

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1031

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1031

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 01/16/09

Recorder Job Number: 7131

Committee Clerk Signature

Lori Engelson

Minutes:

Lynn Helms: See attachment #1. If I might just go ahead and talk about 1031 because my testimony is very similar. The only thing that differs is the last page, well page 5 actually. Inside the cover it shows the desperate situation we have with our field inspectors. We are at the bottom of the barrel in terms of experience to inspect oil and gas wells and geophysical operations in the field. We are at the minimum in terms of experience level in those field offices that we can sustain viable regulation of the oil and gas industry. Again, biennium like the one we had where the industry expands so rapidly it puts us in direct competition with something like the oil industry. Our salaries are half or less of what industry is paying. And so recruitment and retention bonuses are our lifeline, and we used them extensively this biennium. The current language led to some problems between us and the auditor's office which we were able to resolve I'm glad to report so we strongly support these proposed changes because they will really help us to know what to do and what we can do in terms retaining high performance employees, getting younger employees and keeping them on line so they can be the next assistant director or state geologist and recruiting new employees. With that, I'd be happy to answer any questions.

Chairman Grande: Thank you Mr. Helms.

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Minutes:

Chairman Grande: We will open the meeting hearing HB1031.

Jeff Nelson, Staff Attorney for the Legislative Council and Employee Benefits Programs

Committee Council, the committee recommending HB1031. My comments should not be construed as neither for or opposing the measure but I will review it with you and answer any questions the committee members might have. As Mr. Helms mentioned HB1031 deals with the state recruitment and retention bonus programs. This is program is covered by NDCC 54-06-31 and the interim committee is recommending that the term "hard to fill occupation" for purposes of this program be better defined. On page 2 of the bill draft, the committee is adding a new subsection 5; "As used in this section, a hard-to-fill occupation includes an occupation or position in which demand exceeds supply, special qualifications are required, competition with other employers is the strongest, there is a risk of losing an incumbent with rare skills, the position is filled by a highly skilled employee who is in high demand in the marketplace, loss of the employee would result in significant replacement costs, the position is filled by key personnel, or the position has other unique recruitment or retention issues identified and documented by the appointing authority." Again, Madame Chairman, the reason for this

change to the program is that the interim committee felt that the term "hard to fill occupation" should be better defined. That concludes my comments.

Chairman Grande: Any questions? Thank you Mr. Nelson. Mr. Purdy.

Ken Purdy, Classification & Compensation Manager, HR Management Services Division,

OMB: See one-page written testimony, attachment #1.

Chairman Grande: Thank you.

Rep. Wolf: Thank you Chairman Grande. Your comment about sign on bonuses made me think of something. Do we have in policy in the state of N.D.? I know some other places with sign on bonuses you have to work for 6 months or 3 months. What is our policy for the state of N.D. for recruitment bonuses?

Ken Purdy: I think there is some variation there. I think employers are making or requiring some agreement from the employees and also in many cases providing sign on bonuses in 2 installments. So it is almost a recruiting-retention bonus. They may give somebody half of a recruitment bonus up front and the other half either at the end of a probationary period or maybe after one year as a way to protect themselves.

Rep. Meier: Thank you Chairman Grande. Which agencies are using recruitment bonuses the most?

Ken Purdy: I don't have the exact information, but I know the DOT has used it quite extensively out in the western part of the state with their competition directly with the oil patch there. They have also used recruiting with their engineering over the last several years. And more recently with retention bonuses with long snow out in the western part of the state. I know Human Services has used it in some of their direct care at the institutions. The Highway Patrol has used it. One of the creative uses has been a referral bonus if somebody brings in another employee and refers them in a hard to fill area and they stay for a year. They give

them small recruiting or referral bonuses to their employees. Those are some of the most common uses.

Rep. Winrich: Thank you Chairman Grande. Mr. Purdy, I'm pondering this long list of qualifications in paragraph 5 on the second page and then it kind of ends up with a very general; "the position has other unique recruitment and retention issues identified and documented by the appointing authority." Many of these conditions are very subjective and I'm wondering if an agency wants to use a recruiting bonus because the position has "unique recruiting and retention issues identified" is there any review of that? What is the control on this?

Ken Purdy: The discretion to the function within statutes is left to the agency. They adopt their policy on how they are going to use it going forward. There is no approval; we don't approve their processes or their individual bonuses. Their requirement here clarifies the documentation. It would be a matter of if there are questionable bonuses found in an audit process. There would be questions about their documentation or rationale. It would be impossible to envision all the circumstances an agency might find in detail and to try to detail that statewide with the diversity of employment situations that we have.

Rep. Winrich: Are the policies reviewed or submitted to administrative rules?

Ken Purdy: Yes, this section does require that they have their policy on file with us and we don't approve those, but obviously if we find something unclear or amiss, we would work with the agency to try and get it clarified.

Chairman Grande: In some fashion it would end up reviewed because of the audit. The auditor's office would take that and compare it to the numbers eventually. If there was misdirection of funds it would show up in that process.

Chairman Grande: Any other questions from the committee? Is there anyone else wishing to speak in favor of HB1031? Anyone speaking against HB1031? We will close the hearing on HB 1031.

See 6-page attachment #2 – Statistical information submitted by Lynn D. Helms, Director, Dept. of Mineral Resources ND Industrial Commission.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1031

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 01/22/09

Recorder Job Number: 7609

Committee Clerk Signature *Lou Engleson*

Minutes:

Chairman Grande: 1031. This one is dealing with hard-to-fill occupations and whether or not we are going to have a problem with state recruitment and retention bonuses. What they are asking for is when you have hard-to-fill occupation that demands, and then they lay out the demands. I'll tell you why the demands were set up the way they were. During the audit processes, a few of the agencies over the interim, a number of them ran into the problem where they were utilizing these retention bonuses because so many of their works were being pulled away. Most of this deals with any of the agencies that have work being done in the oil field area. They were able to go through and justify with these types of points to move the negative portion of their audits due to the fact that they were wanting to do extension retention bonuses. It's not necessarily a big thing on the recruitment side, but it has been a big deal on retention side on these hard-to-fill positions that are at high demand at this point. We ran into that after 911. We had this issue and that had to do with our highway patrol and any of our skilled law enforcement were all being pulled up to the border. The state spent all this money training all these workers, and in a heartbeat the federal government pulled them away. So we were having these recruitment issues whereas if we could have had the ability to give them a

bonus, we may not have lost a lot of those workers that we spent all that money training. So we have HB 1031 in front of us. Do I have a motion?

Rep. Wolf: I move a do pass.

Chairman Grande: Do I have a second?

Rep. Karls: Second.

Chairman Grande: I have a do pass by Rep. Wolf. I have second by Rep. Karls. Any discussion?

Rep. Conklin: Is there anything in here that they have to stay so long after they get a bonus?

Chairman Grande: That was addressed by Mr. Purdy. They will typically only do those types of things like if you are going to get that bonus, they'll spread it out for how long you're there to make sure that they stay.

Rep. Meier: When they decide to take college courses, they have to stay for a certain amount of time.

Chairman Grande: Yes. And that was the tuition one.

Rep. Kasper: The bill just defines what a hard-to-fill occupation is. It doesn't change the rules other than make it more clear what we are doing and the circumstances we are dealing with.

Chairman Grande: Yes. That was the case that was brought before us in employee benefits dealing with problems with some of the agencies' audits. The auditor was claiming they couldn't be making these cases, and this gives them the exact words to use with the auditor so that they wouldn't be having the auditor use it against them when they used retention bonuses. The auditor's office was having a problem deciding what was considered good or bad bonuses. The amounts are already in code. That's all decided. We don't have to deal with that side of it. We're just saying, if you're going to do it, do it this way. Any other discussion.

The roll was called by the clerk.

12 yes, 0 no, 1 absent. Rep. Wolf was assigned to carry the bill.

Date: 1-22-09
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1031

House **Government and Veterans Affairs** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP

Motion Made By Wolf Seconded By Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth	✓		Rep. Winrich		
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper	✓				
Rep. Meier	✓				
Rep. Nathe	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Wolf

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

REPORT OF STANDING COMMITTEE

HB 1031: Government and Veterans Affairs Committee (Rep. Grande, Chairman)
recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1031 was placed on the Eleventh order on the calendar.

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1031

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1031

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/26/09

Recorder Job Number: 9808

Committee Clerk Signature Kate Owe

Minutes:

Jeff Nelson: Staff attorney for Legislative Council. As you know the employee benefits program committee is a statutory committee, the purpose is to review state retirement programs, retiree health programs, and state health insurance programs. Last interim assigned additional responsibility to the committee, this was a study of employee benefits provided by state agencies which are not specifically authorized by law, or if authorized by law, are not consistent among agencies. In conducting the study the committee surveyed state agencies to see which benefits they are providing their employees now, also surveyed comparable states, reviewed agency training, tuition, and professional dues policies in state government, and then reviewed service award, tuition, and dues programs, the employee performance bonus program and the employee recruitment and retention bonus program. HB 1031 deals with the state recruitment and retention bonus program.

Section 1 amends section 54-06-31 the section that codifies and establishes this program.

Currently sub sections 1-4 outline this program and the committee felt that it would be beneficial to add a new sub section 5 which would flesh the definition "Hard to fill occupation".

Senator Horne: So this just further defines the people who would best fit the qualifications for these bonuses.

Jeff Nelson: Yes.

Senator Nelson: Is there a definition for significant replacement costs?

Jeff Nelson: The interim committee felt that one item that should be taken into consideration is the cost that the state incurs that a bonus may very well be economical to retain an employee if the state is going to incur costs to train a replacement employee.

Ken Purdy: Classification and Compensation Manager Office of Management and Budget.
See attached testimony #1.

Senator Cook: And that either through an audit or one of these reports to the legislative committee, someone brought up the fact that they might not have the authority to do that and that is the result of this bill. That this is to enable them to do, legally, what they have been doing already?

Ken Purdy: This program has been in place since 2001. There was an agency that talked to the committee during the interim and they had some confusion over the definition of the performance and recruiting bonus.

Senator Cook: To whatever degree that this seems subjective, we still have agency and department heads that are tasked with doing the job and this gives them those tools.

Ken Purdy: The reporting process and hear of a situation that seems odd, management requires judgment to apply in a logical fashion.

Senator Nelson: Back in 2001 we talked about hard to fill position. Have you find the same thing has happened with classified employees?

Ken Purdy: Yes and no, the usage has expanded, the types of job have expanded, but as you see from the numbers, it is not a universal situation.

Senator Nelson: Would it not be better to up the salary?

Ken Purdy: The issue then becomes, is it clearly defined? Does it affect auto mechanics statewide? As we grant more exceptions we are risking the exception becoming the rule. So we are trying to maintain integrity of the classification system and at the same time trying to accommodate agencies in accomplishing their mission.

Senator Nelson: So we still have a lot of folks below the midpoint?

Senator Horne: Is there enough money within the budget to offer bonuses?

Ken Purdy: That focuses in on the effectiveness of this statute because if they don't have any trouble recruiting and retaining they don't extra salary dollars, and their positions are full. If a position sits vacant, like that equipment mechanic in Minot, they have got the suspect roll up dollars that can fund the bonus when they can recruit somebody and break the tie and bring somebody in. From that standpoint it is really self-funded.

Senator Dever: The current situation requires that each agency have a written policy in place. Might those policies have included the provisions that are now included in sub section 5?

Ken Purdy: Yes in varying forms and detail.

Lynn Helms: Director of North Dakota Mineral Resources. See attached testimony #2.

Senator Nelson: You have 6 of the targets on your map. You are giving them a retention bonus to stay beyond the rule of 85?

Lynn Helms: That is correct. What we are doing are these people critical to our organization. There are a lot of folks that are at/near the rule of 85 that don't have crosshairs. The people that do have crosshairs have been interviewed, offered jobs, and can work as part time consultants in the oil field.

Senator Dever: Are you employees on salary?

Lynn Helms: Yes they are.

Senator Horne: If you lost key people does it have a negative impact on the oil industry in North Dakota?

Lynn Helms: I am going to let Ron Ness answer that.

Ron Ness: Ron Ness with the North Dakota Petroleum Council. We spend a lot of time in the capitol talking about how to attract business and develop more business in North Dakota. We need to keep qualified state employees here, we support those efforts to try to keep and maintain a good quality work force because it is important to business.

Senator Dever closed the public hearing on HB1031

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.1031

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/26/09

Recorder Job Number: 9815

Committee Clerk Signature

Katie Oliver

Minutes:

A motion was made for a do pass by Senator Nelson with a second by Senator Oehlke. There was no discussion. Roll was taken and the motion passed 5-0 with Senator Horne carrying the bill.

Date: 7-26-09
Roll Call Vote #: 1

Canuel
Horne

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 103

Senate Government and Veteran's Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Nelson Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Dick Dever	X		Dwight Cook	X	
Dave Oehlke	X		Carolyn Nelson	1	
Robert M. Horne	X				

Total Yes 5 No _____

Absent _____

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE

HB 1031: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1031
was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1031

HB 1031
House Government & Veterans Affairs Committee
January 16, 2009

Ken Purdy, Classification & Compensation Mgr
HR Management Services Div – OMB

HB 1031 amends the statutory provisions for state employee recruitment and retention bonus programs.

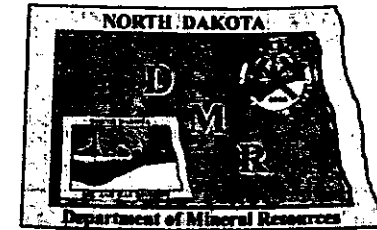
NDCC 54-06-31 was originally enacted in 2001 and included a sunset in 2003. The statute provides authority for agencies to give recruitment and retention bonuses for hard-to-fill occupations.

The chapter was amended in 2003 to broaden the application from just classified employees to include all state employees and to remove the sunset provision.

In the first 17 months of the current biennium, 8 agencies have given recruitment bonuses averaging \$939 to 404 employees and 5 agencies have given retention bonuses averaging \$2,151 to 195 employees.

HB 1031, introduced by the Employee Benefits Programs Committee adds detail defining a hard-to-fill occupation.

Agencies are comfortable that the description added in #5 in this bill fits with how they have been defining and identifying their hard-to-fill positions.



House Bill 1031

January 16, 2009

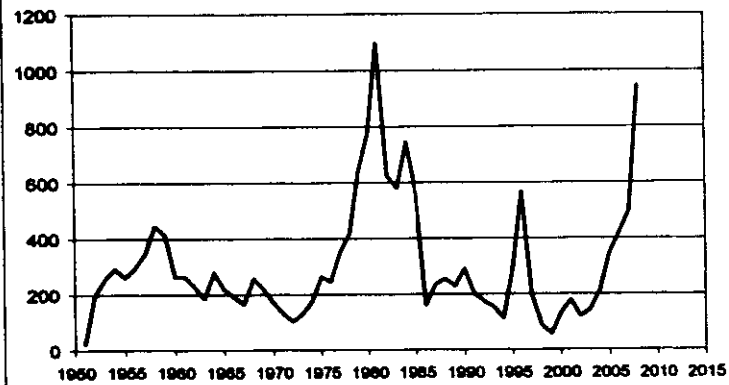
House Government and Veterans Affairs

**Lynn D. Helms, Director
Department of Mineral Resources
North Dakota Industrial Commission**

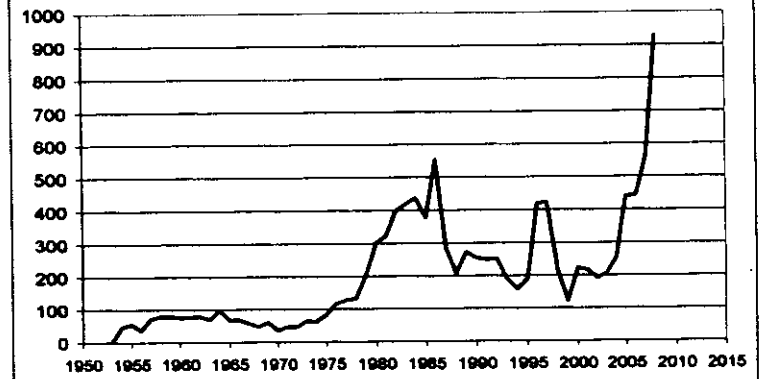
*Same testimony given
to Senate with exception
of page 5.*



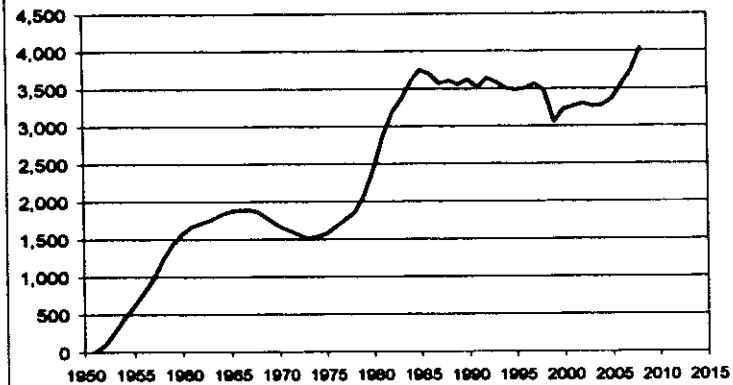
North Dakota New Well Permits issued



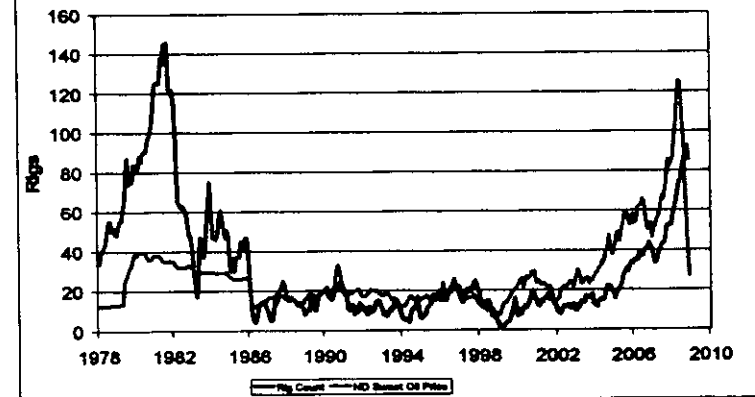
North Dakota Industrial Commission Cases Heard

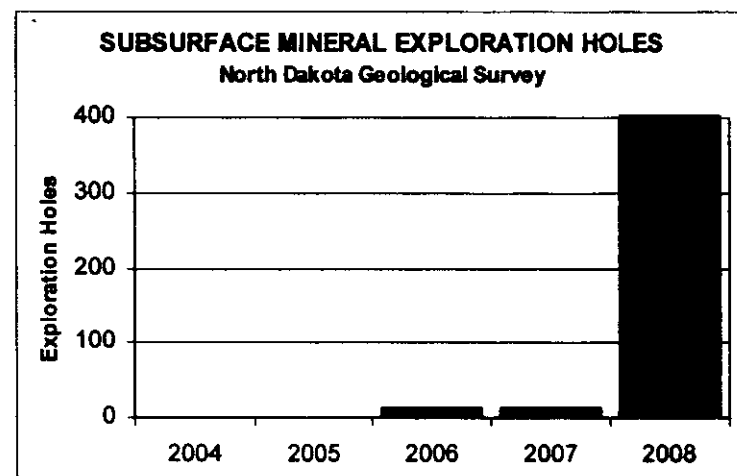
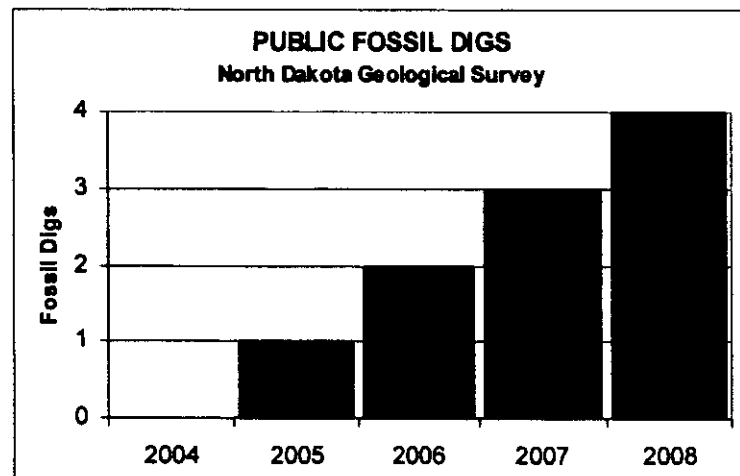
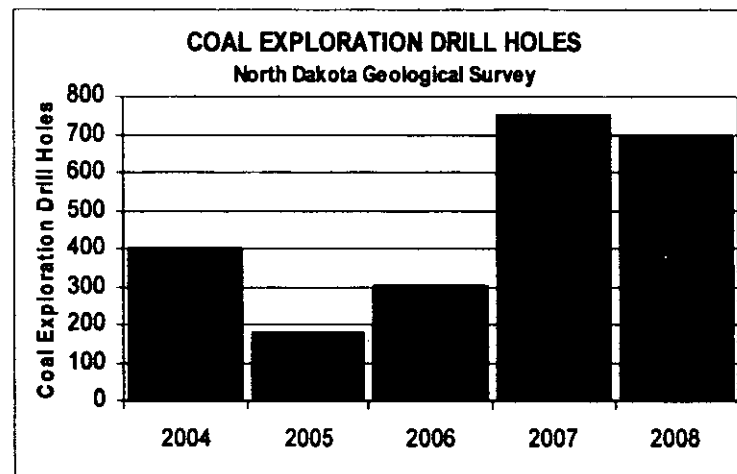
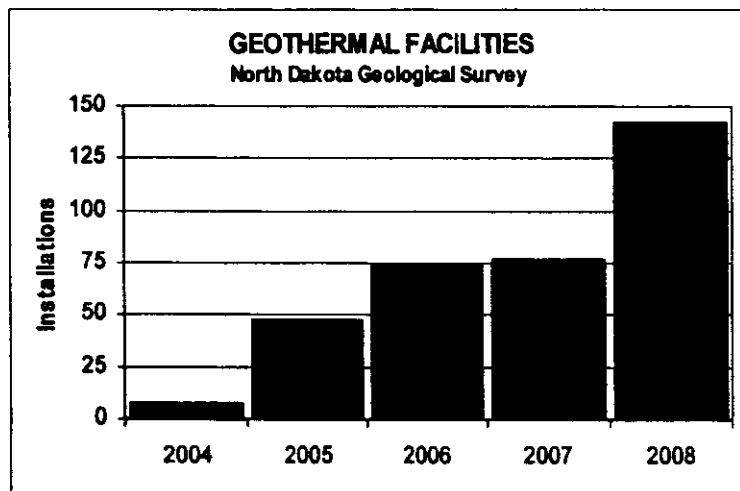


North Dakota Wells Producing Each Year



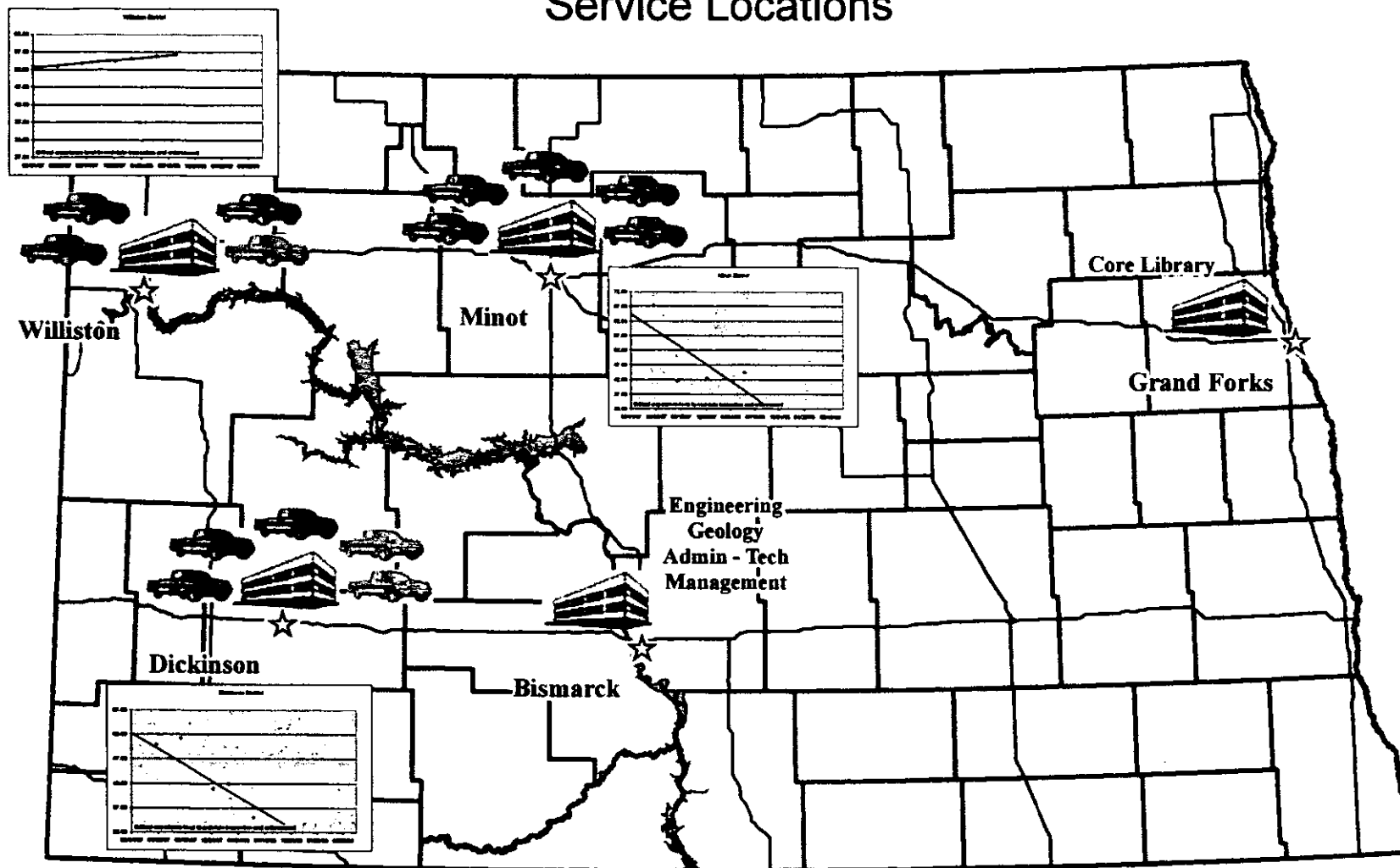
North Dakota Average Monthly Rig Count





Department of Mineral Resources

Service Locations



Occasionally a biennium comes along when everything is “over the top”.

A rapidly expanding industry with many new companies moving into the state requires experienced regulatory personnel to maintain legal, safety and environmental protections.

When this happens, regulatory agencies end up in direct competition with the regulated industries for employees. DMR salaries for engineers are 38-47% of industry, geologists salaries are 53-62% of industry, and though salaries for support personnel are more competitive many have very unique and valuable skill sets that would make them very expensive to replace.

In this environment, recruitment and retention bonuses are a lifeline for maintaining the experience base an agency needs to accomplish our statutory obligations.

The current language in North Dakota Century Code 54-06-31 has led to overly restrictive interpretation by auditors.

The language was adopted on a trial basis in 2001 and has not been reviewed since 2003. You only really know how something works when it is put to the test.

The Department of Mineral Resources strongly supports the proposed changes to 54-06-31.

This tool will help us to retain experienced high performance employees, retain younger employees long enough to replace normal attrition, and recruit qualified new employees.

HB 1031
Senate Government & Veterans Affairs Committee
February 26, 2009

Ken Purdy, Classification & Compensation Mgr
HR Management Services Div – OMB

HB 1031 amends the statutory provisions for state employee recruitment and retention bonus programs.

NDCC 54-06-31 was originally enacted in 2001 and included a sunset in 2003. The statute provides authority for agencies to give recruitment and retention bonuses for hard-to-fill occupations.

The chapter was amended in 2003 to broaden the application from just classified employees to include all state employees and to remove the sunset provision.

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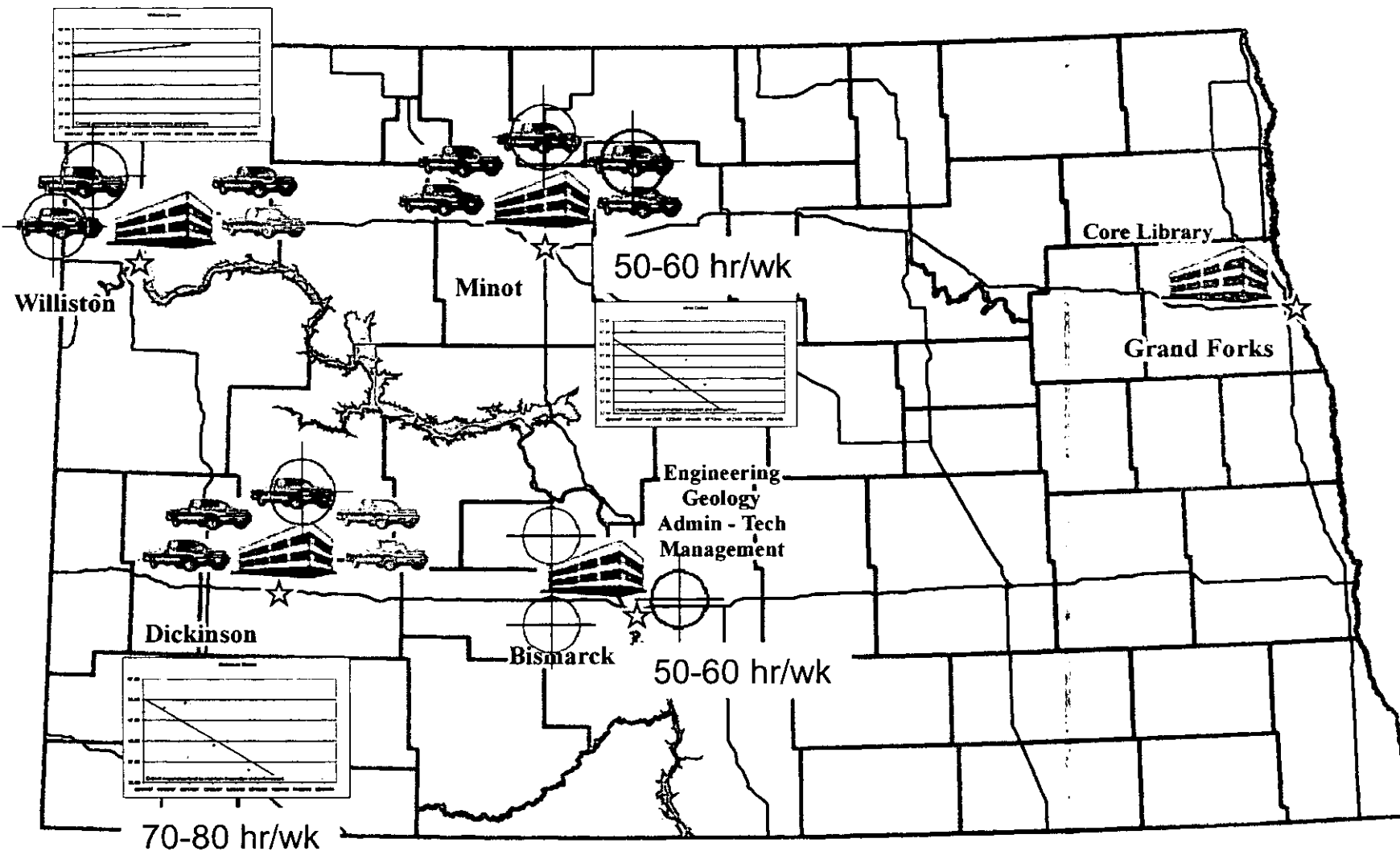
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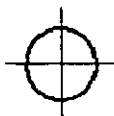
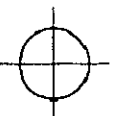
Agencies are comfortable that the language added in #5 of this bill describes how they have been defining and identifying their hard-to-fill positions.

Department of Mineral Resources

55-65 hr/wk

Service Locations



 Industry job offer – retention bonus
  Industry job offer – retention bonus – Rule of 85 this biennium