

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2125

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Yubereca J. Lee  
Operator's Signature

10-16-03  
Date

2003 SENATE NATURAL RESOURCES

SB 2125

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*Yherosa d. Lee*  
Operator's Signature

*10-16-03*  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2125

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 1-10-03

Tape Number	Side A	Side B	Meter #
1	X		18.4-33.0
Committee Clerk Signature <i>Jamit James</i>			

Minutes:

**Senator Thomas Fischer**, Chairman of the Senate Natural Resources Committee opened the hearing on SB 2125, relating to confiscation by the state of well-site equipment and salable oil.

All committee members were present.

**Lynn Helms**, Director of the ND Oil & Gas Division of the Industrial Commission testified in favor of SB 2125. (See attached testimony).

**Senator John Traynor** asked if had ever been any objections from the owner of the production property equipment when it is confiscated.

**Lynn Helms** responded that there was only one occasion when an owner appeared at the hearing and testified that they were amenable to the confiscation.

**Senator Traynor** asked what kind of notice is given for the confiscation.

**Lynn Helms** answered that a personal notice is given by registered mail, it is published in the county newspaper along with the Bismarck Tribune all within 15 day prior to the hearing date.

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Page 2  
Senate Natural Resources Committee  
Bill/Resolution Number SB 2125  
Hearing Date 1-10-03

Senator Layton Freborg inquired that if a former owner has sold the property and also the obligation to plug the well, why are the former owners included in the bill. Do they really have an obligation if they sold that well and transferred that responsibility.

Lynn Helms answered that their obligation ended when they were released from the bond and the new operator was placed on the bond, however, it is when the former owner has retained an interest in the equipment on the well that the commission feels that the former owner does have an obligation to throw that equipment in for the plugging mix

Senator Stanley Lyson stated he understood that oil that was in a storage tank must be confiscated but if this oil is taken, is it written any place that the owners of the oil under lease will receive their share or royalties.

Lynn Helms responded that there at this time there is nothing in writing and maybe this should be addressed by amending the bill to be only the working interest owner's share of salable oil be confiscated.

Senator Joel Heitkamp asked who determines the level of the bond and that any bond he has ever worked with has to equal to the amount of the contract or work that is being done, so why would the bond be insufficient requiring the confiscation.

Lynn Helms answered the bond levels are set in the administrative rules and are reviewed every couple of years to make sure that they are comparable to our neighboring states. He further said that our bonding rates are higher than most states but not to the level that would put North Dakota at a competitive disadvantage.

Senator Fischer asked for any testimony in opposition to SB 2125.

Senator Fischer asked for and neutral testimony on SB 2125.

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10-16-03  
Date

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Senate Natural Resources Committee  
Bill/Resolution Number SB 2125  
Hearing Date 1-10-03

Ron Ness, Executive Director the North Dakota Petroleum Council testified that they have monitored SB 2125 with Industrial Commission and the Oil and Gas Division and agreed that Senator Lyson had an excellent recommendation, but the only concern was not to leave the owner's royalty share of oil be left on site for later cleanup. He also responded to Senator Heitkamp concerns to the bond levels saying that there were adjustments made to bond levels in 2000-2001. The legislature also passed legislation regarding the amount allowable that can be carried forward in the fund of operators moneys by the Industrial Commission to insure cleanups.

Senator Fischer closed the hearing on SB 2125.

Senator Lyson asked that SB 2125 will be held over until an amendment can be drawn up regarding the royalty share of the confiscated oil.

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Operator's Signature

10-16-03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2125

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 1-17-03 Discussion and Action

Tape Number	Side A	Side B	Meter #
1	X		10.9 - 15.1
Committee Clerk Signature <i>Jane James</i>			

Minutes:

**Senator Thomas Fischer**, Chairman of the Senate Natural Resources opened discussion of SB 2125.

All members of the committee were present except Senator Joel Heitkamp.

Further written information and an amendment that had been requested of Lynn Helms (Director of the ND Oil & Gas Division of the Industrial Commission) was given to the committee.

After reading the information Senator Stanley Lyson stated he understood the intent of Mr. Helms.

**Senator Lyson** made a motion to accept the amendment submitted by the Oil & Gas Division.

**Senator Layton Freborg** second the motion.

**Senator Fischer** (13.0) questioned if this amendment would initiate a lengthy process in order to clean up a small amount of oil.

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10-16-03  
Date

Page 2  
Senate Natural Resources Committee  
Bill/Resolution Number SB 2125  
Hearing Date 1-17-03

Senator Lyson felt the amendment covers the issue by stating "salable amount of oil". Also there is a line in the amendment stating "determining the mineral owners and their royalties interest, the commission may rely upon the most recent division order it is able to obtain", should also take care of any questions and eliminate title research.

Senator Fischer called for roll vote #1 of the amendment as submitted by the Oil & Gas Division.

The roll vote indicated 6 YAYS, 0 NAYS AND 1 ABSENT.

Senator Freborg made the motion for a DO PASS as Amended of SB 2125.

Senator Every second the motion.

Roll vote #2 was taken indicating 6 YAYS, 0 NAYS AND 1 ABSENT.

Senator Lyson will carry SB 2125.

Senator Fischer closed the meeting on SB 2125.

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Operator's Signature

10-16-03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2125

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 1-30-03 Discussion and action

Tape Number	Side A	Side B	Meter #
1	X		0.8 - 2.3
		X	1.3 - 2.2
Committee Clerk Signature <i>Janet James</i>			

Minutes:

**Senator Thomas Fischer**, Chairman, brought the Senate Natural Resources Committee to order.

Attendance was taken indicating all members of the committee were present.

**Senator Fischer** opened discussion on SB 2125. He explained that because there is a continual appropriation on the bill it should not have it stated in the amendment as it is.

**Senator Joel Heitkamp** made the motion to amend SB 2125 to remove on Page 1, Line 2, "and to provide an appropriation"

**Senator Ben Tellefson** second the motion.

Roll call vote indicating 7 YEAS, 0 NAYS, AND 0 ABSENT OR NOT VOTING.

Discussion was closed on SB 2125.

**Senator Thomas Fischer** ( Side B, 1.3) reopened discussion on SB 2125.

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Operator's Signature

*10-16-03*  
Date



Page 2

Senate Natural Resources Committee

Bill/Resolution Number SB 2125

Hearing Date 1-30-03

Senator Fischer announced to the committee that more had to be done on the bill as the committee had amended the SB 2125, but action needed to be taken.

Senator Ben Tollefson made a motion for a DO PASS as Amended of SB 2125.

Senator John Traynor second the motion.

Roll call vote was taken indicating 7 YEAS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

Senator Stanley Lyson will carry SB 2125 to the Senate floor.

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10-16-03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2125

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 2-6-03 Reconsideration and Action

Tape Number	Side A	Side B	Meter #
1		X	27.7 - 31.7
2		X	25.9
Committee Clerk Signature <i>Janet James</i>			

Minutes:

**Senator Thomas Fischer**, Chairman of the Senate Natural Resources Committee reopened discussion on SB 2125.

All members of the committee were present except Senator John Traynor

**Senator Fischer** stated that SB 2125 needed to be reconsidered because the Legislative Council felt the amendment needed to include the "and to provide an appropriation" segment.

**Senator Joel Heitkamp** made a motion to reconsider action on SB 2125.

**Senator Michael Every** second the motion.

A voice vote was taken with all members indicating yes.

**Senator Heitkamp** made a motion to amend SB 2125 with Amendment 38105.0101.

**Senator Every** second the motion.

Roll call vote #1 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

**Senator Stanley Lyson** made a motion for Do Pass as Amended of SB 2125.

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Operator's Signature

10-16-03  
Date

Page 2  
Senate Natural Resources Committee  
Bill/Resolution Number SB 2125  
Hearing Date 2-6-03

Senator Heitkamp second the motion.

Roll call vote #2 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Fischer closed the discussion on SB 2125.

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Senator Thomas Fischer reopened the discussion on SB 2125 stating action has already been taken on the bill but needs to be rereferred to Appropriations along with SB 2280 and 2227.

Senator Layton Freborg made a motion for a Do Pass as Amended and Rereferred to Appropriations of SB 2125

Senator Ben Tollefson second the motion.

Roll call vote was taken indicating 7 YEAS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

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10-16-03  
Date

**FISCAL NOTE**  
Requested by Legislative Council  
02/10/2003

Amendment to: SB 2125

**1A. 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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

There is no fiscal impact to the State, counties or political subdivisions other than what is currently permitted under law.

**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.*

**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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Karlene K. Fine	Agency:	Industrial Commission
Phone Number:	328-3722	Date Prepared:	02/10/2003

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Operator's signature

*10-16-03*  
Date

## FISCAL NOTE

Requested by Legislative Council  
01/03/2003

Bill/Resolution No.: SB 2125

1A. **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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

There is no fiscal impact to the State, counties or political subdivisions other than what is currently permitted under law.

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.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Karlene Fine	Agency:	Industrial Commission
Phone Number:	32-3722	Date Prepared:	01/07/2003

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Date

Date: 1-17-03  
Roll Call Vote #: /

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2125

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number proposed a amendment by Oily & Lee  
Division of NDIC

Action Taken \_\_\_\_\_

Motion Made By Lyson Seconded By Freborg

Senators	Yes	No	Senators	Yes	No
Senator Thomas Fischer	✓		Senator Michael A. Every	✓	
Senator Ben Tollefson	✓		Senator Joel C. Heitkamp		
Senator Layton Freborg	✓				
Senator Stanley W. Lyson	✓				
Senator John T. Traynor	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment \_\_\_\_\_

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

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10-16-03  
Date

Date: 1-17-03  
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2125

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Freborg Seconded By Every

Senators	Yes	No	Senators	Yes	No
Senator Thomas Fischer	✓		Senator Michael A. Every	✓	
Senator Ben Tollefson	✓		Senator Joel C. Heitkamp		
Senator Layton Freborg	✓				
Senator Stanley W. Lyson	✓				
Senator John T. Traynor	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Senator Lyson

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Yubereca J. Lee 10-16-03  
Operator's Signature Date

Date: 1-30-03  
Roll Call Vote #: /

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2125

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken to remove "and to provide an appropriation"

Motion Made By Heitkamp Seconded By Tollefson

Senators	Yes	No	Senators	Yes	No
Senator Thomas Fischer	✓		Senator Michael A. Every	✓	
Senator Ben Tollefson	✓		Senator Joel C. Heitkamp	✓	
Senator Layton Freborg	✓				
Senator Stanley W. Lyson	✓				
Senator John T. Traynor	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Lyson

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

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Yubereca d. Lee

Date

10-16-03



Date: 1-30-03  
Roll Call Vote #: 2

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2125**

Senate	Senate Natural Resources	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as Amended

Motion Made By Tollefson Seconded By Traynor

[illegible]

Total (Yes) 7 No 0

Absent         A        

Floor Assignment Senator Lyson

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

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Operator's Signature

Date \_\_\_\_\_

Date: 2-6  
Roll Call Vote #: 21

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2125

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number To amend.

Action Taken \_\_\_\_\_

Motion Made By Heitkamp Seconded By Every

Senators	Yes	No	Senators	Yes	No
Senator Thomas Fischer	✓		Senator Michael A. Every	✓	
Senator Ben Tollefson	✓		Senator Joel C. Heitkamp	✓	
Senator Layton Freborg	✓				
Senator Stanley W. Lyson	✓				
Senator John T. Traynor	✓				

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

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Yherosa J. Lee  
Operator's Signature

10-16-03  
Date

Date: 2-6  
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2125

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Lyson Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Senator Thomas Fischer	✓		Senator Michael A. Every	✓	
Senator Ben Tollefson	✓		Senator Joel C. Heitkamp	✓	
Senator Layton Freborg	✓				
Senator Stanley W. Lyson	✓				
Senator John T. Traynor					

Total (Yes) 6 No 0

Absent 1

Floor Assignment Lyson

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

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Yubereca d. Lee 10-16-03  
Operator's Signature Date

Date: 2-6  
Roll Call Vote #: 1

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

Senate	Senate Natural Resources	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number to ~~Amendment~~ 2125

### Action Taken

Motion Made By Hut Seconded By Every

[illegible]

Total	(Yes)	No
100	50	50

Absent

### Floor Assignment

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

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Operator's Signature Yherosa J. Lee Date 10-16-03

Date: 2-6  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2125 2780

Senate	Senate Natural Resources	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number

### Action Taken

**Motion Made By**

**Seconded By**

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment Lyson

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

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Operator's Signature

Date \_\_\_\_\_

REPORT OF STANDING COMMITTEE (410)  
February 7, 2003 9:18 a.m.

Module No: SR-24-1954  
Carrier: Lyson  
Insert LC: 38105.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2125: Natural Resources Committee (Sen. Fischer, 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 2125 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsections 1 and 2 of section 38-08-04.5 and"

Page 1, line 2, after "oil" insert "; and to provide an appropriation"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Subsections 1 and 2 of section 38-08-04.5 of the North Dakota Century Code are amended and reenacted as follows:

1. Revenue to the fund must include:
  - a. Fees collected by the oil and gas division of the Industrial commission for permits or other services.
  - b. Moneys received from the forfeiture of drilling and reclamation bonds.
  - c. Moneys received from any federal agency for the purpose of this section.
  - d. Moneys donated to the commission for the purposes of this section.
  - e. Moneys received from the state's oil and gas impact fund.
  - f. Moneys recovered under the provisions of section 38-08-04.8.
  - g. Moneys recovered from the sale of equipment and oil confiscated under ~~the provisions of~~ section 38-08-04.9.
  - h. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
2. Moneys in the fund may be used for the following purposes:
  - a. Contracting for the plugging of abandoned wells.
  - b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.
  - c. To pay mineral owners their royalty share in confiscated oil."

Page 1, line 15, remove "and oil"

Page 1, line 16, after the underscored period insert "If the commission exercises its authority under this section and there is salable oil at the well, that oil must be confiscated. The commission shall pay the mineral owners the royalty interest in the oil confiscated. In determining the mineral owners and their royalty interests, the commission may rely upon the most recent division order it is able to obtain. If one is unavailable or the commission finds the order unreliable, the commission may rely upon any other source of information the commission deems reasonable to determine and pay mineral owners."

(2) DESK, (3) COMM

Page No. 1

SR-24-1954

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Date

10-16-03

REPORT OF STANDING COMMITTEE (410)  
February 7, 2003 9:18 a.m.

Module No: SR-24-1954  
Carrier: Lyson  
Insert LC: 38105.0101 Title: .0200

Renumber accordingly

(2) DESK, (3) COMM

Page No. 2

SR-24-1954

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Yubereca d. Lee  
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10-16-03  
Date

2003 HOUSE NATURAL RESOURCES

SB 2125

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10-16-03  
Date



2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2125

House Natural Resources Committee

☐ Conference Committee

Hearing Date February 27, 2003

Tape Number	Side A	Side B	Meter #
1		xx	674-2078
Committee Clerk Signature <i>E. M. [Signature]</i>			

Minutes:

**Chair Nelson** called the hearing on SB 2125 relating to relating to confiscation by the state of well-site equipment and salable oil to order.

**Lynn Helms:** NDIC Oil and Gas Division. Introduced SB2125. (See Attached Testimony)

**Rep. Porter:** What happens when the equipment does not have a title instead it has a lean from a bank or is leased?"

**Lynn Helms:** It would not be confiscated if they can produce evidence of a valid lean on the equipment.

**Chair Nelson:** What kind of history do you have concerning confiscation?

**Lynn Helms:** It goes in cycles. High prices will lead to very few confiscations. In low price periods there will be many.

**Rep. Keiser:** This sounds like a bonding problem, why not correct the bonding situation?

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*10-16-03*  
Date

Page 2

House Natural Resources Committee

Bill/Resolution Number 2125

Hearing Date February 27, 2003

**Lynn Helms:** 99% of the time the bond is released. We are near the top of the country in terms of bonding. We are always concerned about the discouraging of oil and gas exploration. This is a the last resort. There are two other options we can go to first. There is a plugging reclamation fund and a cash bond fund. These are self-funding by the industry.

**Rep. Keiser:** Expressed concern about the procedure involved in carrying this out.

**Lynn Helms:** Surface equipment does not have the value. The tubing sucker rods and pull able casing.

**Ron Ness:** ND petroleum Council. We support this bill and the industrial commission efforts quickly and efficiently.

**Rep. Solberg:** Why does these people walk away?

**Ron Ness:** More debt then they can handle. More often then not they are individual investors.

**Rep. Keiser** moved a **Do Pass** on SB 2125. Seconded by **Rep. Solberg**. The motion passed by a vote of 13-0-1. **Rep. Solberg** will carry.

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10-16-03  
Date

Date:  
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2125

House House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Keiser Seconded By Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman Jon O. Nelson	✓				
Vice-Chairman Todd Porter	✓				
Rep. Byron Clark	✓				
Rep. Duane DeKrey					
Rep. David Drovdal	✓				
Rep. Lyle Hanson	✓				
Rep. Bob Hunskor	✓				
Rep. Dennis Johnson	✓				
Rep. George Keiser	✓				
Rep. Scott Kelsh	✓				
Rep. Frank Klein	✓				
Rep. Mike Norland	✓				
Rep. Darrell Nottestad	✓				
Rep. Dorvan Solberg	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Solberg

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

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Operator's Signature

Yvonne J. Lee

Date

10-16-03

**REPORT OF STANDING COMMITTEE (410)**  
February 27, 2003 2:17 p.m.

Module No: HR-38-3619  
Carrier: Solberg  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2125, as engrossed: Natural Resources Committee (Rep. Nelson, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed SB 2125 was placed on the Fourteenth order on the calendar.

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*10-16-03*  
Date

2003 TESTIMONY

SB 2125

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Date



**Senate Bill No. 2125**

**Testimony of Lynn Helms, Director, N.D. Oil & Gas Division,  
Before the Senate Natural Resources Committee**

**January 10, 2003**

The Oil & Gas Division, under the supervision of the Industrial Commission, regulates the oil and gas industry. One of our most important functions is to ensure, after a well is no longer productive or turns out to be a dry hole, that the well is properly plugged; that all equipment, such as gas lines and oil and water storage tanks, are removed; and that the well site and roads to the site are reclaimed.

Plugging and reclamation are the responsibility of the operator of the well, and oil and gas companies almost always satisfy these duties. But sometimes they don't. It then becomes the Oil & Gas Division's responsibility to get the job done. Though we have the ability to force plugging and reclamation through a lawsuit, if the operator has no assets a judgment isn't worth much.

In anticipation that some operators won't plug and reclaim, the law requires that operators file a bond. A \$15,000 bond is required for one well. A \$50,000 bond is needed to operate up to 10 wells. If a company wants to operate more than ten wells a \$100,000 bond is required. With these bonds, if an operator walks away from a well there is at least some of that company's money available to us to hire someone to plug and reclaim the well. But the cost of plugging and reclamation often exceeds the bond amounts.

For example, a company called Grenora Partners recently declared bankruptcy and has no assets. It was the operator of 13 wells. While some of these wells may be transferred to other operators, the worst-case scenario for us is that we will have to plug all of them. The \$100,000 bond we have available will be insufficient because it will cost about \$350,000 to plug the wells and reclaim the sites.

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*Lynn Helms*  
Operator's Signature

10-16-03  
Date



Sometimes there are unusual circumstances at a well that increase reclamation costs and make bond amounts inadequate. Downhole tubing may have deteriorated, increasing the plugging cost. A storage tank at a well recently plugged contains hazardous sludge, increasing reclamation costs.

When the Oil & Gas Division has to plug and reclaim and the bond amount is insufficient, we do have funds that we can tap to pay for the costs that exceed the bond. We also have another tool and that is the confiscation statute, Section 38-08-04.9. This is the statute we want to amend with Bill 2125.

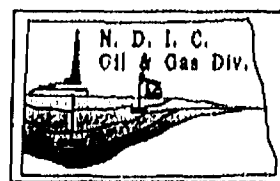
In essence, this confiscation statute authorizes us to take equipment an operator has left behind and use it to defray our plugging costs. What we typically do under this statute is turn the equipment over to private contractors hired through competitive bidding to plug the well and in return the contractors reduce their fees. Plugging contractors are generally in the used equipment business, so they are willing to pay more for the equipment.

Following are the objectives of our proposed amendment to the statute:

1. The current statute states that we can't confiscate until after we have plugged a well. The proposed amendment states that we can confiscate either before or after we plug. We had an instance where our contractor completed plugging and had stacked at the well site tubing pulled out of the hole. Plugging being complete, we were then going to go through the confiscation process and sell the tubing to help pay our plugging costs, but the former operators of the well came to the well site, hauled the tubing away and tried to sell it before we could complete confiscation. To avoid such a problem, we want to amend the statute to allow us to confiscate when it becomes clear that the operator refuses to plug and that the state will have to. This will avoid the opportunity for unscrupulous operators to take advantage of plugging work carried out by the state. Completing the confiscation process before plugging will also help us write contracts with our plugging contractors because we will know what assets we have to work with at the outset.

Yuberead J. Lee  
Operator's Signature

10-16-03  
Date



2. The second change would expand what it is that we can confiscate. The statute now states that we can confiscate equipment. We recently had a situation where the operator left behind some oil in storage tanks. Oil isn't "equipment" and so we couldn't confiscate it and were in a bit of a quandary about what to do with this oil. The proposed amendment allows us to confiscate not only equipment but also any oil left at the well site.

3. The statute now states that we can confiscate equipment owned by the operator or any working interest owner in the well. We want to expand this to also include equipment (and oil) owned by a former operator of the well. This is appropriate for at least two reasons. One, if a former operator retains title to the equipment but has transferred operatorship to a company that isn't going to follow the law (isn't going to plug its wells) and leaves it to the state to clean up its messes, then such former operator should also be on the hook to help pay the state's costs. Two, sometimes people involved in business operate under different business names and companies. The reasons may well be legitimate but sometimes it's a way to hide assets and avoid obligations. To lessen someone's ability to escape the consequences of the confiscation statute by operating under several business names, the statute should allow confiscation of equipment (and oil) owned not only by the current operator but also by a former operator. They may appear to be different entities but in reality involve the same persons.

4. The fourth change is to clarify something. Presently, the statute doesn't define just what "confiscation" means. We have assumed that the legal consequence of confiscating property is that we take title to it. To make this explicit, the proposed amendment states that upon confiscation the state takes title to the property. This will ensure that we have authority to sell the equipment or oil, or otherwise dispose of it, and ensure that anyone to whom we may transfer the property has good title.





The four changes I have just described are the substantive changes proposed by Bill 2125. We also made a nonsubstantive change by deleting reference to a number of statutes that each in one way or another deals with plugging and reclamation. Since they don't seem to serve any substantive purpose it seems best to get rid of them to make the statute easier to read and understand.

In conclusion, this bill will help further the statute's purpose, which is to ensure that when an operator walks away from its responsibilities and leaves it to the state to plug and reclaim, that the costs of the work are more likely to be paid by the operator rather than the people of the state.

I emphasize that we don't take confiscation lightly. We do it only if the bond is insufficient. We confiscate only property owned by someone directly or indirectly within the chain of those responsible for the failure to plug and reclaim. We won't, for example, confiscate property owned by a lending institution or by someone holding a valid lien on the equipment. We confiscate only after giving notice of our intent to do so and only after a hearing.

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*Yubereca d. Ace*  
Operator's Signature

10-16-03  
Date

NORTH DAKOTA INDUSTRIAL COMMISSION

OIL AND GAS DIVISION

Lynn D. Helms  
DIRECTOR

<http://explorer.ndic.state.nd.us>

Bruce E. Hicks  
ASSISTANT DIRECTOR

Senator Fischer  
Members of the Senate Natural Resources Committee,

Enclosed is a proposed amendment to S.B. 2125. As you will recall, the bill deals with the industrial commission's authority to confiscate equipment and oil left at a well site that the commission must plug and reclaim because the operator of the well failed to do so. Sen. Lyson noted that mineral owners still retain an interest in the oil left at the well site and that interest should be protected.

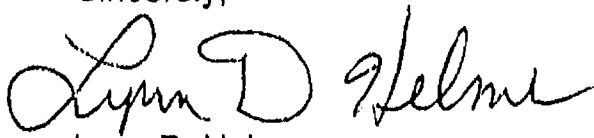
To address this concern, the proposed amendment requires that the commission, when a confiscation includes oil, pay to the mineral owners their royalty interest in the oil.

I have one concern about this duty. To determine mineral ownership we don't want to have to research the county records and have a title opinion prepared. Doing so would cost us more than the oil is worth, since when it is left behind it is usually in small amounts. To address my concern, the proposed amendment includes two sentences that explain what the commission may rely on in determining who has a mineral interest in the well and the amount of that interest. In particular, the amendment states that the commission may rely on a "division order." A division order is a standard document in the industry. It is prepared by the entity purchasing the oil and contains all the information that the purchaser uses to issue checks to the all parties having an interest in the oil.

In light of the requirement that the commission pay mineral owners their fair share, we also need appropriation authority to make expenditures for that purpose. This requires amending another statute, that is, the statute creating the fund through which the commission pays any plugging and reclamation costs it incurs. So I added to the proposed amendment additional language that takes care of this appropriation issue.

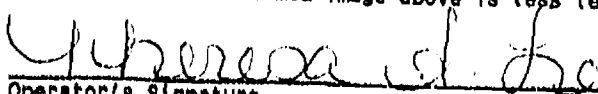
I hope that I have adequately explained the proposed amendment to S.B. 2125. If not, I will be pleased to appear before your committee to further explain them.

Sincerely,

  
Lynn D. Helms

600 E Boulevard Ave Dept 405, Bismarck, North Dakota 58505-0840 Phone(701)328-8020 Fax(701)328-8022

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2125

Page 1, line 2, after "oil" insert "; and to provide an appropriation".

Page 1, line 15, remove "and oil".

Page 1, line 16, after "owner." insert "If the commission uses the authority under this statute and there is saleable oil at the well, that oil must be confiscated. The commission must pay the mineral owners their royalty interest in the oil confiscated. In determining the mineral owners and their royalty interest, the commission may rely upon the most recent division order it is able to obtain. If one is unavailable or the commission finds it unreliable, the commission may rely upon any other source of information it deems reasonable to determine and pay mineral owners."

Page 1, after line 17, insert:

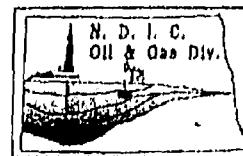
**SECTION 2. AMENDMENT.** Subsections 1 and 2 of section 38-08-04.5 of the North Dakota Century Code are amended and reenacted as follows:

1. Revenue to the fund must include:
  - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
  - b. Moneys received from the forfeiture of drilling and reclamation bonds.
  - c. Moneys received from any federal agency for the purpose of this section.
  - d. Moneys donated to the commission for the purposes of this section.
  - e. Moneys received from the state's oil and gas impact fund
  - f. Moneys recovered under the provisions of section 38-08-04.8.
  - g. Moneys recovered from the sale of equipment and oil confiscated under the provisions of section 38-08-04.9.
  - h. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging and replugging of wells or the restoration of well sites.
2. Moneys in the fund may be used for the following purposes:
  - a. Contracting for the plugging of abandoned wells.
  - b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.
  - c. To pay mineral owners their royalty share in confiscated oil.

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Engrossed Senate Bill No. 2125

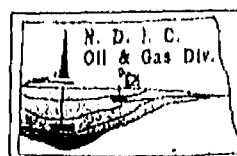
Testimony of Lynn Helms, Director, N.D.I.C. Oil & Gas Division,  
Before the House Natural Resources Committee  
February 27, 2003

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Plugging and reclamation are the responsibility of the operator of the well, and oil and gas companies almost always satisfy these duties. But sometimes they don't. It then becomes the Oil & Gas Division's responsibility to get the job done. Though we have the ability to force plugging and reclamation through a lawsuit, if the operator has no assets a judgment isn't worth much.

In anticipation that some operators won't plug and reclaim, the law requires that operators file a bond. A \$15,000 bond is required for one well. A \$50,000 bond is needed to operate up to 10 wells. If a company wants to operate more than ten wells a \$100,000 bond is required. With these bonds, if an operator walks away from a well there is at least some of that company's money available to us to hire someone to plug and reclaim the well. But the cost of plugging and reclamation often exceeds the bond amounts.

For example, a company called Grenora Partners recently declared bankruptcy and has no assets. It was the operator of 13 wells. While some of these wells may be transferred to other operators, the worst-case scenario for us is that we will have to plug all of them. The \$100,000 bond we have available will be insufficient because it will cost about \$350,000 to plug the wells and reclaim the sites.



Sometimes there are unusual circumstances at a well that increase reclamation costs and make bond amounts inadequate. Downhole tubing may have deteriorated, increasing the plugging cost. A storage tank at a well recently plugged contains hazardous sludge, increasing reclamation costs.

When the Oil & Gas Division has to plug and reclaim and the bond amount is insufficient, we do have funds that we can tap to pay for the costs that exceed the bond. We also have another tool and that is the confiscation statute, Section 38-08-04.9. This is the statute we want to amend with Engrossed SB 2125.

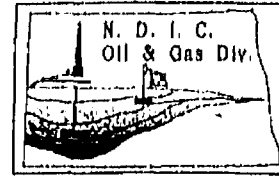
In essence, this confiscation statute authorizes us to take equipment an operator has left behind and use it to defray our plugging costs. What we typically do under this statute is turn the equipment over to private contractors hired through competitive bidding to plug the well and in return the contractors reduce their fees. Plugging contractors are generally in the used equipment business, so they are willing to pay more for the equipment.

Following are the objectives of our proposed amendment to the statute:

1. The current statute states that we can't confiscate until after we have plugged a well. The proposed amendment states that we can confiscate either before or after we plug. We had an instance where our contractor completed plugging and had stacked at the well site tubing pulled out of the hole. Plugging being complete, we were then going to go through the confiscation process and sell the tubing to help pay our plugging costs, but the former operators of the well came to the well site, hauled the tubing away and tried to sell it before we could complete confiscation. To avoid such a problem, we want to amend the statute to allow us to confiscate when it becomes clear that the operator refuses to plug and that the state will have to. This will avoid the opportunity for unscrupulous operators to take advantage of plugging work carried out by the state. Completing the confiscation process before plugging will also help us write contracts with our plugging contractors because we will know what assets we have to work with at the outset.

Yubereca S. Ace  
Operator's Signature

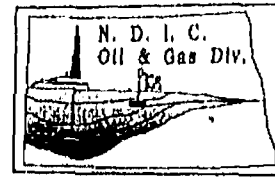
10-16-03  
Date



2. The second change would expand what it is that we can confiscate. The statute now states that we can confiscate equipment. We recently had a situation where the operator left behind some oil in storage tanks. Oil isn't "equipment" and so we couldn't confiscate it and were in a bit of a quandary about what to do with this oil. The proposed amendment allows us to confiscate not only equipment but also any oil left at the well site.

3. The statute now states that we can confiscate equipment owned by the operator or any working interest owner in the well. We want to expand this to also include equipment (and oil) owned by a former operator of the well. This is appropriate for at least two reasons. One, if a former operator retains title to the equipment but has transferred operatorship to a company that isn't going to follow the law (isn't going to plug its wells) and leaves it to the state to clean up its messes, then such former operator should also be on the hook to help pay the state's costs. Two, sometimes people involved in business operate under different business names and companies. The reasons may well be legitimate but sometimes it's a way to hide assets and avoid obligations. To lessen someone's ability to escape the consequences of the confiscation statute by operating under several business names, the statute should allow confiscation of equipment (and oil) owned not only by the current operator but also by a former operator. They may appear to be different entities but in reality involve the same persons.

4. The fourth change is to clarify something. Presently, the statute doesn't define just what "confiscation" means. We have assumed that the legal consequence of confiscating property is that we take title to it. To make this explicit, the proposed amendment states that upon confiscation the state takes title to the property. This will ensure that we have authority to sell the equipment or oil, or otherwise dispose of it, and ensure that anyone to whom we may transfer the property has good title.



The four changes I have just described are the substantive changes proposed by Engrossed SB 2125. We also made a non-substantive change by deleting reference to a number of statutes that each in one way or another deals with plugging and reclamation. Since they don't seem to serve any substantive purpose it seems best to get rid of them to make the statute easier to read and understand.

In addition, our original bill was amended by the Senate to explicitly require and provide the necessary authority for the Industrial Commission to pay mineral owners their fair share of confiscated oil.

I emphasize that we don't take confiscation lightly. We do it only if the bond is insufficient. We confiscate only property owned by someone directly or indirectly within the chain of those responsible for the failure to plug and reclaim. We won't, for example, confiscate property owned by a lending institution or by someone holding a valid lien on the equipment. We confiscate only after giving notice of our intent to do so and only after a public hearing.

In conclusion, Engrossed SB 2125 will help further the statute's purpose of ensuring that when an operator walks away from its responsibilities and leaves it to the state to plug and reclaim, that the costs of the work are more likely to be paid by the operator rather than the people of the state while providing appropriate protection of mineral and working interest rights. I respectfully urge a do pass recommendation from the committee on Engrossed SB 2125.