEGACY FUND EARNINGS**"

Page 2, line 28, replace "\$20,000,000" with "\$10,000,000"

Page 2, line 30, remove "It is the intent of the sixty-seventh"

Page 2, remove line 31

Page 3, remove line 1

Page 3, line 2, replace "2021" with "It is the intent of the sixty-seventh legislative assembly that excess amounts generated from hedging strategies, which are transferred to the strategic investment and improvements fund, be used to repay the general fund before being appropriated for other purposes"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment clarifies the use of hedging strategies, decreases the amount appropriated from \$20 million to \$10 million, removes intent for the appropriation to be derived from legacy fund earnings, and adds intent that excess proceeds generated from the hedging strategies be used to repay the general fund before being appropriated for other purposes.

**REPORT OF STANDING COMMITTEE**

**HB 1358, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 9 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1358 was placed on the Sixth order on the calendar.

Page 2, line 11, after "any" insert "potential"

Page 2, line 15, after "put" insert "and call"

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**2021 SENATE FINANCE AND TAXATION**

**HB 1358**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1358  
3/17/2021

A BILL for an Act to amend and reenact section 54-44-16 of the North Dakota Century Code, relating to oil and gas tax revenue hedging; to provide an appropriation; to provide a continuing appropriation; to provide for a transfer; to provide a statement of legislative intent; and to declare an emergency.

**Vice Chair Kannianen** calls the meeting to order., Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. Chair Bell absent. [02:32]

### Discussion Topics:

- Revenue protection
- Oil options
- Hedging strategies
- Committee membership

**Representative Kempenich** [2:32] introduces in favor.

**Representative Trottier** [2:42] orally in favor.

**Tim Porter** [2:49] Chief Financial Officer, Bank of North Dakota in favor #9875.

**Representative Kempenich** [03:05] submits an amendment [LC 21.0851.03001] #9887

**Chair Bell** adjourns the meeting. [03:05]

*Joel Crane, Committee Clerk*

**TESTIMONY, SENATE FINANCE AND TAX COMMITTEE  
MARCH 17, 2021  
HOUSE BILL 1358**

**TIM PORTER – CHIEF FINANCIAL OFFICER  
BANK OF NORTH DAKOTA**

Madam Chair and members of the Committee, for the record my name is Tim Porter, Chief Financial Officer at Bank of North Dakota. I am here today to offer our thoughts on House Bill 1358 regarding establishing a process for hedging oil prices. In addition, I will provide the committee with some of the results from the Hedge Study we conducted from October 2019 through September 2020.

First of all, BND supports the amendments as presented for House Bill 1358. These amendments will initiate an Oil Hedging Advisory Committee and create an Oil and Gas Tax Revenue Hedging Fund. Any monies within the fund are appropriated to the Office of Management and Budget (OMB). The Oil Hedging Advisory Committee, with the Director of OMB as chair, would review hedge strategies and have the authority to hire an outside consultant that specializes in developing oil hedge strategies. We think it's important that the oversight of this function rest with a committee that has representation across state government, including the legislative branch.

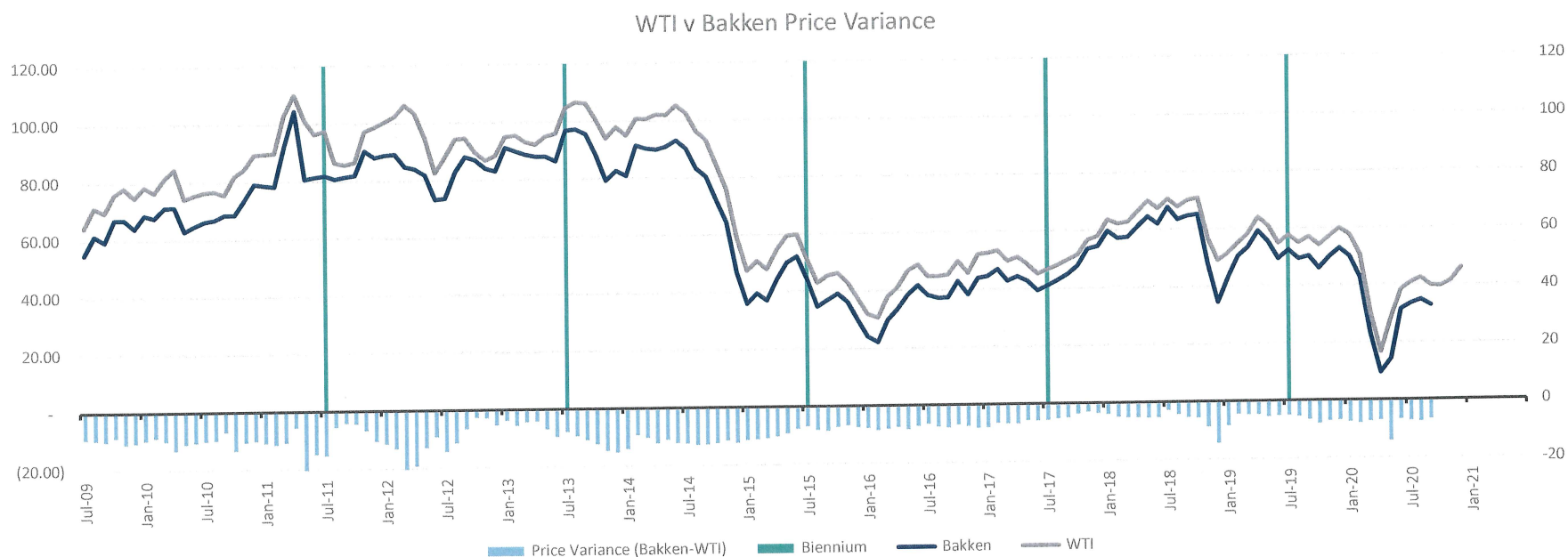
The amendment provides for an appropriation of \$20 million and a transfer each September from the Oil and Gas Tax Revenue Hedging Fund to the Strategic Investment and Improvement Fund (SIIF) of any amounts that exceed the original appropriation of \$20 million.

I've also included four pages from the hedge study completed by BND. These pages include historical perspectives of oil prices broken down by biennium and includes a look at the basis risk (WTI vs. Bakken price) as well as the biennial budget oil price versus the actual price for the past few biennium's. Page three describes the types of hedging instruments used in our study, and page four provides a monetary summary of the premiums we paid to purchase puts and the settlement values we realized when the oil price dropped below the floors established in our trades.

Overall, in cooperation and coordination with the Oil Hedging Advisory Committee, BND can play a role in establishing a strategy to reduce the risk of falling oil prices, but this risk needs to be on the state's balance sheet, not BND's. By establishing the Oil Hedging Advisory Committee and providing an appropriation, these amendments open an important dialogue for the legislature to debate whether its desire is to pay for the insurance to help protect a portion of the state's budget.

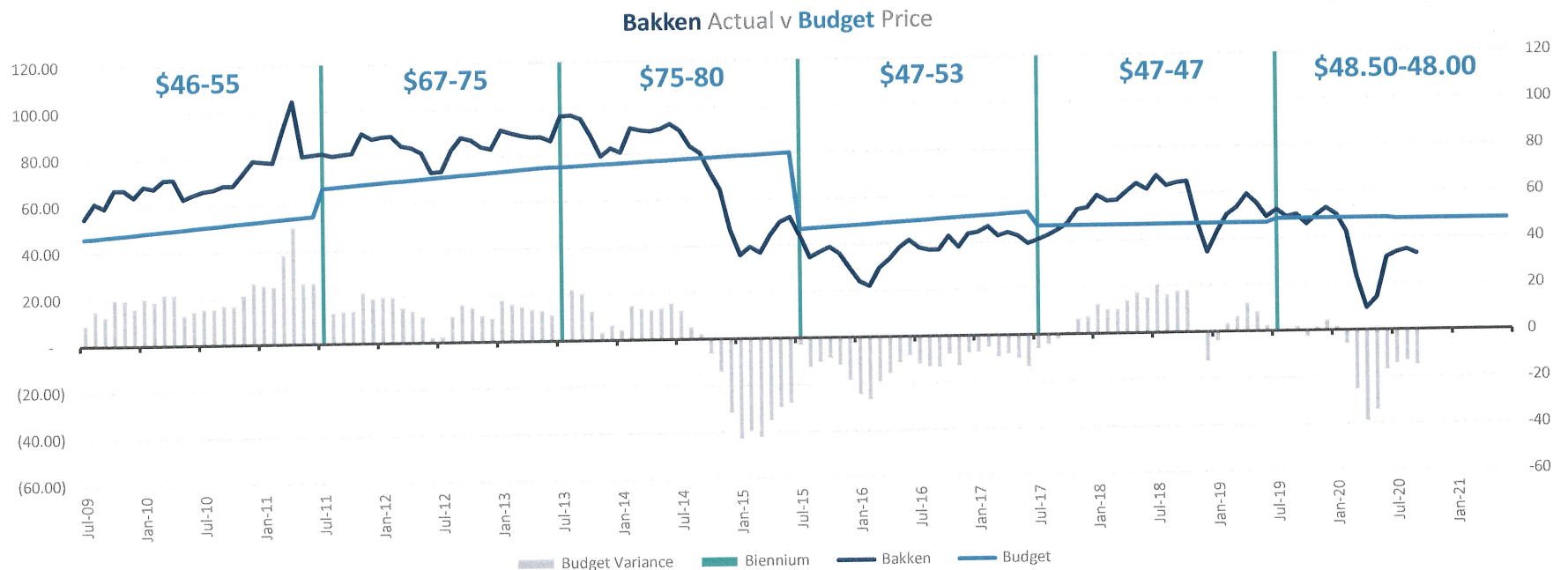
That concludes my testimony, Madam Chair and I would be happy to answer any questions.

## Historical Price Perspective – WTI v Bakken



Price Variance (Bakken - WTI)	2009-11	2011-13	2013-15	2015-17	2017-19	2019-21
	(10.82)	(8.85)	(11.41)	(7.35)	(5.47)	(7.49)

## Historical Price Perspective – Biennial Budget Oil Price v Actual



Price Variance (Actual - Budget)	2009-11	2011-13	2013-15	2015-17	2017-19	2019-21
	21.09	13.80	(3.68)	(12.09)	7.21	(10.22)

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## Hedging Instruments Primarily Used in Project

- **Put Option**

- Pay a premium, and establish a floor
  - May not receive any payment if price does not reach floor
- Minimize downside risk while still participating in upside

- **Costless Collar**

- No upfront cost or premium
- Lock in a ceiling and floor price
  - Minimizes downside risk and upside opportunity

## Payment summary

The hedge portfolio has so far earned BND more than \$94 million in payouts

- The drop in oil prices led to significant payouts on hedges between April and September.
- In total, employing the hypothetical hedging program would have **netted ~\$80mm over 12 months**, mitigating the losses caused by declining oil prices.
- *If oil instead had a strong year, BND would not have recovered any of the \$14mm in premium payments, but this cost may be offset by increasing oil-related revenues.*
- In addition to payouts already received, the portfolio of remaining active trades has a value of **\$29.6 million**, with coverage extending to September 2022.

Date	Premiums	Settlements	Additional notes
Sep-19	-5,597,640	0	Purchased put option
Oct-19	0	0	
Nov-19	0	0	
Dec-19	-1,379,974	0	Purchased put option
Jan-20	0	0	
Feb-20	0	0	New costless collars (no premiums)
Mar-20	0	20,472,202	First payout following WTI collapse
Apr-20	0	33,910,944	
May-20	0	20,116,260	
Jun-20	-7,774,500	6,275,317	Purchased put option
Jul-20	0	4,686,728	
Aug-20	0	3,434,774	
Sep-20	0	5,425,305	
<b>Total</b>	<b>-14,752,114</b>	<b>94,321,530</b>	



21.0851.03000

**SECOND ENGROSSMENT**

Sixty-seventh  
Legislative Assembly  
of North Dakota

**REENGROSSED HOUSE BILL NO. 1358**

Introduced by

Representatives Kempenich, Christensen, Mock, Steiner, Trottier

Senators Bekkedahl, Dwyer, Schaible

1 A BILL for an Act to amend and reenact section 54-44-16 of the North Dakota Century Code,  
2 relating to oil and gas tax revenue hedging; to provide an appropriation; to provide a continuing  
3 appropriation; to provide for a transfer; to provide a statement of legislative intent; and to  
4 declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 54-44-16 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **54-44-16. Oil and gas tax revenue put options hedging fund - Advisory committee -**  
9 **Continuing appropriation - Transfer to strategic investment and improvements fund.**

10 ~~Upon request of the director of the office of management and budget and upon approval by~~  
11 ~~the industrial commission, the state investment board may purchase oil put options for the office~~  
12 ~~of management and budget. The purchase of put options must be designed to offset reduced~~  
13 ~~state general fund oil and gas tax revenues due to oil and gas prices falling below selected~~  
14 ~~levels. Put options may be purchased only at such times that the purchase assures that oil tax~~  
15 ~~revenues plus the revenues from the sale of put options will be in excess of the oil tax revenues~~  
16 ~~estimated for that level of production by the most recently adjourned legislative assembly. The~~  
17 ~~office of management and budget shall report any purchases of put options to the budget~~  
18 ~~section of the legislative management.~~

19 1. There is created in the state treasury the oil and gas tax revenue hedging fund. The  
20 fund consists of all moneys transferred to the fund by the legislative assembly, interest  
21 and earnings upon moneys in the fund, and proceeds from any hedging financial  
22 instruments. The moneys in the fund are appropriated to the *office of management and budget*  
23 a continuing basis for the purpose of implementing hedging strategies as approved by



1 the oil and gas tax revenue hedging advisory committee and for administrative  
2 expenses.

3 2. The oil and gas tax revenue hedging advisory committee consists of:

- 4 a. The director of the office of management and budget, as chairman;  
5 b. One senator appointed by the senate majority leader;  
6 c. One representative appointed by the house majority leader;  
7 d. The president of the Bank of North Dakota or the president's designee; and  
8 e. The director of the department of mineral resources.

9 3. The advisory committee shall meet at least quarterly, and the <sup>Office of management and budget</sup> ~~Bank~~ shall provide  
10 administrative services to the committee.

11 4. The advisory committee shall recommend ~~to the Bank~~ hedging strategies to offset any  
12 potential reductions to state oil and gas tax revenues ~~due to oil and gas prices falling~~  
13 ~~below levels included in the legislative revenue forecast at the conclusion of the most~~  
14 ~~recently adjourned regular or special session of the legislative assembly.~~ Hedging  
15 strategies include put and call options or any other hedging financial instruments. The  
16 committee may recommend ~~to the Bank~~ that hedging strategies not be implemented.  
17 The committee shall submit quarterly reports to the legislative management regarding  
18 the results of the hedging strategies.

19 5. <sup>Office of management and budget</sup> ~~The Bank~~ may contract for consulting services to implement the hedging strategies,  
20 and any related contracting expenses must be paid from the fund.

21 6. On or before September fifteenth of each year, the <sup>committee</sup> ~~Bank~~ shall certify to the state  
22 treasurer the amount of accumulated funds in the oil and gas tax revenue hedging  
23 fund on June thirtieth of the preceding fiscal year ~~which exceed the estimated hedging~~  
24 ~~costs for the current fiscal year.~~ The state treasurer shall transfer <sup>any</sup> ~~the certified amount~~ <sup>exceeding \$20 million</sup>  
25 from the oil and gas tax revenue hedging fund to the strategic investment and  
26 improvements fund by September thirtieth of each fiscal year.

27 **SECTION 2. APPROPRIATION - TRANSFER - INTENT.** There is appropriated out of any  
28 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of  
29 \$10,000,000, which the office of management and budget shall transfer to the oil and gas tax  
30 revenue hedging fund during the period beginning with the effective date of this Act and ending  
31 June 30, 2023. It is the intent of the sixty-seventh legislative assembly that excess amounts

# 2021 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1358  
3/24/2021

A BILL for an Act to amend and reenact section 54-44-16 of the North Dakota Century Code, relating to oil and gas tax revenue hedging; to provide an appropriation; to provide a continuing appropriation; to provide for a transfer; to provide a statement of legislative intent; and to declare an emergency.

**Vice Chair Kannianen** calls the meeting to order., Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. Chair Bell absent. [9:47]

### Discussion Topics:

- Office of Management and Budget
- Bank of North Dakota
- Hedging

**Senator Kannianen** [9:52] moved the amendment [LC 21.0851.03001] #9887

**Senator J. Roers** seconds

Motion passes by voice vote

**Senator Kannianen** [9:57] move DO PASS as Amended and re-refer to Appropriations.

**Senator J. Roers** second

Senators	Vote
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Jim Roers	Y
Senator Mark Weber	Y

Motion passes 7-0-0

**Senator J. Roers** carries

**Chair Bell** adjourns the meeting. [9:59]

*Joel Crane, Committee Clerk*

5  
10/29  
10/29

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1358

Page 1, line 22, replace "Bank of North Dakota" with "office of management and budget"

Page 2, line 9, replace "Bank" with "office of management and budget"

Page 2, line 11, remove "to the Bank"

Page 2, line 12, remove "due to oil and gas prices falling"

Page 2, remove line 13

Page 2, line 14, remove "recently adjourned regular or special session of the legislative assembly"

Page 2, line 16, remove "to the Bank"

Page 2, line 19, replace "Bank" with "office of management and budget"

Page 2, line 21, replace "Bank" with "committee"

Page 2, line 23, remove "which exceed the estimated hedging"

Page 2, line 24, remove "costs for the current fiscal year"

Page 2, line 24, replace "the certified" with "any"

Page 2, line 24, after "amount" insert "exceeding twenty million dollars"

Page 2, line 29, replace "\$10,000,000" with "\$20,000,000"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1358, as reengrossed: Finance and Taxation Committee (Sen. Bell, 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). Reengrossed HB 1358 was placed on the Sixth order on the calendar.

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**2021 SENATE APPROPRIATIONS**

**HB 1358**

# 2021 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

HB 1358  
4/2/2021  
Senate Appropriations Committee

Relating to oil and gas tax revenue hedging.
--

**Senator Holmberg** opened the hearing at 8:31 AM.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.**

**Discussion Topics:**

- Funding sources
- Appropriation necessary
- Hedge funds/equity investments

**Representative Kempenich, District 39, Bill Sponsor** – introduced the bill.

**Tim Porter, CFO, Bank of North Dakota** – testified in favor and submitted testimony #11321.

**Senator Holmberg** closed the hearing at 9:27 AM.

*Rose Laning, Committee Clerk*

**TESTIMONY, SENATE FINANCE AND TAX COMMITTEE  
MARCH 17, 2021  
HOUSE BILL 1358**

**TIM PORTER – CHIEF FINANCIAL OFFICER  
BANK OF NORTH DAKOTA**

Madam Chair and members of the Committee, for the record my name is Tim Porter, Chief Financial Officer at Bank of North Dakota. I am here today to offer our thoughts on House Bill 1358 regarding establishing a process for hedging oil prices. In addition, I will provide the committee with some of the results from the Hedge Study we conducted from October 2019 through September 2020.

First of all, BND supports the amendments as presented for House Bill 1358. These amendments will initiate an Oil Hedging Advisory Committee and create an Oil and Gas Tax Revenue Hedging Fund. Any monies within the fund are appropriated to the Office of Management and Budget (OMB). The Oil Hedging Advisory Committee, with the Director of OMB as chair, would review hedge strategies and have the authority to hire an outside consultant that specializes in developing oil hedge strategies. We think it's important that the oversight of this function rest with a committee that has representation across state government, including the legislative branch.

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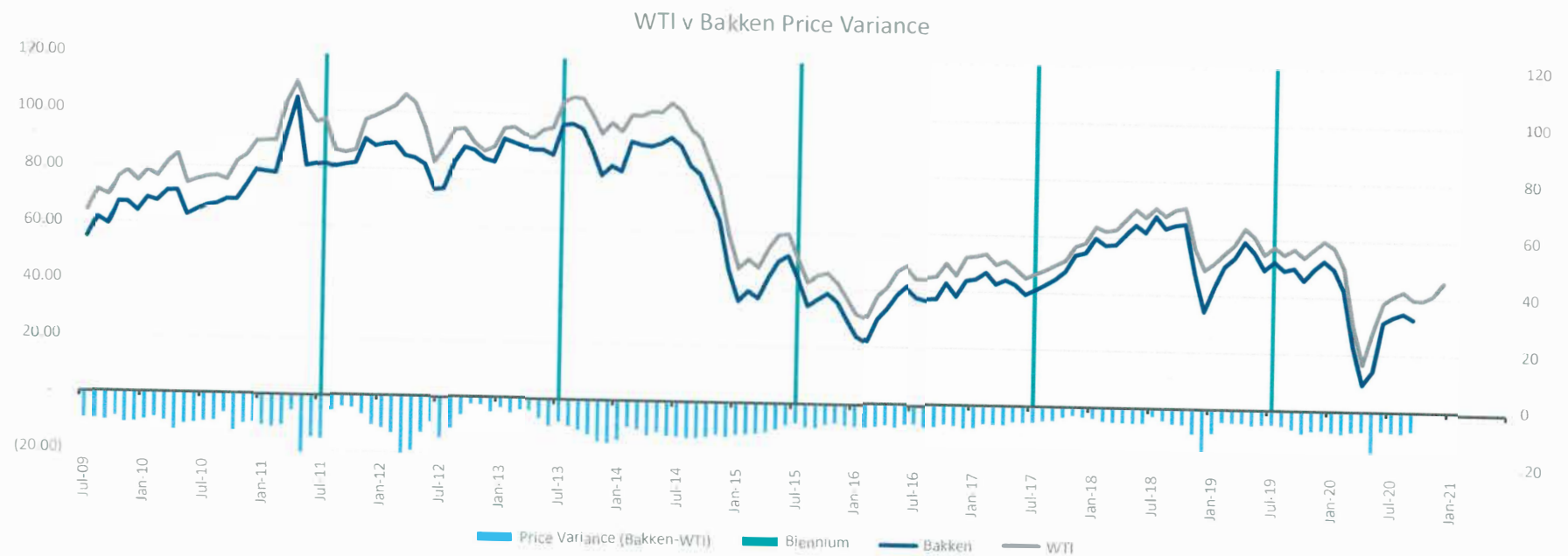
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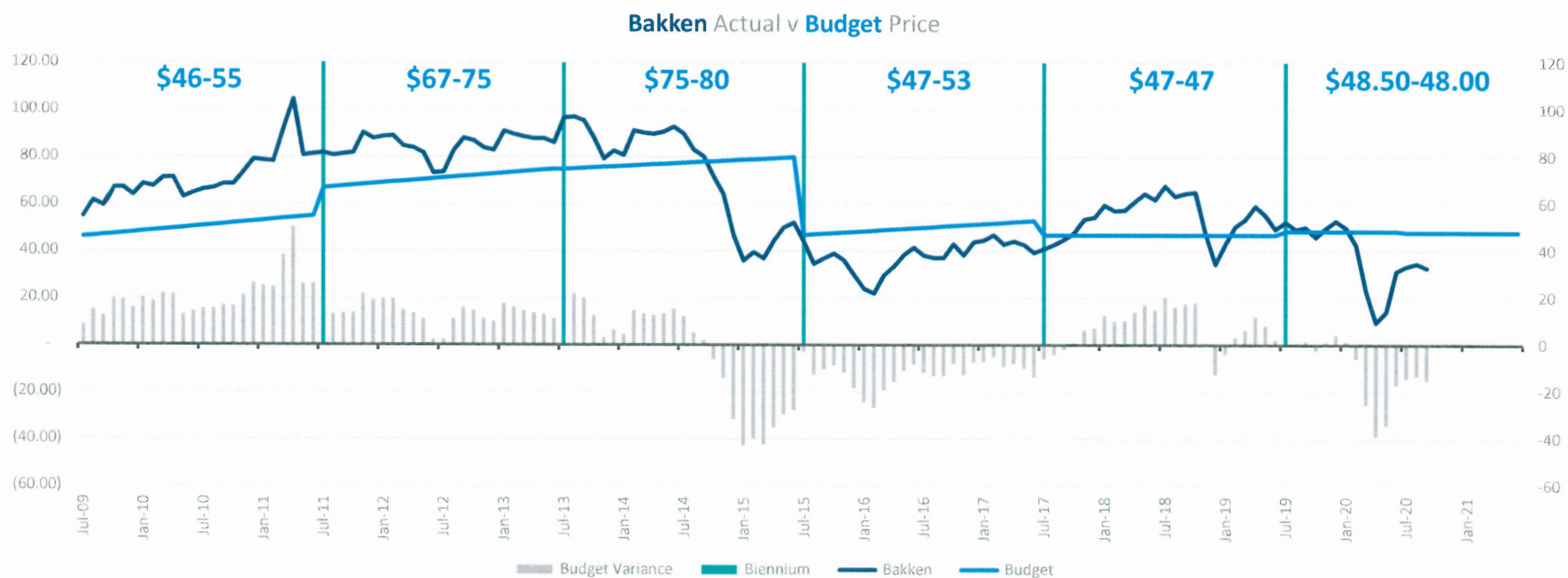


## Historical Price Perspective – WTI v Bakken



Price Variance (Bakken - WTI)	2009-11	2011-13	2013-15	2015-17	2017-19	2019-21
	(10.82)	(8.85)	(11.41)	(7.35)	(5.47)	(7.49)

## Historical Price Perspective – Biennial Budget Oil Price v Actual



Price Variance (Actual - Budget)	2009-11	2011-13	2013-15	2015-17	2017-19	2019-21
	21.09	13.80	(3.68)	(12.09)	7.21	(10.22)

## Hedging Instruments Primarily Used in Project

- **Put Option**

- Pay a premium, and establish a floor
  - May not receive any payment if price does not reach floor
- Minimize downside risk while still participating in upside

- **Costless Collar**

- No upfront cost or premium
- Lock in a ceiling and floor price
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## Payment summary

The hedge portfolio has so far earned BND more than \$94 million in payouts

- The drop in oil prices led to significant payouts on hedges between April and September.
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Dec-19	-1,379,974	0	Purchased put option
Jan-20	0	0	
Feb-20	0	0	New costless collars (no premiums)
Mar-20	0	20,472,202	First payout following WTI collapse
Apr-20	0	33,910,944	
May-20	0	20,116,260	
Jun-20	-7,774,500	6,275,317	Purchased put option
Jul-20	0	4,686,728	
Aug-20	0	3,434,774	
Sep-20	0	5,425,305	
<b>Total</b>	<b>-14,752,114</b>	<b>94,321,530</b>	

# 2021 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

HB 1358

4/5/2021

Senate Appropriations Committee

A BILL for an Act to amend and reenact section 54-44-16 of the North Dakota Century Code, relating to oil and gas tax revenue hedging; to provide an appropriation; to provide a continuing appropriation; to provide for a transfer; to provide a statement of legislative intent; and to declare an emergency.

**Chairman Holmberg** opened the hearing at 8:37 a.m.

Senators present: Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.

### Discussion Topics:

- Pros/Cons of Hedging

**Senator Poolman** moved DO NOT PASS

**Senator Davison** seconded the motion

<b>Senators</b>		<b>Senators</b>	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	N
<i>Senator Wanzek</i>	N	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	N	<i>Senator Rust</i>	N
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	N	<i>Senator Mathern</i>	Y

9-5-0 – Motion Passes

**Chairman Holmberg** will carry the bill

**Chairman Holmberg** closed the hearing at 8:52 a.m.

*Rose Laning, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1358, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1358, as amended, was placed on the Fourteenth order on the calendar.