

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2099

2001 SENATE NATURAL RESOURCES

SB 2099

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2099

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 1-19-01

Tape Number	Side A	Side B	Meter #
1	X		0-19.7, 37.8-41.3
Committee Clerk Signature <i>Jane L. Garm</i>			

Minutes:

SENATOR FISCHER opened the Committee meeting.

Attendance was taken with all Committee members present.

SENATOR FISCHER: opened the hearing on SB 2099: A BILL RELATING TO ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND, CONTROL OF GAS AND OIL RESOURCES, AND SUBSURFACE MINERAL REGULATION.

LYNN HELMS, director of the Oil & Gas Division of the North Dakota Industrial Commission, presented testimony in support of the bill. (See attached testimony).

SENATOR TRAYNOR: asked what kind of examination is made of the fiscal responsibility of the operators prior to allowing them to become oil & gas operators.

LYNN HELMS: no examination is made but the operators are required to post either a surety bond with an insurance company or a cash bond in the form of a certificate of deposit with the Bank of North Dakota.

SENATOR FISCHER: asked how do you determine the operator is teetering on defaulting on a bond.

LYNN HELMS: by the checking the number of abandoned wells in the operator's inventory.

SENATOR KELSH: questioned by the increase from \$50,000.00 to \$250,000.00.

LYNN HELM: because the maximum amount in the fund is so low and taking on the plugging liability, they had to drag out the plugging over a four year period because the funds were not available. This is very upsetting to the property owners when it takes years to plug and reclaim well because there is not enough in the fund. It takes \$25,000.00 to reclaim a well and felt having enough funds to reclaim 10 wells at any given time would be ideal.

SENATOR FREBORG: asked what were the bonding requirements.

LYNN HELM: the state requires a \$100,000.00 blanket bond which is already higher than other states and increasing the bond amount could make the state noncompetitive with neighboring states. Using this fund as opposed to increasing bonding requirements and discouraging oil & gas development in the state and punishing the responsible companies.

SENATOR TOLLEFSON, Committee Vice Chairman took over the hearing.

ED MURPHY, a geologist representing the the North Dakota Geological Survey testified in support of Bill 2099. (See attached testimony).

RON NESS, representing the North Dakota Petroleum Council and the "good operators" testified in support of the bill.

SENATOR TOLLEFSON closed the hearing on SB 2099.

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Senate Natural Resources Committee

Bill/Resolution Number SB 2099

Hearing Date 1-19-01

Discussion was called on the bill.

SENATOR TRAYNOR: made a motion for "DO PASS" of SB 2099.

SENATOR EVERY: second the motion.

SENATOR KELSH: felt that the math did not add up, why do we need \$250,000.00; the fees do not go to the general fund anyway; and some money will be recovered by the bonds.

SENATOR FISCHER: asked for the roll vote. Vote indicated 7 YAYS, 0 NAYS, 0 ABSENT OR NOT VOTING.

SENATOR CHRISTMANN will carry SB 2099.

Bill 2099 will be rereferred to the Appropriations Committee.

FISCAL NOTE
Requested by Legislative Council
02/09/2001

Bill/Resolution No.:

Amendment to: SB 2099

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues					(\$60,000)	
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 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.*

Oil and gas fees are expected to generate approximately \$90,000 per biennium.

Currently approximately \$20,000-40,000 of the fees is deposited in the Plugging and Reclamation Fund and \$50,000-70,000 is deposited in the General Fund.

There are currently 2 orphan wells and an additional 74 potential orphan wells in North Dakota that will require plugging and reclamation at a cost of approximately \$90,000 each biennium for the next 10 bienniums. The current fund limit could result in the need for a General Fund appropriation of \$70,000-80,000 for oil well plugging and reclamation each biennium.

An alternative to increasing the fund limit is to increase oil well bond requirements. This action would severely reduce already weak oil drilling activity by conscientious operators, while less than 1% of operators default on their obligation to plug and reclaim the wells they operate.

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.*

Oil and gas fee revenues each biennium are as follows:

Drilling permit fees \$30,000; Operator change fees \$40,000; Recompletion permit fees \$15,000; Seismic

permit fees \$5,000.

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.*

The NDIC Oil & Gas Division is responsible for plugging and reclaiming orphan oil and gas wells (wells for which no responsible party with sufficient assets can be identified).

Historical expenditures have been \$20,000-40,000 per biennium.

There are 2 current and 74 potential orphan wells that could require plugging and reclamation expenditures of \$90,000 in each of the next 10 bienniums.

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.*

Approval of this change in the Plugging and Reclamation Fund maximum will eliminate the need to appropriate \$70,000-80,000 each biennium for plugging and reclaiming orphan wells.

Potential orphan well plugging and reclamation costs are expected to exceed the current fund maximum.

Name:	Lynn D. Helms	Agency:	NDIC Oil & Gas Division
Phone Number:	328-8025	Date Prepared:	02/09/2001

FISCAL NOTE
Requested by Legislative Council
12/22/2000

Bill/Resolution No.: SB 2099

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$60,000)		(\$60,000)	
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 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.*

Oil and gas fees are expected to generate approximately \$90,000 per biennium.

Currently approximately \$50,000 - \$70,000 is deposited in the general fund and \$20,000 - \$40,000 in the Plugging & Reclamation Fund each biennium.

There are currently 2 orphan wells and an additional 74 potential orphan wells in North Dakota that will require plugging and reclamation at a cost of approximately \$90,000 for each of the next 10 bienniums. The current fund limit could result in the need for a general fund appropriation of \$70,000 - \$80,000 for oil well plugging and reclamation each biennium.

An alternative to increasing the fund limit is to increase oil well bond requirements. This action will severely reduce already weak oil drilling activity by conscientious operators.

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.*

Plugging and reclamation fund revenues each biennium are as follows:

Drilling permit fees \$30,000, Operator change fees \$40,000, Recompletion permit fees \$15,000, Seismic permit fees \$5,000

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.*

The NDIC Oil and Gas Division is responsible for plugging and reclaiming orphan oil and gas wells (wells for which no responsible party with sufficient assets can be identified).

Historical expenditures have been \$20,000 - \$40,000 per biennium.

There are 2 current and 74 potential orphan wells that could require plugging and reclamation expenditures of \$90,000 in each of the next 10 bienniums.

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.*

Approval of this change in the Plugging and Reclamation Fund maximum will eliminate the need to appropriate \$70,000 - \$80,000 for plugging and reclamation of orphan wells.

Potential orphan well plugging and reclamation costs are expected to exceed the current fund maximum.

Name:	Lynn D. Helms	Agency:	NDIC Oil & Gas Division
Phone Number:	(701) 328-8020	Date Prepared:	01/12/2001

Date: 1-19-01

Roll Call Vote #: /

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL RESOLUTION NO. 2099

Senate NATURAL RESOURCES

Committee

☐ Subcommittee on

of

☐ Conference Committee**Legislative Council Amendment Number**

Action Taken Do Pass

Motion Made By

Secondded


By

Europe

[illegible]

Total (Yes) 7

No

Absent 

Floor Assignment Senator Christmann

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

REPORT OF STANDING COMMITTEE (410)
January 19, 2001 10:50 a.m.

Module No: SR-09-1277
Carrier: Christmann
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2099: Natural Resources Committee (Sen. Fischer, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2099 was rereferred to the Appropriations Committee.

2001 SENATE APPROPRIATIONS

SB 2099

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2099

Senate Appropriations Committee

☐ Conference Committee

Hearing Date January 31, 2001

Tape Number	Side A	Side B	Meter #
Tape #1	x		0.0 - 18.6
Committee Clerk Signature <i>Connie Retsch</i>			

Minutes:

Senator Nething opened the hearing on SB2099.

Lynn Helms, Director of the Oil and Gas Division of the North Dakota Industrial Commission (NDIC). A copy of his written testimony is attached.

Senator Nething: How do people qualify, when they do not have the resources to finish?

Lynn Helms: The department does not do a financial background; the rule is if the company is in good standing with the Office of the Secretary of State -- and if they are able to secure bonding; surety company okays them, we accept the transfer or allow them to begin digging. There have been times when the company is sound; management misuses funds - spends to zero and then the company walks away.

Senator Nething: What does the bonding cost?

Lynn Helms: Surety bonding if 10% of loan; a hundred thousand dollars would have a premium of 10 thousand per year.

Senator Nething: What does it cost to drill a well?

Lynn Helms: Appropriately one million dollars.

Senator Nething: Certainly they don't dig here just because the bonding is cheaper here?

Lynn Helms: No, the main drive is investment on return. All things are taken into consideration; it's an accumulating effect of rules, bonding etc. We want to be competitive.

Senator Nething: What do other states have for bonding? Fund amount?

Lynn Helms: Ours is 15,000 for single; 100,000 for blanket; Montana has 10,000 single, 50,000 blanket ---South Dakota: 7,000 single; 30,000 blanket. None have plugging and reclamation funds. Normally the EPA (federal dollars) bail them out when orphan wells occur.

Senator Nething: Montana has no funds to cover? Wyoming? South Dakota?

Lynn Helms: Don't believe so.

Senator Solberg: Are these performance or surety bonds?

Lynn Helms: We have both cash and surety. Insurance/surety firms have annual fees. In the '80s (believe it was 1987) - legislative action okayed cash bonds -- so a company can purchase a certificate of deposit --- cash payment of \$15,000 --- this can take place of surety loans. We do have cash and surety bonding.

Senator Solberg: Of course, cash is best -- but cash or insurance -- it's still money for you -- what are you doing wrong?

Lynn Helms: We have gone to court against surety company -- one company in Minnesota has been a particular problem -- court costly way to recover dollars --- guess, once bitten twice shy.

Senator Solberg: Can't collect?

Lynn Helms: Only one Minnesota Trust Company has given us problems; unable to collect there. We no longer accept bonding from that company.

Senator Thune: 74 wells --- are they strippers that are no longer profitable?

Lynn Helms: The bulk of them are operated by an individual, Earl Schwartz, the most stripped of stripper wells --- economical value is questionable.

Senator Tallackson: Added coal-bed methane gas?

Lynn Helms: Yes, we are seeing an increase in the coal bed methane gas in North Dakota; hope to have some test wells going this spring; and have the proper regulations in place.

Senator Nething: The fiscal note shows a 16,000 dollar decrease in revenue?

Lynn Helms: Good question, complicated -- the department collects 90 thousand dollars in fees per biennium 30 thousand goes to the plugging reclamation fund and 60 thousand goes to the general fund. The fiscal note would allow the 60 thousand to stay here in the plugging reclamation fund rather than go into the general fund.

Senator Nething: Reason for 250,000 versus 350 thousand?

Lynn Helms: 250 thousand would allow plugging/reclamation of 10 wells. The cost per well is approximately 25 thousand dollars to plug/reclaim.

Ron Ness (lobbyist #161), North Dakota Petroleum Council, testified in support of SB2099. He enforced the previous discussions that the stripper wells at life's end, bought by individuals are often the heart of the problem. Encouraged the increase in the department's funding rather than undocumented expense dollars going to the general fund--this is a problem. Increase in bonding costs would penalize the company only; fees increases steps have occurred --now \$100. Of the 340 some licensed companies drilling, only 5 are a problem.

No additional requests to testify, in support or opposition of SB2099.

Hearing closed by Senator Nething.

Committee discussion following close of hearing:

Senator Andrist: No dollar increase in budget --- simply enlarging the pool dollars - activity is not a rush -- we aren't stuck; need to pay to reclaim eventually -- appears to streamline things?

Senator Nething: Some questions --- collect 90 thousand each biennium --- 50 thousand is the cap of the fund?

Senator Andrist: Ultimately -- run short, need to plug and reclaim one way or the other.

Senator Nething: Rolls into the general fund.

Senator Andrist: Wells unplugged -- then ultimately plugged /reclamation process completed.

Senator Nething: Problem: don't like to take the 60 thousand out of general funds to do it.

Senator Tallackson: Eventually out of general funds?

Senator Nething: Takes longer

No further discussion; Senator Nething assigned SB2099 to the Industrial Commission Subcommittee; Senator Holmberg, Chair; Senator Schobinger and Senator Heitkamp.

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Senate Appropriations Committee

Bill/Resolution Number SB2099

Hearing Date ~~January 31, 2001~~

Full Committee Action, February 6, 2001 (tape 1, side a, 0.00 - 54.3)

Senator Nething opened the hearing on SB2099.

Senator Holmberg, Chair of the Industrial Commission Subcommittee, presented the proposed amendments (18148.0101). The 60 thousand dollars was the problem, reduced by this amendment. The raise from 50 to 250 thousand would be considered next biennium.

Senator Holmberg moved the acceptance of proposed amendments; Senator Heitkamp seconded the motion.

Discussion: Senator Solberg: Bothersome that they don't go after the dollars?

Senator Holmberg: There was lots of discussion. Bonding for a particular well stays with that well - there isn't the option to move it to another well. One may have some assets -- other 5 have zero.

Senator Heitkamp: It's a matter of policing themselves. Subcommittee saw no need to punish the industry for poor action by a few.

Senator Bowman: When marginal wells are involved, perhaps they could charge a surcharge on royalties -- which would be set aside -- and used to reimburse the individual/company if everything is left clean?

Senator Holmberg: Considered the corporate citizen -- collecting on bonds for a handful which need attention.

Senator Heitkamp: Industrial Commission is aware of who the people are -- they know them and are dealing with them.

No further discussion. Vote on accepting amendments - motion carried.

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Senate Appropriations Committee

Bill/Resolution Number SB2099

Hearing Date January 11, 2001

Feb 6, 2001

Senator Holmberg moved a DO PASS AS AMENDED; Senator Heitkamp seconded the motion.

No discussion. Roll Call Votes: 14 yes, 0 no, 0 absent. Senator Heitkamp accepted the floor assignment.

Hearing closed on SB2099 by Senator Nething.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2099

Page 1, line 4, after "regulation" insert "; and to provide an effective date"

Page 1, line 14, remove "two hundred"

Page 1, after line 16, insert:

"SECTION 2. AMENDMENT. Subsection 3 of section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

3. All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities. However, when the fees accumulated in the fund ~~exceeds~~ exceed two hundred fifty thousand dollars, any additional fees collected by the oil and gas division of the Industrial commission must be deposited in the general fund."

Page 2, after line 8, insert:

"SECTION 5. EFFECTIVE DATE. Section 2 of this Act becomes effective on July 1, 2003."

Renumber accordingly

Date: 2-6-01

Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2099

Senate Appropriations

Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number 18148.0101

Action Taken

Do Pass as Amended

Motion Made By

Sen Holmberg

Seconded

By

Sen Heitkamp

Senators	Yes	No	Senators	Yes	No
Dave Nothing, Chairman	✓				
Ken Solberg, Vice-Chairman	✓				
Randy A. Schobinger	✓				
Elroy N. Lindaas	✓				
Harvey Tallackson	✓				
Larry J. Robinson	✓				
Steven W. Tomac	✓				
Joel C. Heitkamp	✓				
Tony Grindberg	✓				
Russell T. Thane	✓				
Ed Kringstad	✓				
Ray Holmberg	✓				
Bill Bowman	✓				
John M. Andrist	✓				

Total Yes

14

No

0

Absent

0

Floor Assignment

Senator Heitkamp

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

REPORT OF STANDING COMMITTEE

SB 2099: Appropriations Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2099 was placed on the Sixth order on the calendar.

Page 1, line 4, after "regulation" Insert "; and to provide an effective date"

Page 1, line 14, remove "two hundred"

Page 1, after line 16, Insert:

"SECTION 2. AMENDMENT. Subsection 3 of section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

3. All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are ~~hereby~~ appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities. However, when the ~~money~~ fees accumulated in the fund ~~exceeds~~ exceed two hundred fifty thousand dollars, any additional fees collected by the oil and gas division of the Industrial commission must be deposited in the general fund."

Page 2, after line 8, Insert:

"SECTION 5. EFFECTIVE DATE. Section 2 of this Act becomes effective on July 1, 2003."

Renumber accordingly

2001 HOUSE NATURAL RESOURCES

SB 2099

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2099

House Natural Resources Committee

☐ Conference Committee

Hearing Date March 1, 2001

Tape Number	Side A	Side B	Meter #
1		x	319 to 1212
Committee Clerk Signature			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Drovdal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich.

Chairman Rennerfeldt: I will open the hearing on SB 2099.

Lynn Helms - NDIC Oil and Gas Division: I am here to testify in favor of SB 2099. (see written testimony).

Chairman Rennerfeldt: We have a fiscal note on this one too?

Helms: You should have a revised fiscal note to take into account the amendment from Senate appropriations. There is no fiscal impact for the coming biennium. There will be an approximately \$60,000 per biennium 2003 through 2010.

Rep. Keiser: What happens in the unitization project when that field goes bankrupt. Will this fund accommodate that?

Helms: This fund would obviously have an impact there. Primarily we would go to the unit operator, they will be carrying two bonds. One bond for all of the wells that weren't part of the unit and we currently require a separate \$100,000 bond for a unit. So when they form a unit that large, we put an additional bond in place to defray most of those costs.

Chairman Rennerfeldt: Any other questions of the committee? Anyone else care to testify in favor?

Ed Murphy - ND Geological Survey: Basically I am here to support what Lynn has said. (see written testimony).

Chairman Rennerfeldt: Any questions from the committee? Anyone else care to speak in favor of this bill? Is there any opposition to SB 2099. If not I will close the hearing on SB 2099.

Rep. DeKrey: I move a Do Pass.

Rep. Solberg: I second.

Chairman Rennerfeldt: Is there any further discussion on SB 2099. If not call the roll.

MOTION FOR A DO PASS

YES, 14 NO, 0

1 ABSENT AND NOT VOTING

CARRIED BY REP. GALVIN

Date: 3/1/01
Roll Call Vote #: ~~2274~~ 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2099

House Natural Resources Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DO Pass

Motion Made By Rep Dekren Seconded By Rep Solberg

Representatives	Yes	No	Representatives	Yes	No
Earl Rennerfeldt - Chairman	✓		Lyle Hanson	✓	
Jon O. Nelson - Vice Chairman	✓		Scot Kelsh		
Curtis E. Brekke	✓		Lonnie B. Winrich	✓	
Duane DeKrey	✓		Dorvan Solberg	✓	
David Drovdal	✓				
Pat Galvin	✓				
George Keiser	✓				
Frank Klein	✓				
Darrell D. Nottestad	✓				
Todd Porter	✓				
Dave Weiler	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep. Galvin

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

REPORT OF STANDING COMMITTEE (410)
March 1, 2001 12:00 p.m.

Module No: HR-35-4589
Carrier: Galvin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2099, as engrossed: Natural Resources Committee (Rep. Rennerfeldt, Chairman)
recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2099 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

SB 2099

NORTH DAKOTA INDUSTRIAL COMMISSION

OIL AND GAS DIVISION

Lynn D. Helms
DIRECTOR

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

Bruce E. Hicks
ASSISTANT DIRECTOR

Senate Bill 2099
Senate Natural Resources Committee
Testimony By
Lynn D. Helms
Director
Oil & Gas Division
North Dakota Industrial Commission

Mr. Chairman and members of the committee, my name is Lynn Helms, and I am the Director of the Oil & Gas Division of the North Dakota Industrial Commission (NDIC).

The NDIC regulates geophysical exploration, drilling, development, production of oil and gas, disposal of oil field brine, and plugging and reclamation of abandoned wells through the Oil & Gas Division.

This bill proposes amending three statutes. The first change would allow the NDIC to better protect the state treasury by allowing it to increase the amount of money in the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund. The other two changes make somewhat minor changes to the regulatory responsibilities of the Oil & Gas Division and the Geological Survey.

I will now discuss the proposed amendments in more detail.

Abandoned Oil and Gas Well Plugging and Site Reclamation Fund

One of the NDIC's most important duties is to ensure that oil and gas wells get properly plugged and that their well sites get reclaimed. About 4,500 wells are subject to the NDIC's oversight.

Usually the oil and gas companies take care of the plugging and reclamation, as the law requires them to do. But sometimes an operator walks away from a well leaving the plugging and reclamation to the state. While we can sue the operator to recover our costs, such operators usually have too few assets to make a lawsuit worthwhile.

To help protect the state from these costs, we do have bonding requirements. But the bond amounts aren't always sufficient to pay plugging and reclamation costs. For example, a few years ago, during the period of 1993 through 1996, we plugged and reclaimed eight wells. It cost us \$130,000 but we recovered, primarily from bonds, only \$47,000. Increasing bonding requirements is likely to force responsible operators to look to our neighbor states for oil and gas opportunities.

To provide the NDIC with a source of money to plug and reclaim, the legislature set up the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund in Section 38-08-04.5. A copy of the statute is attached. The fund is inadequate to protect the state and this bill seeks to remedy this.

Subsection (1) of the statute provides eight sources of money for the fund. But in reality only one of the sources actually provides income to build up the fund. This source is the first one, that is, fees the NDIC collects from the industry for permits.

We also collect money from forfeited bonds. This source of income really doesn't allow us a means to build up the fund because when a bond is forfeited it is spent to plug only the well or wells covered by that bond.

While subsection (1) of the statute provides six other sources of funding, for all practical purposes, we don't get any money from these sources. So, there are really only two sources for the fund -- fees and forfeited bonds -- and, as mentioned, forfeited bonds get spent relatively quickly to pay for the plugging and reclamation of the wells those bonds cover.

Subsection (3) of the statute, which is the part of the statute we seek to amend, states that "when the money accumulated in the fund exceeds fifty thousand dollars, any additional fees collected....must be deposited in the general fund."

The bill proposes to change the word "money" to "fees" and to change \$50,000 to \$250,000.

The practical effect of these changes is this. There will be no absolute cap to the amount of money in the fund. When it reaches \$250,000, if we get a forfeited bond we could deposit the bond into the fund. It won't be in the fund very long of course, because this money will be used as quickly as possible to pay the plugging and reclamation costs of the wells covered by the bond.

When the fund has \$250,000 in fees it, all additional fees collected by the Oil & Gas Division would then go to the general fund. I don't expect the fund to reach the \$250,000 threshold until about 2008.

Without these changes the fund won't be large enough to satisfy its intended purposes. To avoid bankrupting the fund we have been forced to plug and reclaim wells very slowly, too slowly. We can only plug and reclaim those wells for which we have money and after they are taken care of we have to wait for the fund to replenish itself before we can plug other abandoned wells.

Presently, there are two abandoned wells awaiting state plugging and reclamation. There are 74 additional wells that could fall into this category because their operators are teetering on the edge of solvency. The cost to plug all 76 would be about \$1,700,000. While these wells have bonds covering them, the bond amounts even when coupled with the well plugging fund will not even come close to covering the plugging and reclamation costs.

Regulatory authority over subsurface substances.

Sections 2 and 3 of the bill clarify Oil & Gas Division and Geological Survey regulatory authority over nitrogen, helium, and coalbed methane gas.

Presently, nitrogen falls within the regulatory responsibility of both the Oil & Gas Division and the Geological Survey. Section 3 of the bill removes nitrogen from the list of substances regulated by the Survey. Thus, just one agency, the Oil & Gas Division, will regulate development of nitrogen.

Section 3 also removes helium from the Survey's responsibility and Section 2 adds helium to the Oil & Gas Division's regulatory duties. Section 2 also gives the Oil & Gas Division regulatory authority over the development of coalbed methane gas. Coalbed methane, helium, and nitrogen are produced along with natural gas or drilled for in a manner similar to natural gas. Since the Oil & Gas Division already regulates development of natural gas, the Division should also regulate these three similar substances.

Section 2 also deletes some language that makes the Oil & Gas Division's regulatory authority dependent on the end use of the substance produced. This doesn't make much sense. Regulation of the development of underground substances shouldn't depend on how they are ultimately to be used.

The Geological Survey supports the proposed changes.

The Industrial Commission urges your favorable consideration of Senate Bill 2099.

**TESTIMONY BEFORE THE
SENATE NATURAL RESOURCES COMMITTEE**

**Senate Bill 2099
Ed Murphy, North Dakota Geological Survey
January 19, 2001**

Mr. Chairman and members of the Senate Natural Resources Committee, my name is Ed Murphy and I am a geologist with the North Dakota Geological Survey. One of my duties with the Geological Survey is to oversee the State's Subsurface Mineral program (NDCC 38-12). I am here to testify in favor of sections 2 and 3 of Senate Bill 2099.

North Dakota's Subsurface Mineral program was created in 1968 as a means of regulating all mineral production other than coal, oil, and natural gas. At the time this program was developed, the Oil and Gas Division and the Geological Survey were one agency and Geological Survey personnel trained in oil and gas matters oversaw both programs. When the two agencies split in 1981, all of the oil-and-gas inspectors were assigned to the Oil and Gas Division. To effectively regulate helium or nitrogen production under the present regulations, if and when production should occur, the Geological Survey would need to hire additional staff. Therefore, to avoid duplication of personnel, the proposed changes in sections 2 and 3 of this bill (the removal of helium and nitrogen from the Subsurface Mineral Program and the insertion of helium into the Oil and Gas Program) need to be made. The addition of coalbed methane into NDCC 38-08-21 is a clarification and recognition of the current practice that the Oil and Gas Division is responsible for regulating this gas.

Sections 2 and 3 of this bill were a cooperative effort between the ND Oil and Gas Division and the ND Geological Survey. I urge passage of sections 2 and 3 of Senate Bill 2099.

NORTH DAKOTA INDUSTRIAL COMMISSION

OIL AND GAS DIVISION

Lynn D. Helms
DIRECTOR

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

Bruce E. Hicks
ASSISTANT DIRECTOR

Senate Bill 2099
House Natural Resources Committee
Testimony By
Lynn D. Helms
Director
Oil & Gas Division
North Dakota Industrial Commission

Mr. Chairman and members of the committee, my name is Lynn Helms, and I am the Director of the Oil & Gas Division of the North Dakota Industrial Commission (NDIC).

The NDIC regulates geophysical exploration, drilling, development, production of oil and gas, disposal of oil field brine, and plugging and reclamation of abandoned wells through the Oil & Gas Division.

This bill proposes amending three statutes. The first change would allow the NDIC to better protect the state treasury by allowing it to increase the amount of money in the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund. The other two changes make somewhat minor changes to the regulatory responsibilities of the Oil & Gas Division and the Geological Survey.

I will now discuss the proposed amendments in more detail.

Abandoned Oil and Gas Well Plugging and Site Reclamation Fund

One of the NDIC's most important duties is to ensure that oil and gas wells get properly plugged and that their well sites get reclaimed. About 4,500 wells are subject to the NDIC's oversight.

Usually the oil and gas companies take care of the plugging and reclamation, as the law requires them to do. But sometimes an operator walks away from a well leaving the plugging and reclamation to the state (less than 1%). While we can sue the operator to recover our costs, such operators usually have too few assets to make a lawsuit worthwhile.

To help protect the state from these costs, we do have bonding requirements, but the blanket bond amounts are set for responsible operators, so they aren't always sufficient to pay the plugging and reclamation costs of a bankrupted company. For example, a few years ago, during the period of 1993 through 1996, we plugged and reclaimed eight such wells. It cost us \$130,000 but we recovered, primarily from bonds, only \$47,000. Increasing bonding requirements is likely to force responsible operators to look to our neighbor states for oil and gas opportunities.

To provide the NDIC with a source of money to plug and reclaim, the legislature set up the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund in Section 38-08-04.5. A copy of the statute is attached. The fund is inadequate to protect the state and this bill seeks to remedy this.

Subsection (1) of the statute provides eight sources of money for the fund. But in reality only one of the sources actually provides income to build up the fund. This source is the first one, that is, fees the NDIC collects from the industry for permits.

We also collect money from forfeited bonds. This source of income really doesn't allow us a means to build up the fund because when a bond is forfeited it is spent to plug only the well or wells covered by that bond.

While subsection (1) of the statute provides six other sources of funding, for all practical purposes, we don't get any money from these sources. So, there are really only two sources for the fund -- fees and forfeited bonds -- and, as mentioned, forfeited bonds get spent relatively quickly to pay for the plugging and reclamation of the wells those bonds cover.

Subsection (3) of the statute, which is the part of the statute we seek to amend, states that "when the money accumulated in the fund exceeds fifty thousand dollars, any additional fees collected....must be deposited in the general fund."

The bill proposes to change the word "money" to "fees" and to change \$50,000 to \$250,000.

The practical effect of these changes is this. There will be no absolute cap to the amount of money in the fund. When it reaches \$250,000, if we get a forfeited bond we could deposit the bond into the fund. It won't be in the fund very long of course, because this money will be used as quickly as possible to pay the plugging and reclamation costs of the wells covered by the bond.

When the fund has \$250,000 in fees it, all additional fees collected by the Oil & Gas Division would then go to the general fund. As amended by the Senate the fiscal impact of this change will be delayed until 7/1/2003 and I don't expect the fund to reach the \$250,000 threshold until about 2010.

Without these changes the fund won't be large enough to satisfy its intended purposes. To avoid bankrupting the fund we have been forced to plug and reclaim wells very slowly, too slowly. We can only plug and reclaim those wells for which we have money and after they are taken care of we have to wait for the fund to replenish itself before we can plug other abandoned wells. Presently, there are 16 abandoned wells awaiting state plugging and reclamation. There are 74 additional wells that could fall into this category because their operators are teetering on the edge of solvency. The cost to plug all 90 would be about \$1,800 000. These wells have bonds covering them, but the bond amounts even when coupled with the current well plugging fund will not cover all the plugging and reclamation costs.

Regulatory authority over subsurface substances.

Sections 2 and 3 of the bill clarify Oil & Gas Division and Geological Survey regulatory authority over nitrogen, helium, and coalbed methane gas.

Presently, nitrogen falls within the regulatory responsibility of both the Oil & Gas Division and the Geological Survey. Section 3 of the bill removes nitrogen from the list of substances regulated by the Survey. Thus, just one agency, the Oil & Gas Division, will regulate development of nitrogen.

Section 3 also removes helium from the Survey's responsibility and Section 2 adds helium to the Oil & Gas Division's regulatory duties. Section 2 also gives the Oil & Gas Division regulatory authority over the development of coalbed methane gas. Coalbed methane, helium, and nitrogen are produced along with natural gas or drilled for in a manner similar to natural gas. Since the Oil & Gas Division already regulates development of natural gas, the Division should also regulate these three similar substances.

Section 2 also deletes some language that makes the Oil & Gas Division's regulatory authority dependent on the end use of the substance produced. This doesn't make much sense. Regulation of the development of underground substances shouldn't depend on how they are ultimately to be used.

The Geological Survey supports the proposed changes.

The Industrial Commission urges your favorable consideration of Senate Bill 2099.

38-08-04.5. ABANDONED OIL AND GAS WELL PLUGGING AND SITE

RECLAMATION FUND. There is hereby created an abandoned oil and gas well plugging and site reclamation fund.

1. Revenue to the fund must include:
 - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
 - b. Moneys received from the forfeiture of drilling and reclamation bonds.
 - c. Moneys received from any federal agency for the purpose of this section.
 - d. Moneys donated to the commission for the purposes of this section.
 - e. Moneys received from the state's oil and gas impact fund.
 - f. Moneys recovered under the provisions of section 38-08-04.8.
 - g. Moneys recovered from the sale of equipment confiscated under the provisions of section 38-08-04.9.
 - h. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
2. Moneys in the fund may be used for the following purposes:
 - a. Contracting for the plugging of abandoned wells.
 - b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.
3. All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are hereby appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities. However, when the money accumulated in the fund exceeds fifty thousand dollars, any additional fees collected by the oil and gas division of the industrial commission must be deposited in the general fund.

Source: N.D. Century Code S.L. 1983, ch. 398, § 3; 1987, ch. 424§ 2.