

FISCAL NOTE
Requested by Legislative Council
03/10/2017

Amendment to: SB 2110

- 1 A. **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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$40,000	\$0	\$30,000
Expenditures	\$0	\$0	\$0	\$40,000	\$0	\$30,000
Appropriations	\$0	\$0	\$0	\$40,000	\$0	\$30,000

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Passage of this bill as amended, would increase revenues by a possible \$40,000 for estimated late fees in the 2017-19 biennium.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2.c. would provide an increase in revenue estimated at \$40,000 for the 2017-19 biennium for both the late filing of reports and late payment fees as imposed by the director of homeland security. The \$40,000 would be retained by the Department of Emergency Services for the administration of the state's hazardous chemical preparedness and response program to manage late fee processes.

The agency intent is to provide incentive to timely reporting and payment of fees. Upon notification to reporting companies, it is the agency's assumption that late fees would go down and eventually be diminished in future bienniums. During the nine months before fees would be implemented, companies will receive three notices.

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.*

Late filing and payment fees are estimated at \$20,000 per year or \$40,000 for the 2017-19 biennium. This is purely estimates based on current late reporting with the assumption this revenue would decline by the 2019-21 biennium and continue to decline in the future.

Revenues generated by SB 2110 are not 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.*

Additional expenditures of \$80,000 generated by revenues from late fees would provide operating costs for maintaining a late fee system. These funds would be expended through the operating line. Implementing a late fee system will require continuous monitoring as well as administrative costs in notifications and overall awareness to reporting companies.

All expenditures would utilize the agency's current hazardous chemical fund.

No increase in FTE's for these changes, however, overall operating costs will increase.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The revenue and expenditures would all utilize the current hazardous chemical fund.

Late fees, estimated at \$40,000 for the 2017-19 biennium, would provide administrative costs that would go through the division's operating line to assist in managing the program.

The executive budget does not include appropriations for SB 2110.

Name: Holly Gaugler

Agency: Adjutant General

Telephone: 333-2079

Date Prepared: 12/28/2016

FISCAL NOTE
Requested by Legislative Council
01/20/2017

Amendment to: SB 2110

- 1 A. **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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$80,000	\$0	\$60,000
Expenditures	\$0	\$0	\$0	\$80,000	\$0	\$60,000
Appropriations	\$0	\$0	\$0	\$80,000	\$0	\$60,000

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Passage of this bill as amended, would increase revenues by a possible \$80,000 for estimated late fees.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2.c. would provide an increase in revenue estimated at \$80,000 per biennium for both the late filing of reports and late payment fees as imposed by the director of homeland security. The \$80,000 would be retained by the Department of Emergency Services for the administration of the state's hazardous chemical preparedness and response program to manage late fee processes.

The agency intent is to provide incentive to timely reporting and payment of fees. Upon notification to reporting companies, it is the agency's assumption that late fees would go down and eventually be diminished in future bienniums. During the nine months before fees would be implemented, companies will receive three notices.

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.*

Late filing and payment fees are estimated at \$40,000 per year or \$80,000 per biennium. This is purely estimates based on current late reporting with the assumption this revenue would decline by the 2019-21 biennium and continue to decline in the future.

Revenues generated by SB 2110 are not 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.*

Additional expenditures of \$80,000 generated by revenues from late fees would provide operating costs for maintaining a late fee system. These funds would be expended through the operating line. Implementing a late fee system will require continuous monitoring as well as administrative costs in notifications and overall awareness to reporting companies.

All expenditures would utilize the agency's current hazardous chemical fund.

No increase in FTE's for these changes, however, overall operating costs will increase.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The revenue and expenditures would all utilize the current hazardous chemical fund.

Late fees, estimated at \$80,000 per biennium would provide administrative costs that would go through the division's operating line to assist in managing the program.

The executive budget does not include appropriations for SB 2110.

Name: Holly Gaugler

Agency: Adjutant General

Telephone: 333-2079

Date Prepared: 12/28/2016

FISCAL NOTE
Requested by Legislative Council
12/23/2016

Bill/Resolution No.: SB 2110

- 1 A. **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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$1,616,000	\$0	\$1,616,000
Expenditures	\$0	\$0	\$0	\$1,616,000	\$0	\$1,616,000
Appropriations	\$0	\$0	\$0	\$1,616,000	\$0	\$1,616,000

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties	\$0	\$380,000	\$380,000
Cities	\$0	\$1,140,000	\$1,140,000
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Passage of this bill would generate approximately \$1.6 million per biennium in increased fees (surcharges) on companies that store very large quantities of hazardous materials as described in Title 40, CFR Section 355.20. It would also increase revenues by \$16,000 for estimated late fees.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

In section 2.d. there is a fiscal impact for additional revenue of approximately \$1,600,000 per biennium for fees (surcharges) on companies that store very large quantities of hazardous materials. A fee of two hundred dollars will be assessed based on thresholds for large facilities of 500,000 pounds or more and in addition, two hundred dollars per each range code above one million pounds of hazardous material. The maximum fee for any one site will be \$2,000 per year.

In addition, emergency response departments within counties and cities would receive grants of \$1,520,000 per biennium based upon a grant program established by the director of homeland security. The remaining \$80,000 would be retained by the agency to administer the grant program.

Section 2.c. would provide an increase in revenue estimated at \$16,000 per biennium for both the late filing of reports and late payment fees as imposed by the director of homeland security. The \$16,000 would be retained by the Department of Emergency Services for the administration of the state's hazardous chemical preparedness and response program to manage late fee processes.

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.*

The revenues generated as described above would be \$800,000 per year (\$1.6 million per biennium) based upon an annual estimated 3,582 facilities at \$200 and 189 facilities at \$400.

Late filing and payment fees are estimated at \$8,000 per year or \$16,000 per biennium.

Revenues generated by SB 2110 are not 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.*

Under SB 2110, the director of homeland security will establish a grant program for emergency response departments and disperse ninety-five percent (\$1,520,000) of the funds collected from surcharges on a yearly basis. Those funds would be dispersed through the grants line. The remaining five percent (\$80,000) will be retained by the Department of Emergency Services for the administration of the state's hazardous chemical preparedness and response program to manage the grant processes. These funds would be expended through the operations line.

Additional expenditures of \$16,000 generated by revenues from late fees would provide operating costs for maintaining a late fee system. These funds would be expended through the operating line.

All expenditures would utilize the agency's current hazardous chemical fund.

No increase in FTE's for these changes, however, overall operating costs will increase.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The revenue and expenditures would all utilize the current hazardous chemical fund.

The expenditures would go through the grant line for ninety-five percent of the revenue (\$1,520,000) as grants to emergency response departments and five percent (\$80,000) administrative costs would go through the division's operating line to assist in managing the program.

Late fees, estimated at \$16,000 per biennium would provide administrative costs that would go through the division's operating line to assist in managing the program.

The executive budget does not include appropriations for SB 2110. This would be a continuing appropriation to ensure distribution of ninety-five percent of revenues each year and corresponding operations costs for implementing and maintaining an expanded hazardous chemical program.

Name: Holly Gaugler

Agency: Adjutant General

Telephone: 333-2079

Date Prepared: 12/28/2016

2017 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2110

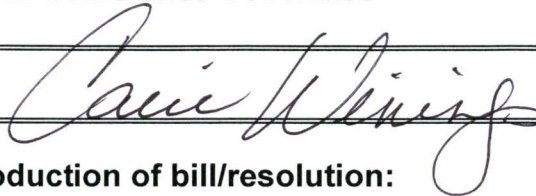
2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

SB 2110
1/12/2017
Job Number 26831

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 37-17.1-07.1 of the North Dakota Century Code, relating to hazardous chemical preparedness and response program fees and fines.

Minutes:

Attachments: 1-2

Chairman Poolman: Opened the hearing on SB 2110.

Greg Wilz, Deputy Director, Department of Emergency Services, Director, Homeland Security Division: See Attachment #1 for testimony to explain and in support of the bill.

(15:20) Senator Meyer: What are those fees currently?

Greg Wilz: On page 3, paragraph C (Reads from the bill) There is a maximum fee that is \$475.

Chairman Poolman: The fee is based on number of chemical and not amount of chemical?

Greg Wilz: The current fee is based on the number of chemicals.

Chairman Poolman: So I can have a facility of one chemical and pay \$25?

Greg Wilz: If you have a zillion gallons of one chemical you are paying \$25.

Senator Marcellais: Are tribal nations covered under this through the state or hare they covered by the federal homeland security?

Greg Wilz: Yes, they are covered under this particular law. Most of the stuff that we deal with at the Department of Emergency Services, Tribes, while sovereign nations, are treated just as a county would be.

Senator Marcellais: Is the state emergency response commission appointed by the Governor? Is there a process to get someone on the committee?

Greg Wilz: There is a process and that is the we welcome anyone at all that have a real stake hold in the hazardous material foot print in the state of North Dakota. I know that the tribe in the New Town area is a huge participator in oil. If there is an interest, we would welcome tribal participation.

Chairman Poolman: On page 2 of your testimony you talked about local stakeholder groups determining grant priority and approval, who are the stakeholder groups?

Greg Wilz: We deal with a lot of grants. We have homeland security grants, emergency management performance grants and the best practice that we have found is that we assemble people from the field to help us determine how those dollars should be built. We have an option here, if you go with this language and that would be that either we could leverage one of those existing groups; the State Policy Network that deals with the homeland security grants. I do not know if that is the right make up. This is a little more diverse. We would want more EMS participation in this. Both rural and city fire departments because all can be effected. I almost think we would want to assemble a different group under a different name.

Chairman Poolman: You mentioned that you asked for \$5 million and only received \$1.7 million in the last session, and obviously the oil industry pays a lot in taxes that we are taking in, are we not doing right by emergency services if the oil industry is paying into the state? Did this bill generate from a place where we were not as legislators appropriating enough funding to take care of the impact of the energy industry?

Greg Wilz: That is a good question. We have energy partners that are fantastic and they understand and they get it. The energy partners do pay a fair share and maybe more than their fair share of taxes, but often times the money does not get to the right spot. We are trying to fix that here. Oil has peaked and valleyed in North Dakota. Ag has been another huge advance over the last number of years. Ag chemical have brought more production out of the land. I know the unpopularity of this is the additional tax and I get it. My job is to make sure that when the LEPC's have a clear understanding of what their risk footprint is in their counties that they also understand what their capabilities are. We still have gaps and deltas even though we still have had a huge influx of funds. To this day, energy partners are fantastic. When we have a truck rollover on a remote road generally the oil industry are the ones there first and we can rely on them. I am sure you will hear some other good suggestions with the rest of the testimony you will hear today and you have a difficult job ahead with this bill.

Chairman Poolman: When was the last time fees were adjusted?

Greg Wilz: It has been at least two sessions ago.

Mr. Bohr, Hazardous Chemical Coordinator, North Dakota Department, Division of Homeland Security: Since 1992, we have charged \$25 per chemical, per facility, based on the federal law. Two to three sessions ago, the cap was \$150 and it was raised to \$475.

(23:36) Senator Veda: You had mentioned that foam was \$150 for 5 gallons; in the event that there is an accident that the foam is used, who pays for that? Would it not be the vehicles insurance company that would pay for that?

Greg Wilz: It will be a complicated answer. Responders use their own supplies when they respond. In some cases the company will offer up money to offset their costs. In some cases, the department that responded will go after the insurance provider of that insurance company of that entity. Very few times does that happen. When there is a large event and regional response teams are dispatched, we have the ability, through our hazardous chemical fund, to cover that. When we dispatch the state pays for it. The state, within code law, has the ability to go after the responsible party and we have done that in the past. Too often the locals fund the majority off of their local tax mills that support the departments.

(26:30) Kari Cutting, Vice President, ND Petroleum Council: See Attachment #2 for testimony in opposition to the bill. (the surcharge portion only we are in favor of the fees).

(36:45) Mike Rud, President, North Dakota Petroleum Marketers Council: Testified in a neutral capacity. I agree with both sides. Having served as a volunteer firefighter and emergency response in a small community, I know what they are going through. I would agree with Ms. Cutting when she talked about finding a way to solve this legislatively and not putting a fee or a tax on the industry. I think everyone in ND should be paying for emergency services if that is what we need.

(38:10) Senator Veda: When we talk about tanks, how does a wholesale facility that has a huge tank (example of CF Industries) compare with a small retail facility that has a small tank, how does this affect them?

Mike Rud: My understanding is that the 500,000 pounds is one single tank. It is not a group of connected pipe tanks I believe. That is a critical answer for us as well. If we are talking about bulk plants, then absolutely we are going to have some bulk that fall under that category so they will be paying the similar fees. Let's not charge a fee to those people that are already paying those fees. Our industry is already hard enough with tax burden as it is. As a business person we would like that stay the way that it is. We are comfortable with where it is right now. We would be comfortable with that 500,000 raised to 1 million. It would make it better for our industry. I am not speaking for the oil industry in any way. We have members that would definitely fall into that category if we are talking about tanks that can be connected by piping and not just a single standalone tank.

Jeff Thompson, Hazardous Chemical Officer, North Dakota Department of Emergency Services: To address the tank question, connected tanks are a part of that. We would look at the total of what is connected. When we look at connections, we took the definition from the EPA and the definition takes out automatic shut of valves and anything that is piped together is considered connected so they would have to add all those pounds together. I would not include top vent lines because they would spill back into their own tanks and would be their own cleanup and it would not need first response from us.

Senator Veda: In regards to the fee structure, comparing a large facility that has one tank, such as CF Industries, and a small retailer, how do the fees affect each one?

Jeff Thompson: It is all based off of pounds. That large tank could be a million pounds, and it would be charged the \$400 and if the small guy has the same amount of capacity in smaller tanks that are connected he would pay the same \$400. If the tanks are not connected because he is smaller and has a few with different products, those tanks would be considered separate and it would be the total pounds of each one.

Senator Vedaa: I am understanding that if you have a large single tank and it holds 1000 times more than the retailer that has one single tank to supply to farmers they will both be paying the same amount?

Jeff Thompson: It depends on the range codes in the law and the fee is payment is increase to those. The larger the tank, the larger the range code and then that \$200 fee would increase that according to the range code that the EPA has laid out.

Senator Vedaa: Does it say that in here?

Jeff Thompson: Yes, it is in the language in the bill.

Chairman Poolman: If I am a farmer and I have my own tank, I am going to have to pay \$25 for that but the fertilizer plant that has a huge million pound tank they will max out at that \$475?

Greg Wilz: First, Farm Ag is exempt. This is for the folks that are in the wholesale or retail business. A wholesaler that has a large tank with a million pounds will pay \$400 plus the \$25 for the individual chemical fee. You have a gas station that has four hundred gallon tanks he is paying \$200 per tank plus \$25 per chemical. If those tanks are connected, then he will pay \$400 if it goes above the million pounds.

Chairman Poolman: Closed the hearing on SB 2110.

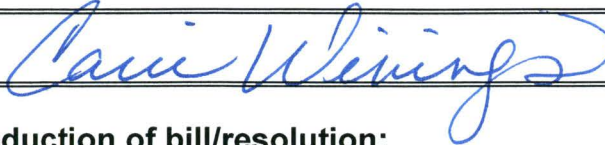
2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

SB 2110
1/19/2017
Job Number 27124

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 37-17.1-07.1 of the North Dakota Century Code, relating to hazardous chemical preparedness and response program fees and fines.

Minutes:

No Attachments

Chairman Poolman: Opened SB 2110 for committee discussion. (Reviewed what the bill was about.) I have heard a lot of resistance to the surcharge piece on page 3. It is an increase in fees on both the energy industry as well as local retailers. I am leaning toward bringing an amendment where I would take that portion out. I am wondering what your opinion is on that. It is difficult because we don't want to leave EMS without enough funds but the question is if we should be doing better as the legislature.

Senator Meyer: I have heard the same resistance in talking with people in the oil industry. Typically, they are there responding first. I know the EMS is concerned but it seems that the oil industry is really working hard to be there and be a front line.

Senator Vedaa: I was quite confused when they were talking. (Talked about the comparison of CF Industries with one large tank and the retailers with many small tanks and what they would be paying.) I do not care much for the way that this bill is written as far as that goes.

Chairman Poolman: From what it sounds like, the small retailer would see an increase in fees under this bill and I don't even think that was the intention of the people bringing it forward. I think they wanted to tax the bigger players. I am going to have that amendment prepared. Closed the discussion on SB 2110.

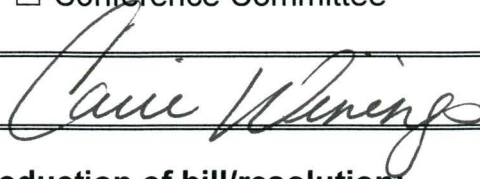
2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

SB 2110
1/20/2017
Job Number 27172

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 37-17.1-07.1 of the North Dakota Century Code, relating to hazardous chemical preparedness and response program fees and fines.

Minutes:

Attachments: 1

Chairman Poolman: Opened SB 2110 for committee discussion. (Reviewed what the bill was regarding.) See Attachment #1 for amendment proposed. The amendment takes out the surcharge piece of the bill (Page 3, Subsection D) and reletters the bill. I am hoping that we can do better in the legislature by allocating more money to Emergency Services but we also have the energy industry involved when anything goes wrong as well.

Senator Bekkedahl: Does that change the fiscal note?

Chairman Poolman: It changes it significantly. The fiscal note would go down to about \$16,000 of revenue for the late fees. We are taking out the surcharge piece that would have raised \$1.6 million.

Senator Bekkedahl: Does it remove any anticipated pass through funds to counties, cities, or political subdivisions? It appears to.

Chairman Poolman: Correct. There would have been monies going out to those from the \$1.6 million.

Senator Bekkedahl: It does not remove any of the money they are currently receiving?

Chairman Poolman: No it does not.

Senator Vedaa: Moved to Adopt Amendment 17.8056.01001.

Senator Bekkedahl: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Vedaa: Moved a Do Pass As Amended.

Senator Bekkedahl: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Vedaa will carry the bill.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2110

Page 3, line 18, remove "Owners or operators of facilities that maintain single storage tanks or a series of"

Page 3, remove lines 19 through 30

Page 4, line 1, remove "e."

Page 4, line 6, remove the overstrike over "e."

Page 4, line 6, remove "f."

Page 4, line 14, remove the overstrike over "f."

Page 4, line 14, remove "g."

Page 4, line 17, remove the overstrike over "g."

Page 4, line 17, remove "h."

Renumber accordingly

Date: 1/20
 Roll Call Vote #: 1

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2110**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 17.8056.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Vedaa Seconded By Bekkedahl

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	✓		Senator Marcellais	✓	
Vice Chairman Davison	Ab				
Senator Bekkedahl	✓				
Senator Meyer	✓				
Senator Vedaa	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

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

Date: 1/20
 Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2110

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 17.8056.01001 Title 02000

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider

Motion Made By Vedaa Seconded By Bekkedahl

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	✓		Senator Marcellais	✓	
Vice Chairman Davison	Ab				
Senator Bekkedahl	✓				
Senator Meyer	✓				
Senator Vedaa	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Vedaa

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

REPORT OF STANDING COMMITTEE

SB 2110: Government and Veterans Affairs Committee (Sen. Poolman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2110 was placed on the Sixth order on the calendar.

Page 3, line 18, remove "Owners or operators of facilities that maintain single storage tanks or a series of"

Page 3, remove lines 19 through 30

Page 4, line 1, remove "e."

Page 4, line 6, remove the overstrike over "~~e.~~"

Page 4, line 6, remove "f."

Page 4, line 14, remove the overstrike over "~~f.~~"

Page 4, line 14, remove "g."

Page 4, line 17, remove the overstrike over "~~g.~~"

Page 4, line 17, remove "h."

Renumber accordingly

2017 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2110

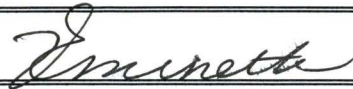
2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

SB 2110
3/2/2017
28646

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to hazardous chemical preparedness and response program fees and fines.

Minutes:

1 attachment

Chairman Kasper: Opened the hearing on SB 2110.

Greg Wilz: Deputy Director, Department of Emergency Services, appeared in support. (Attachment 1) went through the bill. 01:12 -13:50. This bill seeks to assist other PCS and to keep people engaged by expending the money authority to issue stipends provide meals and refreshments.

Rep. Steiner: Refreshments can be general and according to state it is illegal to use public funds for alcohol. Why weren't refreshments stated as non-alcoholic refreshments?

Greg Wilz: There would be no intend for us to support the purpose of alcohol with this money. I would be open for that change.

Rep. B. Koppelman: In the bill it talks about the maximum fee of \$475.00, do you accept credit cards?

Greg Wilz: We do.

Rep. B. Koppelman: In a lot of sections of law we have set up our process for how the fee is created and often times if there is a late fee authorized we also set up that process first I would like to know would you be opposed if we would define something like that?

Greg Wilz: I would not take offense if you decided to dictate something. If you leave it to me in policy, I will tell you it is not going like your local hardware. Looking at something more significant 25%-50%.

Rep. B. Koppelman: That helps because I think of some reports that I have to file with the Secretary of State I believe you pay doubles if it is not in on time.

Greg Wilz: After 60 days' late fees should be at 25-50%. At the end of 6 months it is a \$15,000 a day fee they would do well to pay before then. Can live with that.

Rep. Rohr: 40% is delinquent is high so are you supposed to have safety coordinators that handle that kind of stuff and put your MSCS things in it. Have you tried to find out whether the process might be too cumbersome?

Greg Wilz: Great question, it has been 3 or 4 years since we implemented a system for which our web site and do the entire report on it and hit send. Our first year on that system we had a couple of teaching sessions to figure out what is working well or not we made improvements. This last year we made the final improvements and the improvements was that their prior records stayed out there to copy and bring forward. We have simplified process as much as we can. This year 1200 companies representing 2000 facilities missed the deadline.

Chairman Kasper: On Page 3 where you are talking about "developing by rule if we put some numbers in there would you be okay with it as long as it gets their attention of the people that are late?

Greg Wilz: Yes, I can live with that.

Rep. Rohr: Has anybody on the business side given any comments on this bill? Taken position on senate side?

Greg Wilz: Absolutely we had private industry there, big war, and a number more there. In the original bill we were looking to also access small jurisdictions that have huge risks, those storage sites that have over a million pounds of hazardous material stuff. We built in a surcharge for half million and one million plus and then that money would be given out to those local jurisdictions as grants. When we put the bill together 3 or 4 players were in favor of the fees. When we got to the senate it was taken out.

Rep. Rohr: When does it cross over to a source of revenue?

Greg Wilz: We need to try something. This is not about the money for DES this is about people sending in reports on time. This is so people what is in their back yard this is so the staff that works this program don't have to for months work to get the reports.

Rep. Kasper: Closed the hearing.

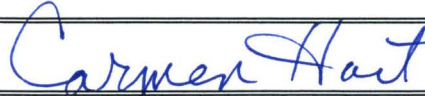
2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

SB 2110
3/9/2017
28996

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to hazardous chemical preparedness and response program fees and fines

Minutes:

Attachment 1

Chairman Kasper opened the meeting on SB 2110.

Rep. B. Koppelman explained the amendment. Attachment 1. (:47-:03:14) He moved to adopt the amendment.

Rep. Dockter seconded the motion.

Voice vote. Motion carried.

Rep. B. Koppelman: I think this direction we are heading to pay for volunteerism is kind of troubling. It is too bad that we have to provide incentives for people to volunteer, but that is what you see on the bottom of Page 3.

Rep. Olson: I think the main thing is they were told they couldn't order pizzas and give people pop. I don't think they are looking necessarily to try to pay people per say, but they need to have some kind of upper _ as to how much they can spend. That is why they have the 30% of the per diem per meeting, because that sounds like it would equal enough pizza for the people that come.

Rep. B. Koppelman: I don't believe that is what we heard in testimony. I believe it is 30% stipend or pizza.

Rep. Laning made a motion for a DO PASS AS AMENDED on SB 2110.

Rep. B. Koppelman seconded the motion.

A roll call vote was taken. 13 Yeas, 0 Nays, 1 Absent. **Rep. C. Johnson** will carry the bill.

3/8/17 DA

17.8056.02002
Title.03000

Prepared by the Legislative Council staff for
Representative B. Koppelman
March 8, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2110

Page 3, line 13, after the underscored period insert "A late fee must equal the amount of the hazardous chemicals fee owed under this subdivision."

Page 3, line 29, replace "chair" with "chairman"

Page 3, line 30, after "refreshments" insert "other than alcoholic beverages"

Renumber accordingly

Date: 3-9-17
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2110**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 17. 8056.02002

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By B. Koppelman Seconded By Dockter

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman			Pamela Anderson		
Scott Louser-Vice Chairman			Mary Schneider		
Jason Dockter					
Craig A. Johnson					
Daniel Johnston					
Karen Karls					
Ben Koppelman					
Vernon Laning					
Christopher D. Olson					
Karen M. Rohr					
Vicky Steiner					
Steve Vetter					

*Voice
 vote
 motion
 carried*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3-9-17
 Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2110**

House Government and Veterans Affairs Committee
 Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Laning Seconded By B. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman	X		Pamela Anderson	X	
Scott Louser-Vice Chairman	A		Mary Schneider	X	
Jason Dockter	X				
Craig A. Johnson	X				
Daniel Johnston	X				
Karen Karls	X				
Ben Koppelman	X				
Vernon Laning	X				
Christopher D. Olson	X				
Karen M. Rohr	X				
Vicky Steiner	X				
Steve Vetter	X				

Total (Yes) 13 No 0
 Absent 1
 Floor Assignment C. Johnson

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

REPORT OF STANDING COMMITTEE

SB 2110, as engrossed: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2110 was placed on the Sixth order on the calendar.

Page 3, line 13, after the underscored period insert "A late fee must equal the amount of the hazardous chemicals fee owed under this subdivision."

Page 3, line 29, replace "chair" with "chairman"

Page 3, line 30, after "refreshments" insert "other than alcoholic beverages"

Renumber accordingly

2017 TESTIMONY

SB 2110

TESTIMONY – SB 2110
SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
JANUARY 12, 2017
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am Deputy Director of the Department of Emergency Services (DES), and Director of the Homeland Security Division. I offer testimony in support of Senate Bill 2110.

Century Code 37-17.1-07.1. established the State Emergency Response Commission (SERC); members are appointed by the governor. Agency membership is enclosed in attachment one. The Commission oversees the State Hazardous Chemicals Preparedness and Response Program and is charged with duties outlined in Public Law 99-499, 42 U.S.C., also referred to as Superfund Amendments and Reauthorization Act (SARA) Title III. Responsibilities listed in its Charter comprise the following:

- a. Review state hazardous materials response plans annually.
- b. Monitor activities and membership of Local Emergency Planning Committees (LEPCs).
- c. Ensure LEPCs receive and record documented reports submitted under the Emergency Planning and Community Right-to-Know Act (EPCRA) and provide information required by law.
- d. Monitor resources and activities of state and local agencies pertaining to roles, responsibilities, and capabilities to respond to a hazardous material incident.

It is important to know LEPCs, appointed by the boards of county commissioners, are held responsible by federal law to coordinate with the SERC in developing and maintaining individual county hazardous chemicals preparedness and response programs.

The SERC has dedicated a significant amount of time assessing hazardous material incident readiness at the local level. Evaluation through surveys and direct briefings from LEPC chairmen and emergency managers overwhelmingly indicate the need for additional equipment, training, and exercise. This legislation seeks to raise capacity and capability of first responders to adequately meet the demands of wide-ranging and complex response profiles.

The bill addresses the authority to charge late fees. Each year by March 1 all hazardous material facility owners must complete a report and list the quantities and types of stored materials. Last year approximately 40 percent or 4,000 reports were filed past the deadline. Although Department of Emergency Services (DES) staff continues to request the information, facility owners often do not submit reports until the following winter. Late reports cause administrative burdens but far more importantly defies EPCRA and the public's right to receive timely hazardous material information.

SB 2110 also places a graduated surcharge fee system on storage facility owners whose sites contain 500,000 or more pounds and a million or more pounds of chemical

corresponding to parameters of title 40 CFR, part 355.20 section 312. Since there is a critical need to focus on preparedness and response shortfalls within those jurisdictions experiencing substantial increases in the local hazardous material footprint, this legislation institutes a grant program that returns 95 percent of the surcharge fees to local responder entities for the purpose of closing the largest gaps in preparedness and response capability. Although DES would retain 5 percent for administration and management, local stakeholder groups will determine grant priority and approval.

I believe the additional fees will generate an enormous positive impact on responder readiness. Currently, 3,582 facilities would be charged \$200 equating to \$716,400 and 189 charged \$400 totaling \$75,600. A maximum of \$2,000 is set per facility. Funds generated appear considerable; however, a firetruck properly equipped to support a refinery event was recently purchased by the Dickinson Rural Fire Department for approximately \$650,000.

The following are price examples for equipment and supplies but does not include maintenance and training.

- 4 gas monitor - \$300-600 per unit - Used for detection for flammable and oxygen deprived atmospheres.
- Self-Contained Breathing Apparatus - \$3,000-10,000 per unit - Flow tests must be performed annually to maintain reliability and safety.
- Alcohol Resistant Aqueous Film Forming Foam is priced at \$150 per 5 gallon pail. One semi accident may require 300 gallons resulting in an outlay of \$9,000.
- New Fire Pumper- \$300,000 but with foam unit up to \$650,000

Fees will also support multiple types of training and exercises jurisdictions deem vital to preparedness and response needs.

SB 2110 also addresses membership and attendance at LEPC meetings, which are crucial for local responders and for community leaders and citizens to understand various levels of risk and gaps in capability that exist in their community. LEPCs serve as the basis of the Right to Know Act.

Most LEPC members are volunteers who generally serve on one or more response crews. For most jurisdictions, attendance and membership is a difficult challenge. It not only represents another meeting but additional training. The bill seeks to assist LEPCs in keeping people engaged by expanding spending authority to issue stipends or in lieu provide meals and refreshments.

I am steadfast in pursuing support for first responders and believe SB 2110 is a step in the right direction. However, the bill may generate both opposition and ideas concerning fee restructure but the key is improving responder capabilities.

On behalf of the Department of Emergency Services, I recommend SB 2110 receive a due pass.

Thank you for your time; I will answer questions you may have.

Attachment 1

**NORTH DAKOTA
STATE EMERGENCY RESPONSE COMMISSION (SERC)
CONTACTS**

As of January 12, 2017

DEPARTMENT OF EMERGENCY SERVICES

STATE FIRE MARSHAL'S OFFICE

DIVISION OF STATE RADIO

HEALTH DEPARTMENT

HIGHWAY PATROL

OFFICE OF MANAGEMENT AND BUDGET

GOVERNOR'S OFFICE

ATTORNEY GENERAL'S OFFICE

WORKFORCE SAFETY & INSURANCE

DEPARTMENT OF AGRICULTURE

DEPARTMENT OF TRANSPORTATION

ND NATIONAL GUARD

ND INDUSTRIAL COMMISSION, OIL AND GAS DIVISION.

ND INSURANCE DEPARTMENT

PRIVATE INDUSTRY

Agriculture Sector – Vacant

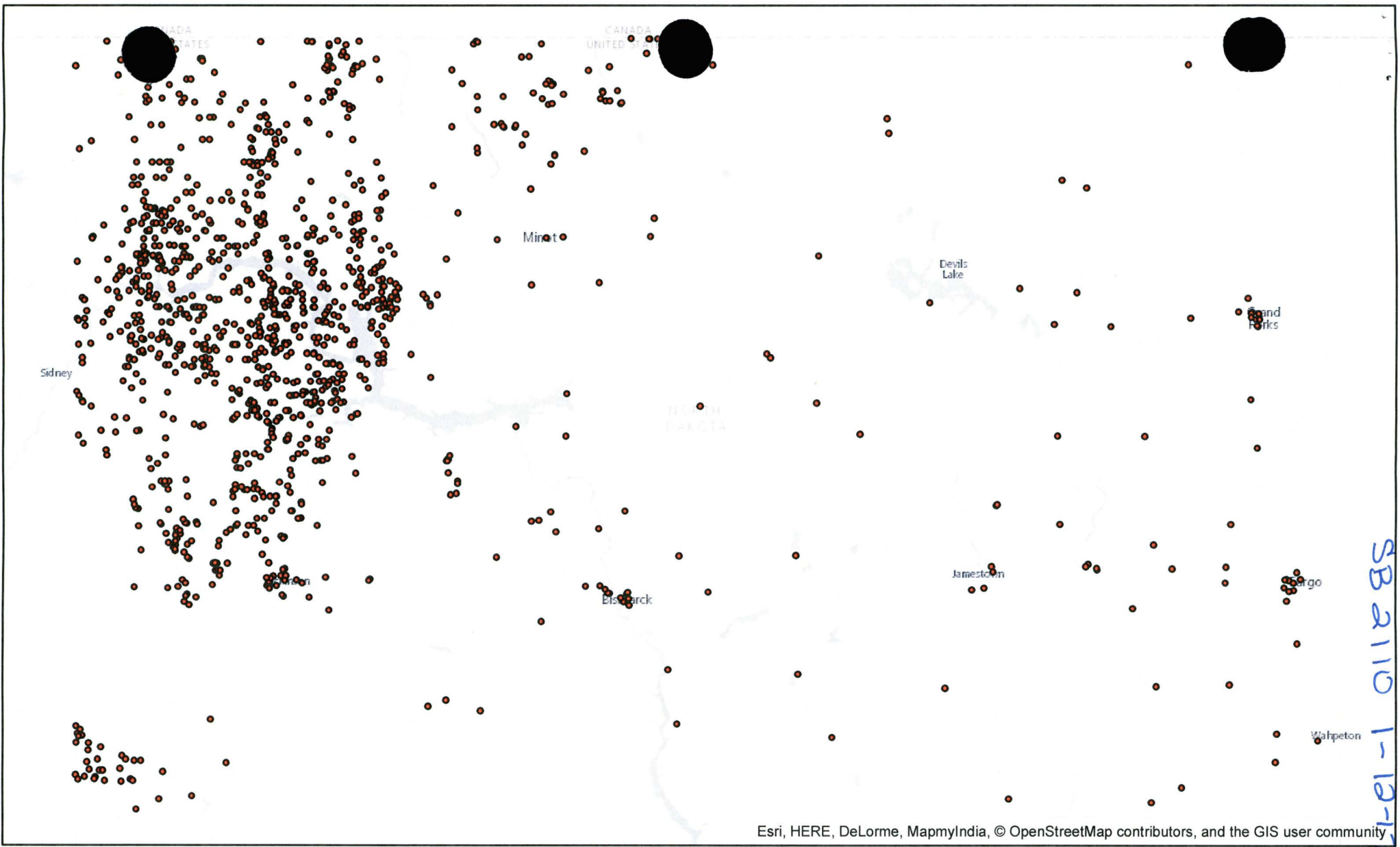
Transportation - ND Motor Carriers Association

Energy Sector - Tesoro Mandan Refinery

Firefighters - ND Firefighter's Association

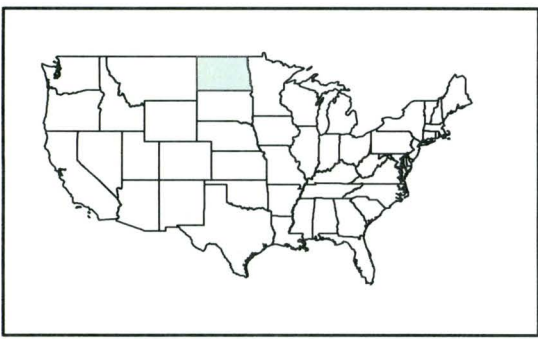
Energy Sector – ND Petroleum Council (pending appointment)

Pipelines – North Dakota Pipeline Association (pending appointment)



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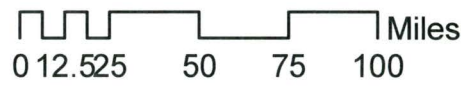
SB 2110 1-12-17 #1 pg 4



Hazardous Material Spills

Legend

- Through December 9th 2016. (1,514)



1:3,400,000





NORTH DAKOTA
PETROLEUM
COUNCIL

100 West Broadway, Ste. 200 | P.O. Box 1395 | Bismarck, ND 58502-1395
701.223.6380 | ndpc@ndoil.org | www.NDOil.org

Senate Bill 2110
Testimony of Kari Cutting
Senate Government & Veterans Affairs Committee
January 12, 2017

Chairman Poolman and members of the Government & Veterans Affairs Committee, my name is Kari Cutting, vice president of the North Dakota Petroleum Council. Last year the North Dakota Petroleum Council represented more than 500 companies in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I appear before you today in opposition of Senate Bill 2110.

The North Dakota Petroleum Council (NDPC) has supported and continues to support state and local emergency management services and fire support needs and capabilities. Within our industry we take emergency response very seriously and fully appreciate the hard work, dedication and sacrifice made by our local responders.

NDPC was at the forefront in support of the Energy Infrastructure and Impact grant (EIIO) funding the state provided for local impacts like local fire districts and EMS responders. In 2015, \$3 million was distributed to local communities for emergency response vehicles and other equipment during the EIIO Fire District Grant Round. Other forms of industry support have been provided by our companies in the form of charitable donations including police cruisers, firetrucks, donations for needed equipment in the communities in which they operate. The donations exceeded \$3 million over the past five years.

This bill proposes a new tax on industry, which is not something we can support at this time. With this new tax, the average oil and gas multi-well pad with storage tanks will pay an additional

\$800 charge; some with smaller tanks will pay a \$400 surcharge per pad per year. This is a substantial tax. The oil and gas industry currently has 3500 tank facilities in the Bakken. The fiscal note for this bill is listed as \$1.6 million for the biennium. We believe that number is underestimated.

If passed, the annual collections generated by this bill will continue to increase exponentially. As the Bakken continues to develop, we anticipate a total of 6500 to 10,000 oil and gas facilities in western ND. The \$800 per facility now equates to as much as \$8.0 million in revenue generated by this bill per year. And that is only oil and gas well pads with tank batteries, not including natural gas processing facilities, rail loading stations, refineries, gasoline or diesel retail facilities, coal facilities, grain elevators or fertilizer plants. And these are annual numbers, paid every March.

The oil and gas industry pays a hefty sum in production and extraction taxes to the state of North Dakota. These state revenues, as you know, are appropriated by the legislature as you deem necessary to benefit the citizens of this great state. We believe there are better funding sources for EMS than through the new tax proposed by this bill.

We urge a Do Not Pass on SB 2110. I would be happy to answer any questions.



17.8056.01001
Title.

Prepared by the Legislative Council staff for
Senator Poolman
January 19, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2110

Page 3, line 18, remove "Owners or operators of facilities that maintain single storage tanks or a series of"

Page 3, remove lines 19 through 30

Page 4, line 1, remove "e."

Page 4, line 6, remove the overstrike over "~~e.~~"

Page 4, line 6, remove "f."

Page 4, line 14, remove the overstrike over "~~f.~~"

Page 4, line 14, remove "g."

Page 4, line 17, remove the overstrike over "~~g.~~"

Page 4, line 17, remove "h."

Re-number accordingly

Attachment 1
2110
3-2-17

TESTIMONY – SB 2110
HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
MARCH 2, 2017
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am Deputy Director of the Department of Emergency Services (DES), and Director of the Homeland Security Division. I offer testimony in support of Senate Bill 2110.

Century Code 37-17.1-07.1. established the State Emergency Response Commission (SERC); members are appointed by the governor. Agency membership is enclosed in attachment one. The Commission oversees the State Hazardous Chemicals Preparedness and Response Program and is charged with duties outlined in Public Law 99-499, 42 U.S.C., also referred to as Superfund Amendments and Reauthorization Act (SARA) Title III. Responsibilities listed in its Charter comprise the following:

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It is important to know LEPCs, appointed by the boards of county commissioners, are held responsible by federal law to coordinate with the SERC in developing and maintaining individual county hazardous chemicals preparedness and response programs. LEPC members are volunteers who generally serve on one or more response crews. For most jurisdictions, attendance and membership is a difficult challenge. It not only represents another meeting but additional training.

SB 2110 addresses membership and attendance at LEPC meetings, which are crucial for local responders and for community leaders and citizens to understand various levels of risk and gaps in capability that exist in their community. The bill seeks to assist LEPCs in keeping people engaged by expanding spending authority to issue stipends or in lieu, provide meals and refreshments.

The bill also addresses the authority to charge late fees. Each year by March 1 all hazardous material facility owners must complete a report and list quantities and types of stored materials. Last year approximately 40 percent or 4,000 reports were filed past the deadline. Although Department of Emergency Services (DES) staff continues to request the information, facility owners often do not submit reports until the following winter. Late reports cause administrative burdens but far more importantly defies EPCRA and the public's right to receive timely hazardous material information.

On behalf of the Department of Emergency Services, I recommend SB 2110 receive a due pass.

Thank you for your time; I will answer questions you may have.

Attachment 1

NORTH DAKOTA
STATE EMERGENCY RESPONSE COMMISSION (SERC)
CONTACTS

As of March 1, 2017

DEPARTMENT OF EMERGENCY SERVICES

STATE FIRE MARSHAL'S OFFICE

DIVISION OF STATE RADIO

HEALTH DEPARTMENT

HIGHWAY PATROL

OFFICE OF MANAGEMENT AND BUDGET

GOVERNOR'S OFFICE

ATTORNEY GENERAL'S OFFICE

WORKFORCE SAFETY & INSURANCE

DEPARTMENT OF AGRICULTURE

DEPARTMENT OF TRANSPORTATION

ND NATIONAL GUARD

ND INDUSTRIAL COMMISSION, OIL AND GAS DIVISION.

ND INSURANCE DEPARTMENT

PRIVATE INDUSTRY

Agriculture Sector – Vacant

Transportation - ND Motor Carriers Association

Energy Sector - Tesoro Mandan Refinery

Firefighters - ND Firefighter's Association

Energy Sector – ND Petroleum Council (pending appointment)

Pipelines – North Pipeline Association (pending appointment)

17.8056.02002
Title.

Attachment 1
2110
Prepared by the Legislative Council staff for Representative B. Koppelman
March 8, 2017

3-9-17

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2110

Page 3, line 13, after the underscored period insert "A late fee must equal the amount of the hazardous chemicals fee owed under this subdivision."

Page 3, line 30, after "refreshments" insert "other than alcoholic beverages"

Re-number accordingly