

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1494

2005 HOUSE NATURAL RESOURCES

HB 1494

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1494

House Natural Resources Committee

☐ Conference Committee

Hearing Date January 28, 2005

Tape Number	Side A	Side B	Meter #
1	x		4760-End
1		x	0-981
Committee Clerk Signature <i>Loren Bonnet</i>			

Minutes:

**Chr. Nelson:** Open hearing on HB 1494. Roll taken, Solberg absent; Bill was read aloud.

**Robert Harms, Pres. Northern Alliance of Independent Producers:** We brought this to Rep. Rennerfeldt to solve a problem that we have in the oil industry when we have small mineral interests whose owners can't be located. Sometimes those mineral interests can't be located. Sometimes there are mineral interests holding up the leasing of a particular tract, so what we wanted to do was give the Land Department the ability to serve as trustee in mineral interests where an oil company or anybody interested in leasing a particular tract of land. We would ask the Land Department to be trustee and to hold those mineral interests so that the tract could be leased. I have spoken with Rep. Rennerfeldt, and the Land Department is here. There are some concerns with some of us in terms of a couple sections of the bill. We think we can work out an amendment on the bill, and ask the committee to carry it over to next week so that we have a chance to work those out.

**Chr. Nelson:** Thank you, Mr. Harms. I see there is a fiscal note on this bill, but it doesn't look like it would need to go to appropriations before the February 3 deadline. Questions for Mr. Harms?

**Rep. Keiser:** What's happening right now? How are you handling the situation?

**Harms:** Sometimes those minerals are just overlooked, they're not leased. Sometimes they are placed in the trust with an individual trustee. We have public administrators in the counties that serve as trustee. We're having some difficulty in getting those public administrators to agree to serve as trustee. It's holding up the process. It's not a huge issue across the state, but it is something that impedes the process. The intent of the bill is to give the Land Department the ability to take it over. They are accustomed to managing minerals and dealing with mineral leases.

**Chr. Nelson:** Thank you for your testimony, Bob.

**Rep. Drovdal, Dist. 39:** I represent 6 counties in western ND, which includes three of the top four oil producing counties. I am a co-sponsor on this bill. The reason for this bill is that with the renewed oil activity, the severed mineral interests are becoming a larger and larger problem. As one generation passes and the next receives those severed minerals they get divided and divided and they get lost. We do have some laws in place to try to recover those. The last section of this bill addresses some of the ambiguities of our existing laws. There are some other problems with that law. It is really difficult for a landowner to actually reunite those minerals with the surface under the present laws. We're looking at ways we can help solve this problem. All they are is a lot more paperwork for everybody. I've heard of cases with 160 acres of minerals which had up to 125 separate mineral leases, many of which they can't even find. They

just need some help how to legally proceed with the oil companies, the landowners, the counties and the state.

**Chr. Nelson:** Thank you, Rep. Drovdal. Is there further testimony in favor of HB 1494?

**Ron Ness, ND Petroleum Council, and speaking on behalf of the Landman's Assoc.:** We like the concept of a trust. This bill needs a significant amount of work. The Landman's Association is meeting in Bismarck next week. We hope to bring this before them. There is some potential for this bill but in present form it needs some changes. There are property rights issues here.

**Chr. Nelson:** Are there questions for Mr. Ness? Seeing none, thank you, Ron. Is there further testimony in support of HB 1494?

**Rick Larson, Director of Minerals Management, State Land Dept.:** (Written testimony attached)

**Chr. Nelson:** Are there questions of Mr. Larson?

**Rep. Drovdal:** Could you prepare a chart for this committee to educate us as to where the unclaimed minerals are handled and dispersed now? This bill, in Section 2, defines "allows you" to put that money into the Common School Trust Funds immediately. I don't believe that is the law now.

**Larson:** Just to clarify, as to what we *manage* as minerals or *what happens to the minerals* if we were not involved?

**Drovdal:** I'm assuming, maybe wrongly, that if there are some unclaimed minerals now and they are producing oil, if that money is going to you now or going somewhere else. Where is it going?

**Larson:** Trusts are established through the district court. There is more and more difficulty in finding individuals or a bank trust department to do that. It's very difficult to find someone to do that. After a period of time, the trustee should need to turn the property over to the Unclaimed Property Division under Chapt. 47.30.1, proceeds. All we do is get a check for this trust and don't know what land it is. (Information given to the SLD is the name and last known address, but no land description)

**Chr. Nelson:** Further questions for Mr. Larson? Seeing none, thank you, Rick. Any further testimony in favor of HB 1494?

**Rep. Shirley Meyer, Dist. 36:** I do support this bill. Next week, there are two bills coming in on the Abandoned Minerals and they will be addressing the same section. Hopefully, we can combine these two pieces of legislation. Rep. Rennerfeldt and I have talked about this bill. One of the bills next week will define what deems "use" of abandoned minerals. One of the problems that we were running into on the abandoned mineral acre owners was, what constituted use. On Line 7, Pg. 2, it says, "a mineral interest is deemed to be used when...", then Line 13, "The mineral interests on a tract is subject to a lease, mortgage or assignment." What we are running into, the people who have challenged this in court are trying to allow the abandoned mineral acres to go back to the surface owners. In one case, they were saying that the mineral *have* been used because they've been subjected to a lease. That is what the bill coming in next week will attempt to do. I do support this piece of legislation, but I think it would be prudent for the committee to look at the two bills coming in next Thursday and perhaps work on them together and get one piece of legislation from it.

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House Natural Resources Committee

Bill/Resolution Number HB 1494

Hearing Date January 28, 2005

**Chr. Nelson:** Thank you, Rep. Meyer. I will appoint a subcommittee on this bill, with Rep.

Drovdal, Nottestad, and Solberg as members. They will work on this bill in the interim and that

would be one of their options. Are there questions of Rep. Meyer? Thank you. Any further

testimony in favor of HB 1494? Any opposition to HB 1494? Seeing none, I'll close the hearing on HB 1494.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1494

House Natural Resources Committee

☐ Conference Committee

Hearing Date February 10, 2005

Tape Number	Side A	Side B	Meter #
2	x		370-980
Committee Clerk Signature <i>Karen Bonnet</i>			

Minutes:

**Chr. Nelson:** The committee will take up HB 1494. Rep. Drovdal has an amendment. I would like to introduce Greg Schnaible, the son of Bob Schnaible. We appreciate you coming in. We enjoyed working with your dad when he was here. Welcome to the House Natural Resources Committee.

**Rep. Drovdal:** This was brought forward by Rep. Rennerfeldt to deal with abandoned minerals and the oil companies support it. They're having a difficult time to figure out how to deal with abandoned minerals. The current situation is that they set up a trust, the trust goes on forever. Somebody has to manage the trust. They want a procedure that this can be much simpler for them to follow so that they can continue oil development. More and more mineral acreage is showing up as abandoned as estates go on and generations pass on to death, etc. They brought this bill forward in order to set up this trust that University and School Lands will serve as trustees on. Eventually, the interest would end up in the State School Fund. The problem with the bill is that



the State Land Department, according to their by laws, has to receive some money for the handling of these services. If you see the amendment on the second page, Line 1, 17, it does allow the board to charge a reasonable fee for those services in performing and handling the trust. The other part of the bill that Rep. Rennerfeldt was concerned about is how to deal with these abandoned mineral acres and get them back into somebody's ownership. We have laws on the books, I think the procedures are 1. They have to be abandoned for at least 20 years; 2. The surface owner is the only one who can claim them; he has to send a letter to the last known address of the last recorded owner, so he has to do some research. He also has to publish it twice in the official county paper that he plans to claim those. Then he gets a judgement, puts in a quit claim deed showing the work done. The problem with these trusts as they have been established, is that in some states, a court ruled that this trust being established by a third party was triggering "activity" on those minerals, thus the 20 years started over again. What Rep. Rennerfeldt was trying to say in this bill is that he wants to make it quite clear in ND law that that third party doing an entry on the mineral acres does not constitute an activity according to that 20 years in the Abandoned Land section of our Century Code. In other words, if an oil company goes out and starts a trust, it doesn't count as an activity starting the clock all over again. I move the amendment **(Written amendment attached)**

**Rep. DeKrey:** Second

**Chr. Nelson:** The amendment is moved by Rep. Drovdal, seconded by DeKrey. Is there further committee discussion on the amendment? Seeing none, I'll ask for a voice vote on the proposed amendment. All those in favor signify by saying aye. Opposed? **Motion carried.**

What are the committee's wishes?

Page 3  
House Natural Resources Committee  
Bill/Resolution Number HB 1494  
Hearing Date February 10, 2005

**Rep. Keiser:** Move a Do Pass as Amended.

**Solberg:** Second

**Chr. Nelson:** Rep. Keiser moves a Do Pass as Amended on HB 1494, second by Solberg.

Committee discussion?

**Chr. Nelson:** Rep. Drovdal, the amendments that you have worked on, do you remember who opposed this bill?

**Rep. Drovdal:** It's a big problem. I ran these (amendment) through the Oil & Trust Land and through Ron Ness, the oil lobbyist and they support it.

**Chr. Nelson;** Further committee discussion? Seeing none, I'll ask the clerk to call the roll on:

**Do Pass as Amended Vote: 14-Yeas; 0-Nays; 0-Absent; CARRIER: Drovdal**

# FISCAL NOTE

Requested by Legislative Council  
02/14/2005

Amendment to: HB 1494

**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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0		\$0	
Expenditures	\$0	\$0	\$0		\$0	
Appropriations	\$0	\$0	\$0		\$0	

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

The Board of University and School Lands responsibilities under Engrossed HB1494, section 4, differs from HB1494, section 2, by providing that the Board may charge a reasonable fee as trustee. In addition, the twenty-year abandonment period has been removed and this may require accounting for the trust to be maintained indefinitely. There is still insufficient available information to determine the number of potential trusts and whether any likely mineral holdings placed in a trust could be developed and productive. Consequently, meaningful revenues still cannot be estimated, and since the number of trusts or potential value cannot be ascertained estimating reasonable fees is also not possible.

**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.*

<b>Name:</b>	Gary D. Preszler, Commissioner	<b>Agency:</b>	Land Department
<b>Phone Number:</b>	328 2800	<b>Date Prepared:</b>	02/15/2005

# FISCAL NOTE

Requested by Legislative Council  
01/19/2005

Bill/Resolution No.: HB 1494

**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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0		\$0	
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**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

HB1494, Section 2, provides that the district court may appoint the Board of University and School Lands as trustee for abandoned minerals. There is insufficient available information to determine the number of mineral owners that may never be located or their potential mineral holdings to include the development prospects for those interests. Meaningful revenue estimates are therefore not possible, although expenses are expected to be only incremental to the present inventory and auction process for existing school trust mineral leasing activity.

**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.*

<b>Name:</b>	Gary D. Preszler, Commissioner	<b>Agency:</b>	Land Dept.
<b>Phone Number:</b>	328-2800	<b>Date Prepared:</b>	01/24/2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1494

Page 1, line 3, after "reenact" insert "subdivision c of subsection 3 of section 38-08-08, subdivision c of subsection 3 of section 38-08-09.4, and"

Page 1, line 4, after the first "to" insert "nonparticipating owners in the development of oil and gas interests in spacing units and plans of unitization and"

Page 1, after line 6, insert:

**"SECTION 1. AMENDMENT.** Subdivision c of subsection 3 of section 38-08-08 of the North Dakota Century Code is amended and reenacted as follows:

- c. The owner paying for the nonparticipating owner's share of the drilling and operation of a well may recover from the nonparticipating owner a risk penalty for the risk involved in drilling and completing the well only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk and cost of drilling the well. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner with proof of service that the paying owner intends to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty or if no such petition has been filed, by filing an application or request for hearing with the industrial commission. Bonuses, rental payments, royalties, and other payments offered or made to a trustee or unlocatable owner under chapter 38-13 may not be considered in determining whether an attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk and cost of drilling the well under this subdivision is in good faith or is reasonable.

**SECTION 2. AMENDMENT.** Subdivision c of subsection 3 of section 38-08-09.4 of the North Dakota Century Code is amended and reenacted as follows:

- c. The owner paying for the nonparticipating owner's share of the unit expense may recover from the nonparticipating owner a risk penalty for the risk involved in the unit expense only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk of the unit expense. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner with proof of service that the paying owner intends to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty or if no such petition has been filed, by filing an application or request for hearing with the industrial commission. Bonuses, rental payments, royalties, and other payments offered or made to a trustee or unlocatable owner under chapter 38-13 may not be considered in determining whether an attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and

participate in the risk and cost of drilling the well under this subdivision is in good faith or is reasonable."

Page 1, line 17, after the underscored period insert "The board may charge and deduct from earnings a reasonable fee for services provided under this chapter."

Page 1, line 19, replace "The" with "Those funds and the"

Page 1, line 24, remove "At the end of a period of twenty"

Page 2, remove lines 1 through 3

Page 2, line 23, remove "that has been in existence for"

Page 2, line 24, remove "twenty years" and remove "at the expiration"

Page 2, line 25, remove "of the twenty-year period the mineral interest", after "is" insert "not", remove "not", and replace "used" with "use"

Renumber accordingly

VR  
2/10/05  
1082

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1494

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2082

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Renumber accordingly



**Date:**

**Roll Call Vote #:**

## 2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES

**BILL/RESOLUTION NO.**

## House

## NATURAL RESOURCES

## Committee



**Legislative Council Amendment Number**

### Action Taken

**Motion Made By**

## Seconded By

[illegible]**Total**

(Yes)

No

**Absent**

## Floor Assignment

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

2/10/05 from  
for bill amend  
to LC  
hold for  
amend

Date: 2/10/05  
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1494 - appoint trustees for disp. of proceeds of mineral interests

House NATURAL RESOURCES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number : 50756.0102 Title : 0200

Action Taken : No Pass as Amend

Motion Made By : Keiser Seconded By : Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Jon O. Nelson	✓		Rep. Lyle Hanson	✓	
Vice Chairman - Todd Porter	✓		Rep. Bob Hunsakor	✓	
Rep. Dawn Marie Charging	✓		Rep. Scot Kelsh	✓	
Rep. Donald L. Clark	✓		Rep. Dorvan Solberg	✓	
Rep. Duane DeKrey	✓				
Rep. David Drovdal	✓				
Rep. Dennis Johnson	✓				
Rep. George J. Keiser	✓				
Rep. Mike Norland	✓				
Rep. Darrell D. Nottestad	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Drovdal

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

**REPORT OF STANDING COMMITTEE**

HB 1494: Natural Resources Committee (Rep. Nelson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1494 was placed on the Sixth order on the calendar.

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**SECTION 2. AMENDMENT.** Subdivision c of subsection 3 of section 38-08-09.4 of the North Dakota Century Code is amended and reenacted as follows:

- c. The owner paying for the nonparticipating owner's share of the unit expense may recover from the nonparticipating owner a risk penalty for the risk involved in the unit expense only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk of the unit expense. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner with proof of service that the paying owner intends to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty or if no such petition has been filed, by filing an application or request for hearing with the industrial commission. Bonuses, rental payments, royalties, and other payments offered or made to a trustee or unlocatable owner under chapter 38-13 may not be considered in determining whether an attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in

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Page 2, line 25, remove "of the twenty-year period the mineral interest", after "is" insert "not", and remove "not"

Renumber accordingly

2005 SENATE FINANCE AND TAXATION

HB 1494

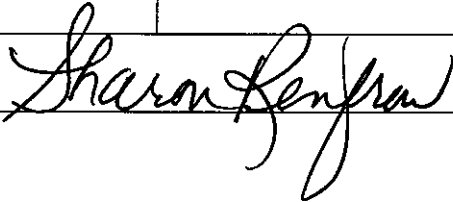
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1494**

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 7, 2005**

Tape Number	Side A	Side B	Meter #
#1	X		8.7 - 53.2
Committee Clerk Signature 			

Minutes:

**CHAIRMAN URLACHER** CALLED THE COMMITTEE TO ORDER AND OPENED THE HEARING ON HB 1494.

**REP. RENNERFELDT:** appeared as prime sponsor, to introduce the bill and to turn it over to Rep. Drovdal to explain the amendments.

**REP. DROVDAL:** cosponsor of the bill appeared in support and to explain the bill and the actions taken on the House side. This bill was brought forward to try to solve the problem with what to do with abandon mineral interest and how does that affect our current law that deals with landowners being able to claim those minerals after under the Century Code. The direction has not been established in ND as to where this money goes to. They go out of their way to try to locate them and if they can't they set this trust up and then it sits there. What we thought they were asking for was direction on what to do with these accounts when they absolutely can't locate them and the idea was that what ever we said was that the only thing that ND does

whenever we find abandoned property, no matter what it is, we send it to abandon property claims. The money from abandon minerals is really abandoned property. What the rest of this bill says is that the lease agreement that they send for abandon mineral cannot \_\_\_ in when their determining an equitable offer. Whether that needs to be in there I don't know, I don't know how and abandon mineral can sign a lease or get a bonus when he's not there. Set up a place for the new legalities on new developing wells. HB 1344 actually does quite a bit the same except it deals with existing oil wells, where the trust accounts or whatever have been already set up and what it does is directs those trusts to be done except to abandon property and it also says in the part 2 of it is that this. The other part that Rep. Rennerfeldt and Rep. S. Meyer concerns, that they did not want this transaction (these payments) to abandoned minerals, they did not want that to reflect upon the century code that deals with the opportunity that landowners have through claim those lost abandon minerals and under that code one of the stepping stones is that landowner has to take is wait 20 years where there is absolutely no activity reflected on by the previous owner. What both these bills say that the sponsors want is that these payments do not reflect activity as per the previous owner and therefore would not start the clock ticking on the opportunity of the landowner to lay a defensive claim under all the other steps under our century code on that abandon property. So that's what the two bills have in common.

**SEN. WARDNER:** what's the difference between the original to the engrossed bill and what you would like to see us do is probably send this money straight to the abandoned properties, the state land?

**ANSWER;** that is a decision as legislators made that any abandoned property whether it be bonds or stocks, we send our abandoned property under the State Trust Land Dept.

**SEN. WARDNER:** right now, the money lays in county?

**ANSWER;** Yes, my understanding it lays dormant.

**SEN. WARDNER;** on the risk penalty part, what did you say about that?

**ANSWER:** that's a part that we put in there was that at any transactions under abandoned property did not reflect upon the risk penalty century code in dealing with nonparticipating.

**SEN. WARDNER:** no risk penalty then, is that what your saying?

**ANSWER:** a good point that your bringing out, I believe in order for the oil companies to, these minerals that they put a lease or bonus payment into a trust account to these abandon minerals than these minerals would not, they would be participating minerals so the risk penalties wouldn't be involved in it. But the other mineral owners in that oil development whether they are affected under the risk penalty depends if they sign the lease or not and if they don't sign the lease then there is a process where if they're made a reasonable offer, then the oil company can ask that the risk penalty applied to them and what it says is if these with abandoned minerals can now be included in \_\_ calculation of what a reasonable offer is.

**SEN. WARDNER:** if you have an abandoned minerals and there is nobody there, they become a working part of the well if there is one drill and they are subject then to the risk penalty on those abandoned minerals.

**ANSWER:** I was told is that the reason they have leases and bonuses in part of the statement is because they do submit an average bonus or lease to the trust account as a lease agreement so that they wouldn't be a working, they would be treated as a signed lease even there is nobody there to sign.



**BOB HARMS:** appeared in opposition for Northern Alliance stating the original bill constituted what you see now before you sections 3 and sections 4 and essentially what we were trying to get done was at times oil companies run into situations where they have mineral interests whose owners can't be located and so often times the statute, ND law provides a mechanism for having a trustee named for those owners who cannot be located, which is separate and apart from the abandoned minerals statute which also has become part of the bill. The abandoned minerals statute is a statute that simply says if you haven't leased your minerals for 20 years essentially they can be claimed by the surface owner. Our goal was essentially to authorize the land dept. To act as a trustee for those instances where a company was trying to put a lease hold interest together and there was small portion of whose owner couldn't be located. We wanted to give the option to the land dept. to be named as a trustee and then administer those minerals like they would in any other mineral interest that the dept. Owns. That's really the thrust of the bill. What's happened since then its gotten complicated by sections 1, 2 and 5.

**SEN. URLACHER:** the royalties from minerals would go to the land dept.?

**ANSWER:** yes

**SEN. URLACHER:** what would happen with those funds, would they just lay dormant or would interest on them funds accumulate?

**ANSWER:** they would simply be part of the corpus if you will of the lease sold interest and the land dept. \_\_\_\_\_ for that service then would be to from a public stand point help the production of the states minerals so also they could charge them a reasonable fee that the bill calls for, for the services tat they would be extending to those mineral interests whose owners can't be located.

**SEN. WARDNER:** Section 1 and 2, what is it in the new language that your group would oppose.

**ANSWER:** the section 1 and 2, the new language on the top of page 2 beginning on line 18, all of that new language were getting mixed reviews from experienced oil gas lawyers.

**SEN. WARDNER:** if we were to work that over and take a look at and come up with something different, would that change your mind?

**ANSWER;** yes, we liked the original concept of the bill.

**SEN. URLACHER:** if there's mixed opinion by attorney, where do we get the information clarified?

**ANSWER:** I think as this bill wound through the House in the closing days, I don't think Mr. Larson or I will, members of the subcommittee that put the new amendments together really had any time to sit down and try to evaluate this out. To answer your question, the answer is out there someplace.

**RICK LARSON:** ND State Land Dept. Appeared in opposition with written testimony stating we have been approached by the oil industry to act as trustee with them on this bill. We have initially we were all for this idea, this concept and its a good concept. We wanted it to benefit the Common Schools Trust Fund, the rents, bonuses from the leases, that's where its confusing is to the attorney generals office looking at that what was mineral interest and what we would be doing with those mineral interests and how that would work. The amendment as it came across is that we would be entitled to a reasonable fee, that sort of muddled the waters for our interests in it.

**SEN. URLACHER:** what is the normal costs of administering those trusts that you do, is it 10% or do you have any approximate amount?

**ANSWER:** ½ of 1%

**SEN. URLACHER:** could it be possible to establish a reasonable fee by a percentage on these minerals?

**ANSWER:** yes, I'm sure there is. Its the rents and royalties that we have to account for in the mean time that I'm concerned about at this point.

**RON NESS:** Petroleum Council appeared in opposition stating the concept is needed in the State but the original bill the AG had a takings issue and the key to the bill is on page 3, line 4, may serve. The Land Board may serve, so that when a company comes to the Land Board with a lease and a request we have to keep the Land Board in position that they are satisfied and happy with this bill otherwise they are not going to do it. More importantly the concerns are about how its going to work the Land Board, the land men met and opposed this bill because of a variety of reasons such as #1, its not structured right and we couldn't come up with a way to structure it. Possibly a better solution, in Montana they used the Clerk of Court, maybe that needs to be another option here. the other issue is that the line men opposed the fact that it would be up for public auction.

**SEN. URLACHER:** its your feeling than to bring it back to the drawing board since the information is fresh and in people's mind, wouldn't be a good idea at this time?

**ANSWER;** I have not found the will within my the lawyers apart of our organization, they have not been able to find a solution and generally that's very rare. No solution, the key is how do you run it through the Land Dept. And yet the AG was very clear that said, the Land Dept. Should

just be doing this because its good for the mineral owners, its good for the county, good fro everyone to hold these trusts, but they are very clear to say that the mission of the Land Dept. Is to make money for the Commons School Trust Fund.

**SEN. WARDNER;** is it my understanding that this money comes into the county and it just sits there, they administer whether the leases and royalties and stuff now don't they?

**ANSWER:** currently you would have to find someone that would agree to serve as a trust, the problem is that once you've serve as that trust, you really are that trust forever. Maybe the Clerk of Court is a better idea.

**SEN. TOLLEFSON:** actually your looking for a trust in perpetuity, so to speak that can operate at no minimal cost or a portion of the profit, you mentioned the State Treasurer?

**ANSWER:** I think its going to take something other than a landlord is what I gathered because their mission is to make money for the Common Schools Trust Fund

**SEN. TOLLEFSON:** District Court, Clerk of Court, this is an all encompassing complicated issue that could or should be held by someone on a State level it seems to me.

**ANSWER;** yes, to an extent, when you bring it to the state level, then of course who administers it. The system in MT seems to work.

**SEN. URLACHER:** that's been workable in MT? How about Wyoming?

**ANSWER;** yes, I don't have that information for Wyoming

**AL GOLDEN,** owner/operator for Golden Oil Company in Bismarck appeared in opposition stating this has been a problem for a long time and will continue to multiply and exasperate itself into the future. The answer to the problem is not to return the minerals to the surface, the answer is to find some workable way at which to lease those minerals which, after ample effort has been

expended to be able to subject these minerals to the meaningful fair and reasonable oil and gas lease so that exploration may be continued rather than stymied. A drill site activity leased everything that you could get your hands on and then there's this one little sliver of interest in the middle of everything and you can't find it or subject it to a lease. Well that is a very poor time to put it up for public auction and the company has done all of its work and they are ready to move a drilling rig on it and the piece of minerals make it go for several thousand dollars an acre, that's hardly fair and hardly reasonable to the operator who done that amount of work. You could go to the state treasure or many different entities and say be our trust officer. The State Land Dept. Resists it and rightfully so, they resist because they are charged for the fiduciary responsibility of making money for the State of ND. We need to refine this work we need to do more on it and bring it back in a more simplified and acceptable and workable manner and it would be my suggestion to the committee that possibly you could consider returning this proposal down at this time and let us come back with a unified industry spearhead and present it to in a manner in which will be a lot less debate than what we have right now.

Closed the hearing.

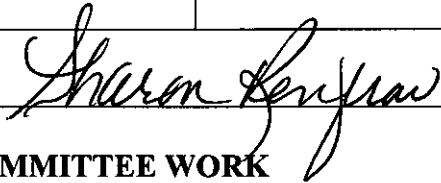
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1494**

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 14, 2005**

Tape Number	Side A	Side B	Meter #
# 1		X	51.0 - 55.6
Committee Clerk Signature 			

Minutes:

**COMMITTEE WORK**

**SEN. WARDNER:** I know we've got amendments to make it into a study resolution, I have been given some ideas that we should get rid of all of it except the part where the money goes to the State Land Dept. But I'm not really comfortable with that, they didn't want it but the idea was that we put it on there and make them come down to conference committee and tell us why not. Somebody needs to look at this in the interim and figure out the progression on all this, and personally I don't think its an interim committee that should deal with it. If somebody wants to deal with it they should track it all down. I'd just as soon kill it.

**SEN. WARDNER:** made a **MOTION FOR DO NOT PASS**, seconded by Sen. Bercier.

**SEN. COOK:** a quote from Sen. Bercier, it looks like Sen. Wardner is shootin his own dog.

**ROLL CALL VOTE:** 4-1-1

Sen. Wardner will carry the bill.

Date: 3-14-05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1494**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

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

Action Taken Do Not Pass

Motion Made By Wardner Seconded By Bercier

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Bercier	✓	
Sen. Wardner	✓		Sen. Every		✓
Sen. Cook	✓				
Sen. Tollefson					

Total (Yes) 4 No 1

Absent 1

Floor Assignment Wardner

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

**REPORT OF STANDING COMMITTEE (410)**  
March 14, 2005 4:03 p.m.

**Module No: SR-46-4919**  
**Carrier: Wardner**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1494, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)**  
recommends **DO NOT PASS** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING).  
Engrossed HB 1494 was placed on the Fourteenth order on the calendar.



**2005 TESTIMONY**

HB 1494

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Gary D. Preszler, Commissioner

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**TESTIMONY OF RICK D. LARSON**  
**Director, Minerals Management Division**  
**North Dakota State Land Department**

**IN SUPPORT OF HOUSE BILL NO. 1494**

**Natural Resources Committee**  
**January 28, 2005**

As Director of the Minerals Management Division of the State Land Department and as a former landman, I am here in support of the concept of allowing the Land Department to be named trustee on behalf of mineral owners that cannot be found.

Our interest is conditioned on our involvement benefiting the State or one of its agencies. We were approached by representatives of the oil industry asking if we were interested in proposed legislation that would allow us to be named trustee under this statute since it is becoming difficult to find an individual or an institution to act on behalf of "unlocatable" mineral owners.

The Land Department owns and manages 2.5 million acres as trustee for various institutions of the state as well as the General Fund. The largest beneficiary is the Common Schools Trust Fund. As a result of that ownership, the department shares in the production from over 400 oil and gas wells.

I want to stress that ownership is for the support of various state agencies. The Land Department also administers the state unclaimed property statutes (NDCC 47-30.1). We are set up through our asset management system to administer these minerals, both the leasing of minerals and maintaining records of associated revenue, and we have a mechanism in place that will allow owners or their heirs to potentially "find" those minerals. Unclaimed royalty payments are already reported to our Unclaimed Property Administrator and maintained in our database for potential owner claims. We maintain a website with names of individuals that are entitled to property under NDCC 47-30.1 and have had tremendous success reuniting individuals or their heirs with that property. The minerals would be leased through a public auction, the same as the other minerals we manage.

We do not know how much this statute would be used, but if we are going to be named as trustee we would do so only if it would benefit the State or one of its agencies. The way the bill was initially discussed was for the Common Schools Trust Fund to be entitled to the bonus, rents and royalty from the minerals under the statute. The mineral interest itself would be available for claim by the owner or their heirs. In the meantime, it would allow oil developers to obtain a lease and thereby not delay drilling activity.

Also, the initial bill was to provide a time certain when the minerals would finally escheat to the State. That time period was arbitrarily set at six years, but could be set at any number of years. However, at sometime it can be presumed that the owner is not living and has no heirs, so the minerals would become property of the State under those statutes. The Constitution provides that escheated property goes into the Common Schools Trust Fund.

HB 1494 (In Support of)  
Testimony of Rick D. Larson  
House Natural Resources Committee  
Page 2 - 01/28/05

As the bill now reads, minerals can be claimed by the surface owner after twenty years. That would be opposed to the escheatment of the minerals to the State, but as long as the Common Schools Trust Fund could keep the revenues up to when the surface owner could claim the mineral interest, that part of the bill is workable. It would be best if the State, in general, would become the eventual owner.

Our involvement would have three advantages:

- Drilling activity would not be delayed by having to find another trustee
- The mineral owner or heirs would have a better potential to "find" their property
- The citizens of the State would benefit from revenues from these minerals

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Gary D. Preszler, Commissioner

**TESTIMONY OF RICK D. LARSON  
Director, Minerals Management Division  
North Dakota State Land Department**

**IN OPPOSITION TO HOUSE BILL NO. 1494**

**Finance and Taxation Committee  
March 7, 2005**

As Director of the Minerals Management Division of the State Land Department and as a former landman, I am in opposition of the bill as it has been amended

Our interest is this bill as it was proposed was conditioned on our involvement benefiting the State or one of its agencies. We were approached by representatives of the oil industry asking if we were interested in proposed legislation that would allow us to be named trustee under this statute since it is becoming difficult to find an individual or an institution to act on behalf of "unlocatable" mineral owners.

The Land Department owns and manages 2.5 million acres as trustee for various institutions of the state as well as the General Fund. The largest beneficiary is the Common Schools Trust Fund. As a result of that ownership, the department shares in the production from over 400 oil and gas wells.

I want to stress that ownership is for the support of various state agencies. The Land Department also administers the state unclaimed property statutes (NDCC 47-30.1). We are set up through our asset management system to administer these minerals, both the leasing of minerals and maintaining records of associated revenue, and we have a mechanism in place that will allow owners or their heirs to potentially "find" those minerals. Unclaimed royalty payments are already reported to our Unclaimed Property Administrator and maintained in our database for potential owner claims. We maintain a website with names of individuals that are entitled to property under NDCC 47-30.1 and have had tremendous success reuniting individuals or their heirs with that property. The minerals would be leased through a public auction, the same as the other minerals we manage.

The bill as amended has eliminated the benefit of the State Land Department being involved as trustee. The way the bill was initially discussed was for the Common Schools Trust Fund to be entitled to the bonus, rents and royalty from the minerals under the statute. Those funds are now to be held and accounted for individually in case a mineral owner is located. It does not provide enough benefit for the State to be involved in this process.