MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1218

Donna Galbraith — Operator's Signature

10/2/03 — Date

2003 HOUSE NATURAL RESOURCES

HB 1218

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1218

House Natural Resources Committee

☐ Conference Committee

Hearing Date February 13, 2003

Tape Number	Side A	Side B	Meter #
1	xx		0-5961
2	xx		3662-4497
Committee Clerk Signature			

Minutes:

Chair Nelson called the meeting on HB 1218 relating to carrying or otherwise financing nonparticipating owners in the development of oil and gas interests in spacing units and plans of unitization to order.

Rep. Skarphol: Introduced HB 1218. Most oil wells are drilled by oil companies that are the working interest owner. The minerals are owned by the owner and leased to the company. This bill is designed to deal with the issue of nonparticipating. Nonparticipating members should not be able to be carried interest free. This will increase the costs of non-participants. This may allow more development of these resources.

Rep. Drovdal: Under current law are developers required to contact every mineral owner?

Rep. Skarphol: It would be in there best interest to do that. So they would not have this non-participation going on. However it is not always possible to contact every mineral owner. The money then gets put in escrow.

Ron Ness: ND Petroleum Council. Testified in support of HB 1218. **(See Attached Testimony)**

Tom Luttrel: Testimony in support of HB 1218. **(See Attached Testimony)**

Chair Nelson(2100): Nonparticipating interest. Is this policy in other states your company works with?

Tom Luttrel: Absolutely, the current law is way lower than any other state I am aware of. In Oklahoma you provide testimony to what the lease terms you gave.

Chair Nelson: How many states do you operate in.

Tom Luttrel: 12

Rep. Drovdal: Mineral interest in bonus of 15-300 upfront lease. Does he get 3/6 or 1/6 from the beginning.

Tom Luttrel: The bonus is the only benefit you get. The Nonparticipating member still gets 100%.

Rep. Drovdal: You mention the bad reputation ND has in the industry. Is that a result of the problems we have with the Federal Government on National Grasslands?

Tom Luttrel: There is a variety of things. The big companies have been here as well as the independents. They have been here and gone. The Forest Service issue is part of it. This is more recent though. Product prices are low. Lifting costs are higher. The reservoir costs are tighter and takes more technology to get it out. There are a bottleneck in gas. People shake their head at the laws relating to these things.

Greg Steiner: Testified in Support of HB 1218. Eagle operating and wolverine drilling in Kenmare, North Dakota. Reiterated Problems with nonparticipating members.

Chair Nelson: What will this do to your business.

Greg Steiner: Many wells are near completion we would have to reevaluate.

Jeff Herman: North Dakota Oil and Gas. Testified in support of HB 1218. Reiterated the positions of earlier testimony.

Wally Owen: Testified against HB 1218. **(See Attached Testimony)**

Chair Nelson: Note the prices of oil have gone up and the oil exploration has continued to decline. How do you respond to that.

Wally Owen: Who knows how long this instability will last before the market is flooded. There needs to be an equitable solution to this issue.

Chair Nelson: Could this bill be amended to provide a better solution to the problem?

Wally Owen: I'm not sure we can address this with this bill or the oil and gas commission.

David Nelson: Testified against HB 1218. Told a personal experience relating to the mineral exploration on his private property.

Donnie Nelson: Testified against HB 1218. Reiterated his fathers testimony.

Chair Nelson closes the hearing on HB 1218.

Chair Nelson reopens HB 1218 during committee work.

Rep. Drovdal: This bill does diminish mineral owner rights. There are cases of mineral owners holding up development. I am torn on what to recommend to the committee. We have heard from continental resources. They are a good company. If we were dealing with them all the time I would have no problem recommending the bill. There are independents they come and go. The bigger companies you can usually take thier word for it. This law is for everybody.

Rep. Keiser motioned a recommendation of **Do Pass** on **HB 1218** seconded by **Rep. Porter.**

Rep. Keiser: Pointed out the fact that the landowners rights can be infringed by other landowners holding up development. This bill can help spur development.

The motion carries by a vote of 11-2-1. **Rep. Solberg** will carry.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1218

House Natural Resources Committee

❑ Conference Committee

Hearing Date February 13, 2003

Tape Number	Side A	Side B	Meter #
1	xx		0-560
Committee Clerk Signature			

Minutes:

Chair Nelson called the meeting to order.

Rep. Porter motioned to recall HB 1218 seconded by **Rep. Solberg**.

Rep. Drovdal moved an amendment seconded by **Rep. Clark**.

Rep. Drovdal: Stated that this would prevent mineral owners in North Dakota from being penalized for failure to sign a lease.

Motion passed by voice vote.

Rep. Solberg moved a do pass with amendments seconded by **Rep. Porter**.

Motion carried by a voice vote of 11-1-2. **Rep. Solberg** will carry.

Date: 2/13/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1218

House House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken Do Pass

Motion Made By Keiser Seconded By Porter

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

Total (Yes) 11 No 2

Absent 1

Floor Assignment Solberg

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

REPORT OF STANDING COMMITTEE (410)
February 13, 2003 3:58 p.m.

Module No: HR-28-2646
Carrier: Solberg
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1218: Natural Resources Committee (Rep. Nelson, Chairman) recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1218 was placed on the Eleventh order on the calendar.

38273.0102
Title.0200

Prepared by the Legislative Council staff for
Representative Drovdal
February 18, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1218

Page 1, line 3, replace "owners" with "lessees"

Page 1, line 8, remove the overstrike over "~~a~~"

Page 1, line 9, remove the overstrike over "~~lessee owning~~" and remove "the owner of"

Page 1, line 11, remove the overstrike over "~~lessee's~~" and remove "owner's"

Page 1, line 12, remove the overstrike over "~~lessee~~" and remove "owner"

Page 1, line 13, overstrike "The" and remove "recovery of a risk penalty is as follows:"

Page 1, line 14, remove "a." and replace "owner's" with "lessee's"

Page 1, line 16, remove the overstrike over "~~lessee's~~" and remove "owner's"

Page 1, line 19, remove the overstrike over "~~No risk~~"

Page 1, remove the overstrike over line 20

Page 1, remove lines 21 through 24

Page 2, remove lines 1 through 8

Page 2, line 18, remove the overstrike over "~~lessees~~" and remove "owners"

Page 2, line 20, replace "owner" with "lessee"

Page 2, line 21, replace "owner" with "lessee"

Page 2, line 22, remove "The recovery of the risk penalty is as follows:"

Page 2, line 23, remove "a." and replace "owner's" with "lessee's"

Page 2, line 25, replace "owner's" with "lessee's"

Page 2, line 27, remove the underscored period

Page 2, remove lines 28 through 30

Page 3, remove lines 1 through 7

Page 3, line 8, remove "participate in the risk of the unit expense"

Renumber accordingly

Date: 2/18/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1218

House House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass with Amendments

Motion Made By Solberg Seconded By Porter

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

Total (Yes) 11 No 1

Absent 2

Floor Assignment Solberg

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

2003 SENATE NATURAL RESOURCES

HB 1218

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1218

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 3-14-03

Tape Number	Side A	Side B	Meter #
1	X		0.6 - 32.0
Committee Clerk Signature	Janet James		

Minutes:

Senator Layton Freborg, acting Chairman of the Senator Natural Resources Committee opened the hearing on HB 1218 relating to carrying and otherwise financing nonparticipating lessees in the development of oil and gas interests in spacing units and plans of unitization.

Senator Thomas Fischer and Senator Ben Tollefson were not present at the beginning of the hearing but joined the committee later.

Representative Bob Skarphol of District 2 cosponsor of HB 1218 introduced the bill stating it is an attempt to right some wrongs that exist in the oil industry for those who make the investments. This bill could help with the oil development in the state because there are companies who would like to do more business in the state but under current law they are expected to carry individuals who choose not to participate in the financial investment in the drilling of a well. He stated that if someone wants to be involved in the ownership of a well, there is an obligation to make a financial investment and not just sit on the sidelines and reap the benefits.

Representative Earl Rennerfeldt of District 1, cosponsor of HB 1218 stated the bill would help remove a problem that has plagued the oil industry in North Dakota for along time. A small operator can not afford to carry the nonparticipating owners. This will never effect the surface or local owner of the land and will protect the rest of the mineral owners in the units.

Senator Ron Nichols of District 4, testified in support of HB 1218 stating the bill will do a lot for the area and help put some wells back in production.

Ron Ness, Executive Director of the North Dakota Petroleum Council testified in support of HB 1218 (See attached testimony). He also presented the North Dakota Oil and Gas Industry "Facts & Figures" pamphlet to the committee (See attached) and a copy of the Legislative Revenue Forecast from the Office of Management and Budget (See attached).

Representative John Warner of District 4 testified in support of HB 1218 (See attached testimony). He also added maybe we have seen the beginning of the closing of the window of the oil era and that hydrogen power might be soon. We need to maximize oil production at this time.

Tom Luttrell, Senior Vice President of Continental Resources testified in support of HB 1218 (See attached testimony). He also presented written testimony from Tod G. Maleckar, Vice President of Diamond Resources Inc. (See attached).

Senator Stanley I[illegible]on asked Tom Luttrell to explain the amendment that he had earlier passed out to the committee. (See attached).

Tom Luttrell explained that as the bill stands now it applies to other companies and not the unleased mineral interests and the amendment makes the risk penalties also apply to the unleased mineral interests.

Greg Steiner of Kenmare, ND and representing Eagle Operating and Wolerine Drilling testified in support of HB 1218 stating his companies are rural based North Dakota companies and have no out of state interests. Many of the fields they are now in are at their economic limit and something needs to be done to recover the remaining reserves. If they plug the wells the reserves are lost, so they are pursuing to unitize them and reduce the participating percentage to 60% which was done and helps a lot to proceed to recover the reserves. There is not any incentive for the non participating owners to participate because there is no penalty and they just keep receiving the royalties. No fees are taken out of pocket but comes from the royalties or profits.

There was no testimony in opposition or in a neutral position on HB 1218.

Senator Tollefson closed the hearing on HB 1218.

Discussion was held as to why the house removed the language now contained in the amendment.

Senator Michael Every made a motion to accept amendment 38273.0201.

Senator Lyson second the motion.

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

Senator Lyson made a motion for a Do Pass as Amended of HB 1218.

Senator Every second the motion.

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

Senator Freborg was not in the committee when the votes were taken.

38273.0201
Title.0300

Prepared by the Legislative Council staff for Senator Lyson
March 7, 2003

3-14-03
1 of 2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1218

Page 1, line 3, replace "lessees" with "owners"

Page 1, line 8, overstrike "a"

Page 1, line 9, overstrike "lessee owning" and insert immediately thereafter "the owner of"

Page 1, line 10, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 12, overstrike "lessee" and insert immediately thereafter "owner" and remove the overstrike over "~~The~~" and insert immediately thereafter "recovery of a risk penalty is as follows:

a."

Page 1, line 13, replace "lessee's" with "owner's"

Page 1, line 15, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 18, overstrike "No risk penalty may be assessed against an unleased"

Page 1, line 19, overstrike "mineral interest" and insert immediately thereafter:

"b. If the nonparticipating owner's interest in the spacing unit is not subject to a lease or other contract for development, the risk penalty is fifty percent of the nonparticipating owner's share of the reasonable actual costs of drilling and completing the well and may be recovered only out of production from the pooled spacing unit as provided by section 38-08-10, exclusive of any royalty provided for in subsection 1.

c. The owner paying for the nonparticipating owner's share of the drilling and operation of a well may recover from the nonparticipating owner a risk penalty for the risk involved in drilling and completing the well only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk and cost of drilling the well"

Page 2, line 5, overstrike "lessees" and insert immediately thereafter "owners"

Page 2, line 7, replace "lessee" with "owner"

Page 2, line 8, replace "lessee" with "owner"

Page 2, line 9, replace "If the nonparticipating lessee's" with "The recovery of the risk penalty is as follows:

a. If the nonparticipating owner's"

Page 2, line 11, replace "lessee's" with "owner's"

2 of 2

Page 2, after line 13, insert:

"b. If the nonparticipating owner's interest in the unit is not subject to a lease or other contract for development, the penalty is fifty percent of the nonparticipating owner's share of the unit expense and may be recovered only out of production from the unit exclusive of any royalty provided for in section 38-08-09.13.

c. The owner paying for the nonparticipating owner's share of the unit expense may recover from the nonparticipating owner a risk penalty for the risk involved in the unit expense only if the paying owner has made an unsuccessful good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk of the unit expense."

Renumber accordingly

Date: 3-14-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1218

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken accept A 38273.0201

Motion Made By Every Seconded By Lyson

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

Total (Yes) 6 No 0

Absent 1

Floor Assignment

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

Date: 3-14
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1218

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as Amended

Motion Made By Lyson Seconded By Every

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

Total (Yes) 6 No 0

Absent 1

Floor Assignment Lyson

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

REPORT OF STANDING COMMITTEE

HB 1218, as engrossed: Natural Resources Committee (Sen. Fischer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1218 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "lessees" with "owners"

Page 1, line 8, overstrike "a"

Page 1, line 9, overstrike "lessee owning" and insert immediately thereafter "the owner of"

Page 1, line 10, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 12, overstrike "lessee" and insert immediately thereafter "owner" and remove the overstrike over "~~The~~" and insert immediately thereafter "recovery of a risk penalty is as follows:

a."

Page 1, line 13, replace "lessee's" with "owner's"

Page 1, line 15, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 18, overstrike "No risk penalty may be assessed against an unleased"

Page 1, line 19, overstrike "mineral interest" and insert immediately thereafter:

"b. If the nonparticipating owner's interest in the spacing unit is not subject to a lease or other contract for development, the risk penalty is fifty percent of the nonparticipating owner's share of the reasonable actual costs of drilling and completing the well and may be recovered only out of production from the pooled spacing unit as provided by section 38-08-10, exclusive of any royalty provided for in subsection 1.

c. The owner paying for the nonparticipating owner's share of the drilling and operation of a well may recover from the nonparticipating owner a risk penalty for the risk involved in drilling and completing the well only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk and cost of drilling the well"

Page 2, line 5, overstrike "lessees" and insert immediately thereafter "owners"

Page 2, line 7, replace "lessee" with "owner"

Page 2, line 8, replace "lessee" with "owner"

Page 2, line 9, replace "If the nonparticipating lessee's" with "The recovery of the risk penalty is as follows:

a. If the nonparticipating owner's"

Page 2, line 11, replace "lessee's" with "owner's"

Page 2, after line 13, insert:

"b. If the nonparticipating owner's interest in the unit is not subject to a lease or other contract for development, the penalty is fifty percent of the nonparticipating owner's share of the unit expense and may be recovered only out of production from the unit exclusive of any royalty provided for in section 38-08-09.13.

c. The owner paying for the nonparticipating owner's share of the unit expense may recover from the nonparticipating owner a risk penalty for the risk involved in the unit expense only if the paying owner has made an unsuccessful good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk of the unit expense."

Renumber accordingly

2003 HOUSE NATURAL RESOURCES

CONFERENCE COMMITTEE

HB 1218

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1218

House Natural Resources Committee

☐ Conference Committee

Hearing Date April 3, 2003

Tape Number	Side A	Side B	Meter #
1	xx		3851-end
2			0-810
Committee Clerk Signature			

Minutes:

Chair Drovdal: Called the meeting to order. We are looking to clarify the changes made to this bill in conference committee because of the speed with which we had to move the bill through the committee. Proposed an amendment. **(See Attached Amendment)**

Sen. Lyson: The amendments put back a penalty cost of 50%. The house came out originally with a penalty of 100%. The house removed the penalty completely. We were under the belief that you did not have time to work it through very well. We did work on it for some time and this is the bill we came out with.

Rep. Solberg: So is that is the only change then. C[illegible] someone explain the chart to me. **(See Attached Testimony)**

Rep. Drovdal: The 50% penalty stage for an average well. The penalty stage runs off after the fourth year. From there on the nonparticipating mineral owner would receive full mineral right.

Sen. Lyson: What we are trying to do is put North Dakota on a level playing field. Explained examples of some instances in North Dakota. The law makes it better to not lease.

Rep. Drovdal: Let me tell you about the other side of the coin. There are some small operators that need protection.

Sen. Lyson: You will make more money if you do not lease.

Rep. Drovdal: You would lose out on the cash lease according to North Dakota law.

Sen. Lyson: On a 100,000 barrels well the lease would make $24,000. That same well without a lease would make $89,000.

Sen. Traynor: Referred to the testimony of Tom Luttrell. Concerning the high prices and low production amounts in North Dakota. Expressed support to for the amendment.

Rep. Klein: Pointed out that most of the major players have pulled out.

Rep. Drovdal: Proposed the Amendment. (See Attached Amendment) I want to make sure that the small mineral owner knows that before the access the penalty, that he knows that he can ask for the Industrial Commission to waive the penalty. The owner is notified, they have to show a proof of service.

Sen. Lyson: The thing I keep hearing from land men. We do this every time we speak with them.

Rep. Drovdal: These are small landowners, not land men.

Sen. Lyson: Yes, but they still get contacted.

Lynn Helms: Stated that there currently is no requirement for personal notice. Public notice is required currently.

Rep. Drovdal: Concern that they do not have to notify. They would have to certify mail to the last known address.

Sen. Lyson: The people I spoke with say there is no problem with this except that there is no purpose for this.

Lynn Helms: Testified that proof of service means that the attorney or the party asking for the risk penalty provide an affidavit to the commission that they mailed it to these people.

Rep. Drovdal: The amendment will be drawn up for next meeting.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1218

House Natural Resources Committee

☐ Conference Committee

Hearing Date April 8, 2003

Tape Number	Side A	Side B	Meter #
1	xx		0-574
Committee Clerk Signature Eric Moe			

Minutes:

Chair Drovdal: Reopened the conference committee on HB 1218.

Sen. Lyson: Explained the changes in the proposed amendment. Before a risk penalty may be imposed the paying owner must notify the nonparticipating owner with a proof of service. The paying owner intends to impose a risk penalty. That is exactly what we agreed to when we adjourned. I move the amendment. Seconded by **Sen. Every**. The proof of service, as I understand it, can be certified mail, personal service, mailing from an attorney with an affidavit that the attorney makes out on his own that is filed.

Rep. Klein: How long do they have?

Sen. Lyson: If it comes back then they advertise it.

Motion carried.

38273.0202
Title.

Prepared by the Legislative Council staff for
Representative Drovdal
April 1, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1218

That the Senate recede from its amendments as printed on pages 1002 and 1003 of the House Journal and pages 834 and 835 of the Senate Journal and that Engrossed House Bill No. 1218 be amended as follows:

Page 1, line 3, replace "lessees" with "owners"

Page 1, line 8, overstrike "a"

Page 1, line 9, overstrike "lessee owning" and insert immediately thereafter "the owner of"

Page 1, line 10, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 12, overstrike "lessee" and insert immediately thereafter "owner" and remove the overstrike over "~~The~~" and insert immediately thereafter "recovery of a risk penalty is as follows:

a."

Page 1, line 13, replace "lessee's" with "owner's"

Page 1, line 15, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 18, overstrike "No risk penalty may be assessed against an unleased"

Page 1, line 19, overstrike "mineral interest." and insert immediately thereafter:

"b. If the nonparticipating owner's interest in the spacing unit is not subject to a lease or other contract for development, the risk penalty is fifty percent of the nonparticipating owner's share of the reasonable actual costs of drilling and completing the well and may be recovered only out of production from the pooled spacing unit as provided by section 38-08-10, exclusive of any royalty provided for in subsection 1.

c. The owner paying for the nonparticipating owner's share of the drilling and operation of a well may recover from the nonparticipating owner a risk penalty for the risk involved in drilling and completing the well only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk and cost of drilling the well. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner by certified mail that the paying owner intends to impose a risk penalty and that the nonparticipating owner may appeal the decision to the industrial commission. Upon hearing, the industrial commission shall determine whether the offer was made in good faith. If the industrial commission determines that the offer was made in good faith, the commission shall allow the penalty. If the industrial commission determines that the offer was not made in good faith, the commission may disallow or reduce the risk penalty."

Page 2, line 5, overstrike "lessees" and insert immediately thereafter "owners"

Page 2, line 7, replace "lessee" with "owner"

Page 2, line 8, replace "lessee" with "owner"

Page 2, line 9, replace "If the nonparticipating lessee's" with "The recovery of the risk penalty is as follows:

a. If the nonparticipating owner's"

Page 2, line 11, replace "lessee's" with "owner's"

Page 2, after line 13, insert:

"b. If the nonparticipating owner's interest in the unit is not subject to a lease or other contract for development, the penalty is fifty percent of the nonparticipating owner's share of the unit expense and may be recovered only out of production from the unit exclusive of any royalty provided for in section 38-08-09.13.

c. The owner paying for the nonparticipating owner's share of the unit expense may recover from the nonparticipating owner a risk penalty for the risk involved in the unit expense only if the paying owner has made an unsuccessful good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk of the unit expense. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner by certified mail that the paying owner intends to impose a risk penalty and that the nonparticipating owner may appeal the decision to the industrial commission. Upon hearing, the industrial commission shall determine whether the offer was made in good faith. If the industrial commission determines that the offer was made in good faith, the commission shall allow the penalty. If the industrial commission determines that the offer was not made in good faith, the commission may disallow or reduce the risk penalty."

Renumber accordingly

38273.0203
Title.0400

Prepared by the Legislative Council staff for Senator Lyson
April 8, 2003

Conference Committee Amendments to Engrossed HB 1218 - 04/08/2003

That the Senate recede from its amendments as printed on pages 1002 and 1003 of the House Journal and pages 834 and 835 of the Senate Journal and that Engrossed House Bill No. 1218 be amended as follows:

Page 1, line 3, replace "lessees" with "owners"

Page 1, line 8, overstrike "a"

Page 1, line 9, overstrike "lessee owning" and insert immediately thereafter "the owner of"

Page 1, line 10, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 12, overstrike "lessee" and insert immediately thereafter "owner" and remove the overstrike over "~~The~~" and insert immediately thereafter "recovery of a risk penalty is as follows:

a."

Page 1, line 13, replace "lessee's" with "owner's"

Page 1, line 15, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 18, overstrike "No risk penalty may be assessed against an unleased"

Page 1, line 19, overstrike "mineral interest." and insert immediately thereafter:

"b. If the nonparticipating owner's interest in the spacing unit is not subject to a lease or other contract for development, the risk penalty is fifty percent of the nonparticipating owner's share of the reasonable actual costs of drilling and completing the well and may be recovered out of production from the pooled spacing unit, as provided by section 38-08-10, exclusive of any royalty provided for in subsection 1.

c. The owner paying for the nonparticipating owner's share of the drilling and operation of a well may recover from the nonparticipating owner a risk penalty for the risk involved in drilling and completing the well only if the paying owner has made an unsuccessful, good-faith attempt to have the unleashed nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk and cost of drilling the well. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner with proof of service that the paying owner intends to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty or if no such petition has been filed, by filing an application or request for hearing with the industrial commission."

Conference Committee Amendments to Engrossed HB 1218 - 04/08/2003

Page 2, line 5, overstrike "lessees" and insert immediately thereafter "owners"

Page 2, line 7, replace "lessee" with "owner"

Page 2, line 8, replace "lessee" with "owner"

Page 2, line 9, replace "If the nonparticipating lessee's" with "The recovery of the risk penalty is as follows:

a. If the nonparticipating owner's"

Page 2, line 11, replace "lessee's" with "owner's"

Page 2, after line 13, insert:

"b. If the nonparticipating owner's interest in the unit is not subject to a lease or other contract for development, the penalty is fifty percent of the nonparticipating owner's share of the unit expense and may be recovered out of production from the unit exclusive of any royalty provided for in section 38-08-09.13.

c. The owner paying for the nonparticipating owner's share of the unit expense may recover from the nonparticipating owner a risk penalty for the risk involved in the unit expense only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk of the unit expense. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner with proof of service that the paying owner intends to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty or if no such petition has been filed, by filing an application or request for hearing with the industrial commission."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

(Bill Number) 1218 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Sen Lyson Y -C
Sen Traynor Y
Sen Every Y

For the House:

Rep. Dorsdahl N
Rep. Klein Y
Rep. Solberg Y -C

☑ recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from) the (Senate/House) amendments on (SJ/HJ) page(s) 1002 - 1003

☐ and place ________ on the Seventh order.

☒ , adopt (further) amendments as follows, and place 1218 on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1218 was placed on the Seventh order of business on the calendar.

DATE: 04/08/03

CARRIER: Solberg

LC NO. 35273 . 0203 of amendment

LC NO. ______ . ______ of engrossment

Emergency clause added or deleted ____

Statement of purpose of amendment ____

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

HB 1218, as engrossed: Your conference committee (Sens. Lyson, Traynor, Every and Reps. Drovdal, F. Klein, Solberg) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1002-1003, adopt amendments as follows, and place HB 1218 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1002 and 1003 of the House Journal and pages 834 and 835 of the Senate Journal and that Engrossed House Bill No. 1218 be amended as follows:

Page 1, line 3, replace "lessees" with "owners"

Page 1, line 8, overstrike "a"

Page 1, line 9, overstrike "lessee owning" and insert immediately thereafter "the owner of"

Page 1, line 10, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 12, overstrike "lessee" and insert immediately thereafter "owner" and remove the overstrike over "~~The~~" and insert immediately thereafter "recovery of a risk penalty is as follows:

a."

Page 1, line 13, replace "lessee's" with "owner's"

Page 1, line 15, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 18, overstrike "No risk penalty may be assessed against an unleased"

Page 1, line 19, overstrike "mineral interest." and insert immediately thereafter:

"b. If the nonparticipating owner's interest in the spacing unit is not subject to a lease or other contract for development, the risk penalty is fifty percent of the nonparticipating owner's share of the reasonable actual costs of drilling and completing the well and may be recovered out of production from the pooled spacing unit, as provided by section 38-08-10, exclusive of any royalty provided for in subsection 1.

c. The owner paying for the nonparticipating owner's share of the drilling and operation of a well may recover from the nonparticipating owner a risk penalty for the risk involved in drilling and completing the well only if the paying owner has made an unsuccessful, good-faith attempt to have the unleashed nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk and cost of drilling the well. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner with proof of service that the paying owner intends to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty or if no such petition has been filed, by filing an application or request for hearing with the industrial commission."

Page 2, line 5, overstrike "lessees" and insert immediately thereafter "owners"

Page 2, line 7, replace "lessee" with "owner"

REPORT OF CONFERENCE COMMITTEE (420)
April 10, 2003 3:43 p.m.

Module No: HR-65-7380

Insert LC: 38273.0203

Page 2, line 8, replace "lessee" with "owner"

Page 2, line 9, replace "If the nonparticipating lessee's" with "The recovery of the risk penalty is as follows:

a. If the nonparticipating owner's"

Page 2, line 11, replace "lessee's" with "owner's"

Page 2, after line 13, insert:

"b. If the nonparticipating owner's interest in the unit is not subject to a lease or other contract for development, the penalty is fifty percent of the nonparticipating owner's share of the unit expense and may be recovered out of production from the unit exclusive of any royalty provided for in section 38-08-09.13.

c. The owner paying for the nonparticipating owner's share of the unit expense may recover from the nonparticipating owner a risk penalty for the risk involved in the unit expense only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk of the unit expense. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner with proof of service that the paying owner intends to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty or if no such petition has been filed, by filing an application or request for hearing with the industrial commission."

Renumber accordingly

Engrossed HB 1218 was placed on the Seventh order of business on the calendar.

2003 TESTIMONY

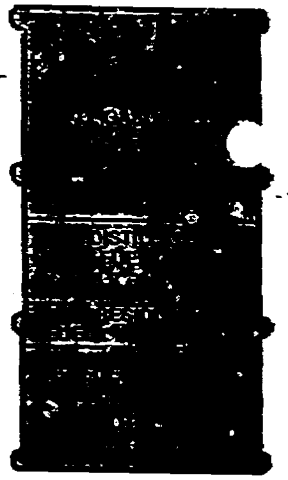
HB 1218

RESPONSIBLE DEVELOPMENT ON PUBLIC LANDS

- The oil and gas industry in North Dakota h: explored and drilled the grasslands for the past 50 years and has a proven track record of being able to produce oil without disrupting the environment or wildlife.
- The industry, in cooperation with the Forest Service, has restored over 500 wells and 500 miles of roads in the national grasslands. This represents more than 5,500 acres returned to vegetation after the oil and gas reserves were depleted.
- Twenty-seven percent of the state's oil production and 30% of the state's producing wells are on the grasslands.

REFINING AND TRANSPORTATION

- The state's only operating crude oil refinery is at Mandan. It has a daily capacity of about 60,000 barrels.
- There are nine natural gas processing plants operating in western North Dakota. They are located near Tioga, Ambrose, Killdeer, Lignite, Rhame, Gorham, Arnegard, Trotters and Marmarth.
- The nine natural gas processing plants processed enough natural gas in 2001 to heat 466,000 North Dakota households for one year.



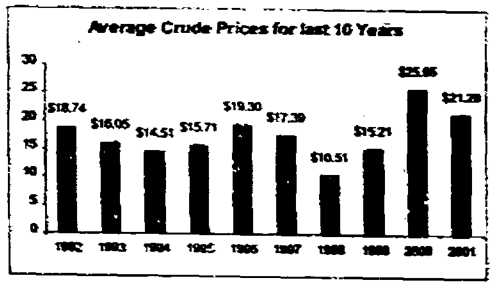
AVERAGE GALLONS OF PRODUCT DERIVED FROM EACH BARREL OF CRUDE OIL (42 Gallons in a Barrel)

GASOLINE – CONSUMPTION & TAXES

- orth Dakotans pay 21 cents state tax and 18.4 cents federal tax on each gallon of gasoline and diesel fuel they buy.
- North Dakotans used over 364 million gallons of gasoline in 2001, and 496 million gallons of diesel fuel.
- Gasoline and special fuels taxes raised $115 million in tax revenue during 2001 – up slightly from $112 million the previous year. These funds are used primarily for road construction.

HISTORY

- April 4, 2001 marked the 50th Anniversary of the discovery of oil in North Dakota. It was on April 4, 1951, that the Clarence Iverson #1 well came in near Tioga in Williams County. That well produced more than 585 thousand barrels of oil over 28 years.
- Prior to the discovery of oil in 1951, 64 wells had been drilled in the state dating back to 1910. Since 1951, another 14,000 wells have been drilled in North Dakota.
- The average crude oil posted price for North Dakota in 2001 was $21.29 per barrel. That represented a 22% decrease from the 2000 average of $29.95 and a 29% increase from the $15.21 average in 1999.



- The future is bright for the oil and gas industry in North Dakota. There is a huge amount of oil and gas still in the ground in areas that have not been explored. New technologies, new discoveries, and new work in older fie! have vastly increased both the odds of finding oil and the efficiency of producing it.

AND NATIONAL

- The biggest source of energy in the United States is petroleum – oil and natural gas. Together, they supply 65% of the energy we use. Oil furnishes 40% of our energy, natural gas 25%, coal 22%, nuclear 8%, and renewables 4%.
- The average drilling rig count in the U.S. for 2001 was 1,156, up from 918 in 2000. The all-time high was 4,530 in 1981.
- U.S. crude oil production in December of 2001 was 5.9 million barrels per day.
- Total imports averaged 11 million barrels per day for 2001, up 2.2% from 2000.
- The United States imported 57% of its crude oil in 2001. The largest importers to the U.S. are Canada with 10%, Saudi Arabia with 8%, Mexico with 7.2%, Nigeria with 4%, and Iraq with 4.8%. OPEC countries supplied about 28% of our nation's daily oil needs. Russia the largest producer of oil in the world.

All data from latest year available.
For sources or additional information, contact:

North Dakota Petroleum Council
Box 1395, Bismarck ND 58502

Offices at:
120 North 3rd Street, Suite 225
Bismarck, ND — (701) 223-6380
www.ndoil.org • www.api.org

Ron Ness, *Executive Director*
Marsha Reimnitz, *Office Manager*

FACTS & FIGURES

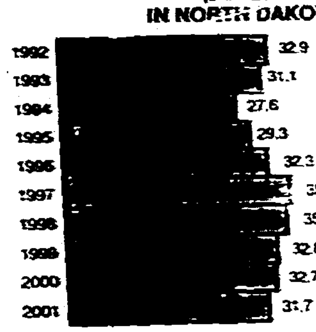
2002 EDITION

NORTH DAKOTA PETROLEUM COUNCIL

North Dakota's Oil Patch Stats for 2001

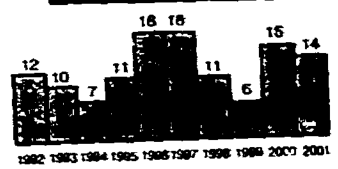
- North Dakota is the ninth largest oil producing state. The state produced nearly 87,0… barrels of oil per day in 2001, totaling more than 31 million barrels for the year.
- All-time production of crude oil in North Dakota amounts to more than 1.4 billion barrels.
- At the end of 2001, there were 3,287 wells capable of producing oil and gas in North Dakota. The average North Dakota well produced approximately 26 barrels per day.
- An estimated 58 billion cubic feet of natural gas was produced and 51.2 billion cubic feet of natural gas was processed in North Dakota during 2001.
- The state's oil production dipped slightly in 2001 for the fourth consecutive year. Total oil production for the year was 31,691,091 barrels, down 1,023,431 from the previous year.

ANNUAL CRUDE OIL PRODUCTION
(BARRELS)
IN NORTH DAKOTA



- The drilling rig count, which is a prime barometer for measuring oil and gas activity, averaged 14 rigs a day in 2001. The peak year for drilling rigs was 1981, with an average monthly rig count of 119. The all-time high was in October of 1981 with 146 rigs operating.

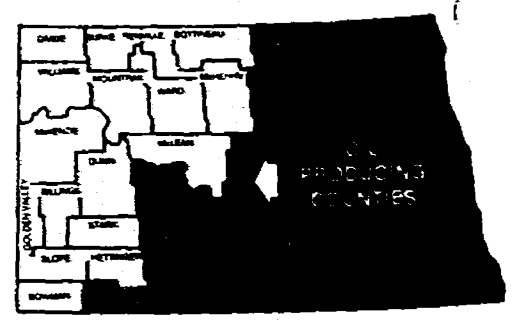
Drilling Rigs



- There were 178 drilling permits issued during 2001, compared to 132 the previous year. Approximately 137 wells were completed during the year – up 90% from the previous year.
- Horizontal or directional drilling accounted for 72% of the new wells drilled in 2001 and accounted for 25.9% of the state's total oil production.
- The success ratio for wells in existing fields in 2001 was 92% and for wildcat wells it was 41%. Horizontal wells were successful 99% of the time. The overall industry success rate in North Dakota for 2001 was 85%. A wildcat well is a new well drilled at least one mile from existing production.
- The deepest vertical well drilled last year in North Dakota was 13,970 feet. The average depth for a North Dakota well in 2001 was 12,001 feet compared to 5,334 feet nationwide.
- The average cost of completing an oil well in North Dakota was approximately $1.3 million during 2001. The average cost of completing a well in the U.S. was just under $800,000.

Where the Oil Comes From

- There are 17 counties in the state with commercial oil production. Oil and gas exploration has occurred at some point in every county in the state except Traill County.
- Stark County was the top producing county in 2001 accounting for 17.2% of the state's oil production. The other top producing counties were McKenzie, Billings, Bowman, and Williams.



Oil Patch Employment

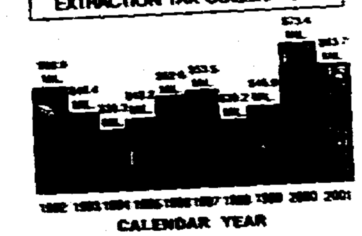
- There were more than 2,200 North Dakotans at work in the oil patch in 2001. Peak oil field employment occurred in late 1981, when more than 10,000 people were working in the oil patch.
- Each drilling rig results in approximately 120 direct and indirect jobs.
- Other sectors of the petroleum industry include refineries, gas plants, pipelines, retail gasoline stations, wholesalers, and transporters. The industry altogether employed more than 9,000 people in North Dakota in 2001.
- Job Service North Dakota reports that in 2000 the average yearly wage in the mining industry, which includes oil and gas extraction and coal mining, was $44,305. That wage is 80% above the statewide average wage of $24,683.

Oil Tax Revenues High in 2001

- Higher crude oil prices in 2001 led to huge tax collections for the State of North Dakota. Counties and schools benefited from increased oil and gas tax collections as well.

State tax revenues for 2001 were $63.7 million, representing a 15% decrease from 2000.

*OIL AND GAS PRODUCTION AND EXTRACTION TAX COLLECTIONS



* Total collections reflect all revenue paid by the industry, including the counties' share of the 5% production tax and the trust fund portion of the 6.5% extraction tax.

- All-time oil tax revenues to the State have exceeded $1.9 billion.
- The average production and extraction tax paid on crude oil in 2001 was 7.4%. The tax rate on crude oil varies between 5% and 11.5% depending upon the type of well.
- The tax on natural gas is a flat four cents per thousand cubic feet (mcf). In 2001, the State collected $3.1 million in natural gas taxes.
- Over the past 51 years, the State of North Dakota has received more than $510 million from oil and gas leases, bonuses, royalties and rentals on state land. During 2001, nearly $1.48 million went to the Lands and Minerals Trust and over $8.10 million to the Board of University and School Lands Trust.
- U.S. Forest Service administered lands in the Little Missouri National Grasslands provided oil and gas revenues of $15.1 million during fiscal year 2001. Of that amount, one-fourth, or $3.8 million, was returned to McKenzie, Billings, Golden Valley and Slope Counties for schools and roads. In addition, Bureau of Land Management administered land produced more than $13.1 million during fiscal year 2001. Half of that amount, $6.6 million, was returned to the state's general fund and is the first money expended for education statewide.

North Dakota Petroleum Council

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House Bill 1218
House Natural Resources Committee
February 13, 2003

Chairman Nelson and Members of the Committee. My name is Ron Ness. I am Executive Director of the North Dakota Petroleum Council. I appear before you today in support of House Bill 1218.

We believe this bill can have a positive impact on oil and gas activity in the state. Last session, you helped pass SB-2120, which changed the percent required to form an oil production unit from 70% to 60%. As these graphs indicate, that legislation has been very effective.

"The "Percentage of North Dakota Oil Production From Units" graph indicates unit production is very important to the State of North Dakota and approximately 60% of North Dakota's oil production is currently from units. **This is up approximately 5% from August 1, 2001.**

The "North Dakota Units Approved Each Year" graph shows the dramatic increase in units approved by the North Dakota Industrial Commission (NDIC). All units approved by the NDIC since August 1, 2001 have been ratified by over 70%. At first glance, one might conclude the change has had no effect on unitization. However, the fact of the matter is, a number of these units might not have been attempted without this change in the required percentage. **"The dramatic increase in the number of units brought before the NDIC since August 1, 2001 confirms the change was beneficial"** says, Bruce E. Hicks, Assistant Director, NDIC Oil & Gas Division.

House Bill 1218 is another piece of the puzzle that can help increase oil and gas activity in the state. Let me first give you a few industry statistics and then describe the bill in simple terms.

North Dakota Oil and Gas Industry Update

Production Statistics for 2001

Ninth largest oil producing state

31 million barrels of oil were produced

85,000 barrels of oil produced per day

3,287 producing wells

Average 14 drilling rigs per day

148 oil producers operating in the State

Tax Revenues

2000 tax collections were $73.4 million

2001 tax collections were $63.7 million

The largest tax revenue source for the State behind general sales, income, corporate, and motor vehicles tax collections

98.5% of the oil and gas tax revenues collected in the U.S. Forest Service system are from North Dakota

Jobs & Economic Impact

More than 2,500 people directly employed in the oil patch

The average wage was $44,305. That wage is 80% above the statewide average wage of $24,683.

It's expected that between 50%--75% of the industry's work force will retire in the next 5–15 years

HB 1218 - Incentive Pooling:

This is an effort to encourage development on tracts and in secondary recovery units where either unleased or leased owners refuse to participate in the costs of development and where these nonparticipating owners are potentially holding up oil and gas production activity in units that are economically on the bubble. Under current law, operators in these situations are required to carry the financial risk of additional development and in some cases that may prevent future oil and gas production. This legislation attempts to spread the risk and costs of the project among all participants.

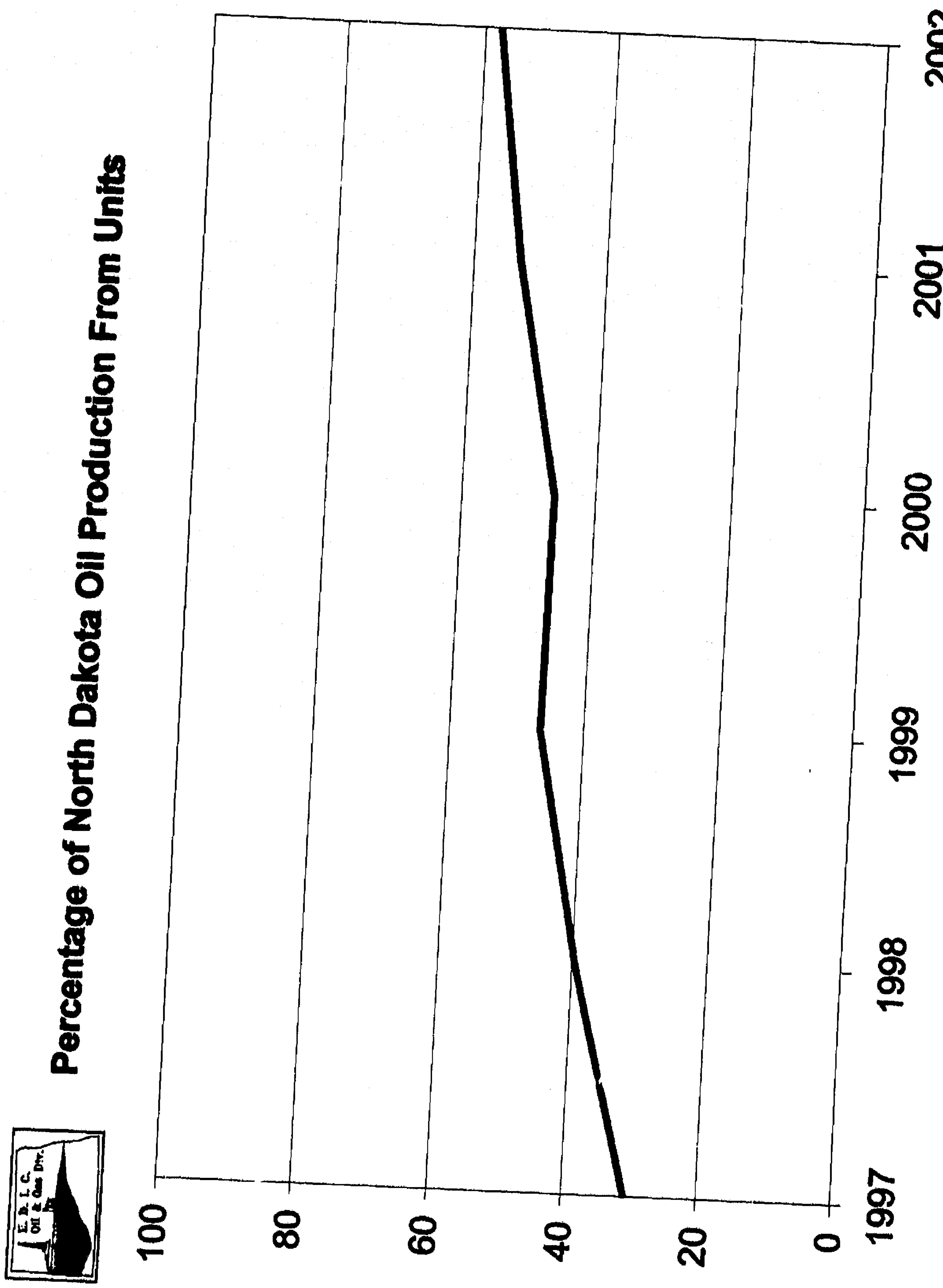
If the nonparticipating owner(s) interest in the spacing unit is not subject to any lease or other contract for development, the risk penalty is one hundred percent of the nonparticipating owner(s) share of the reasonable actual costs of drilling and completing the well and may be recovered out of, and only out of, production from the pooled spacing unit.

If the nonparticipating owner(s) interest in the unit is derived from a lease or other contract for development, the penalty is two hundred percent of the nonparticipating owner(s) share of the unit expense and may be recovered out of, and only out of, production from the unit.

As protection for royalty and working interest owners, the bill requires that a "good faith" attempt to have the unleashed mineral or royalty owner participate in the by leasing or participating in the project was made.

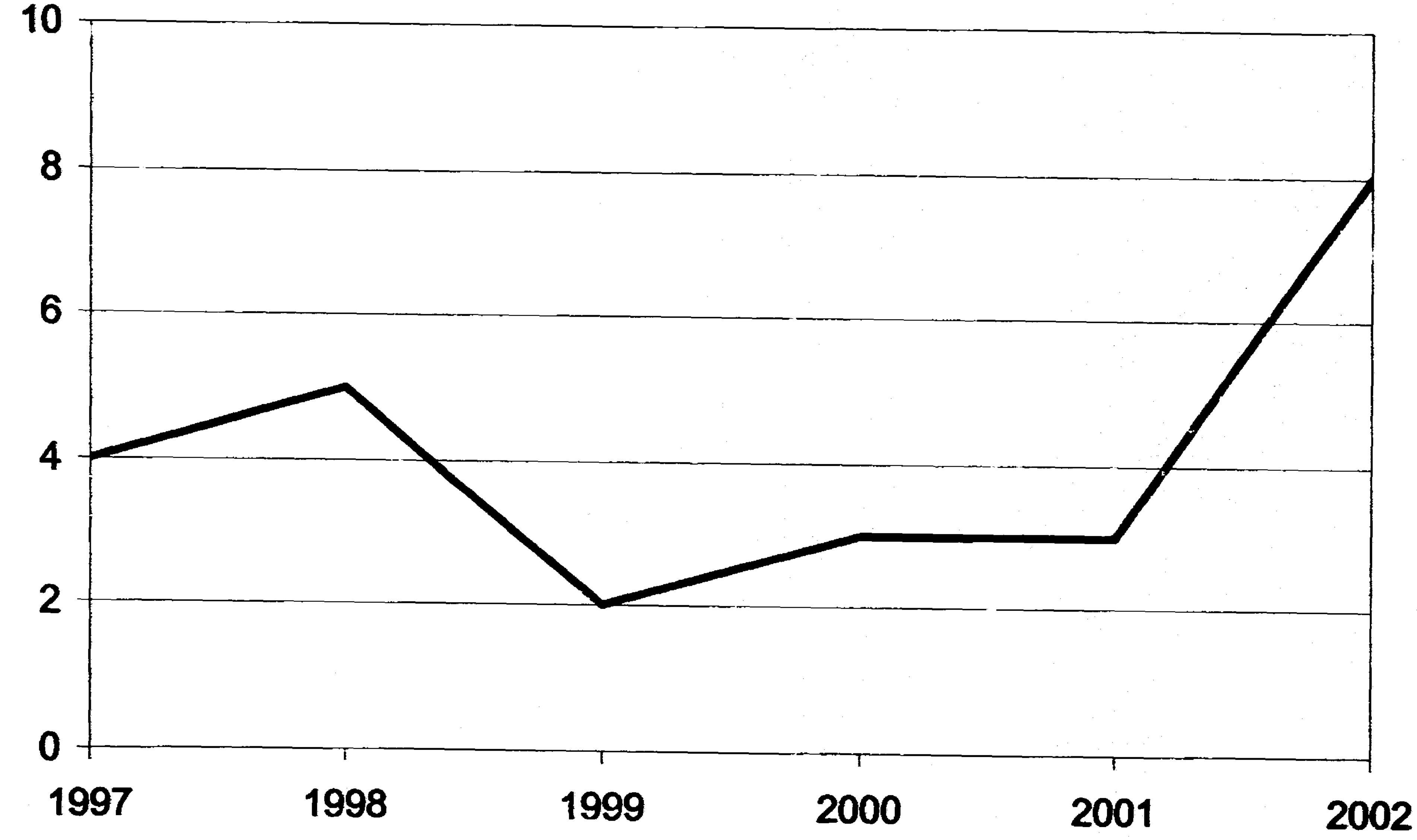
House Bill 1218 is another piece of the puzzle that can help increase activity in areas of the state that have new oil production; as well as older fields where new technology or secondary recovery methods can be used to add life to an old field. Some of these fields are on the economic bubble and the life of the field may be extended with passage of this bill. Again, there is no magic bullet but merely a number of positive steps that can help promote activity and help the economy in some of these struggling communities, while adding tax revenues to the state coffers.

Thank you, for your consideration on this bill. We urge a Do Pass on SB-1218. I would be happy to answer any questions.



Percentage of North Dakota Oil Production From Units
N. D. I. C. Oil & Gas Div.
100
80
60
40
20
0
1997
1998
1999
2000
2001
2002

North Dakota Units Approved Each Year



What Does Every New Oil Well Mean to North Dakota?

A Typical North Dakota Oil Well Produces an Average of 10 Years.

- If economical, additional secondary recovery efforts can be made to extend the life of the well.

An Average Oil Well in the First 10 Years:

- Produces over 200,000 barrels of oil (55 barrels of oil per day)
- Generates $4.4 million gross profit
- Pays $332,000 in taxes:
    - Oil production tax - $200,020
    - Extraction tax - $77,000
    - Sales tax - $40,000
    - Gas production tax - $16,000
- Pays royalties to mineral owners of $178,000
- Pays salaries of $814,000
- Has operating expenses of $720,000

  Oil and gas development accounts for a major portion of the business for RECs in western North Dakota – as much as 75% in some instances.

  Local businesses such as road contractors, electricians, welders, service companies, and other retailers rely on oil field businesses for their livelihood.

  About 46% of the value of an oil well is returned to the local economy in taxes, wages, and other expenses, which help keep the local economy running, the government operating, and helps reduce your tax burden.

The Average Cost of Drilling a Well in North Dakota in 2001 was $1.3 million.

- The success ratio for wells in existing fields in 2001 was 92% and for wildcat wells it was 41%.

Testimony in Support of House Bill 1218

Presented by Tom Luttrell
Continental Resources, Inc.
February 13, 2003

Mr. Chairman and Members of the Committee, my name is Tom Luttrell. I am a Senior Vice President of Continental Resources, Inc. I appear before you today in support of House Bill 1218.

First, let me tell you about Continental so you understand the perspective and level of experience from which we support House Bill 1218.

Continental is one of the most active exploration and production companies in the state of North Dakota (in fact, we are the only company currently drilling an exploration well in the whole state). During 2002 we spent over $50 million on oil & gas development in the state. We plan to spend over $30 million in 2003.

We operate over 200 producing wells in the state and are the state's 4th largest oil producer. Our wells in the state produce about 6,000 barrels of oil and 5 million cubic feet of gas per day.

We have five (5) enhanced recovery units in the state, three of which were formed within the last three years. Continental's Cedar Hills North Red River Unit located in Bowman and Slope Counties is one of the largest units in the lower 48 states, containing approximately 78 square miles of land and over 120 wells. We estimate that an additional 50 million barrels of oil will be recovered from this unit through enhanced recovery operations over the next 30 years. Continental has plans to form yet another unit in the state during 2003, for which we will be making application to the NDIC in the near future.

Continental's experience in North Dakota makes it keenly aware of the need to pass House Bill 1218.

The changes made by House Bill 1218 primarily impact parties who can't be found or have no intention of ever executing oil & gas leases, who have the sole objective of getting a free ride. The majority of these owners are professionals located out-of-state.

North Dakota is the only state in the Williston Basin that has laws allowing unleased parties to be carried without a penalty - Montana, Wyoming and South Dakota all have laws providing for pooling percentages as high or higher than provided for in House Bill 1218.

Also, in North Dakota there's been a change in conditions in the last 10 years that's dramatically increased the need for the changes made by House Bill 1218.

Technological advances have made drilling horizontal wells the primary focus for exploration in North Dakota - and that will continue to be the case. Horizontal wells are effective where traditional vertical wells aren't due to the tight, less permeable characteristics of the formation rocks in North Dakota.

The horizontal wells affect larger areas of land - spacing units for traditional vertical wells are often 40 acres and rarely larger than 160 acres. However, horizontal wells require 640 acre or larger spacing units. Since so much more land is affected by horizontal wells, it's much more likely that non-leasing owners will be encountered.

I mentioned before that North Dakota is the only state in the Williston Basin with pooling laws providing for unleased mineral owners to be carried without penalty - Montana, Wyoming and South Dakota's laws are equal to or greater than House Bill 1218.

The company I work for drills wells in 13 different states. North Dakota is the only state I'm aware of with these lenient of pooling laws. And that brings up another important point for you to consider – North Dakota is competing with other states for oil & gas exploration business.

I'll explain what I mean by that.

Our company is headquartered in Enid, Oklahoma. We're categorized as a medium sized independent exploration & production company. We are willing to explore in any state. There are hundreds of companies smaller and larger than us, who are constantly looking for new places to find oil and gas, regardless of what state it's in.

I can tell you first a hand that the pooling laws in a state are a significant factor that companies look at when considering whether to come explore in that state. Right now, North Dakota compares negatively to other states in that regard.

Now I realize that you may say to yourself "the business is going to take care of itself - the companies will drill no matter what". Gentlemen, that isn't the case.

Look at the current situation in North Dakota, a situation that is extremely alarming. Production and new well activity in the state has been on a dramatic and steady decline for years.

Today, oil price is over $30 per barrel and there's only one (1) drilling rig working in the whole state that's exploring for new reserves. Larger companies aren't exploring here anymore and show no signs of coming back.

And it isn't because there's not oil & gas in North Dakota - in fact, the state has huge reserves left to be found - a tremendous natural resource that should be providing many times more revenue and jobs than it currently does. But there's a stigma about exploring in North Dakota that must be debunked.

Much needs to be done to get the oil & gas exploration business climate in North Dakota competitive so that new companies will be attracted to the state and the small companies that got their start in North Dakota will continue drilling wells here – I'm talking about companies such as those owned by:

Bob Mau of Kenmare
Mike Armstrong of Dickenson
Loren Kopseng of Bismarck
Jim Arthaud of Belfield, and
Chuck and Don Ballantyne of Minot

Passing House Bill 1218 is very important. So is passing and adequately funding another piece of legislation pending before this legislative session - Senate Bill 2311 creating the North Dakota Oil & Gas Research Council.

The council will focus on debunking the stigma by addressing the problems creating it; such as educating and developing a homegrown workforce, pushing technical research and dealing with infrastructure, marketing and product price issues.

In closing, I'd like to distribute a letter written by Tod Maleckar of Diamond Resources. Diamond is a small land service company located in Williston.

Tod lives in Williston, works as a landman and is a co-owner of Diamond. He is the person that negotiates oil & gas leases with the landowners - the man in the field who visits with owners in their living rooms and who also spends much time on the phone trying to lease those out of state mineral owners mentioned earlier.

So Tod brings a first hand perspective to the problem that House Bill 1218 addresses - please read his letter.

That concludes my testimony - I appreciate the opportunity to address you. I'll be happy to answer any questions you may have.

North Dakota Petroleum Council

Ron Ness
Executive Director
Marsha Reimnitz
Office Manager

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House Bill 1218
Senate Natural Resources Committee
February 14, 2003

Chairman Fischer and Members of the Committee. My name is Ron Ness. I am Executive Director of the North Dakota Petroleum Council. I appear before you today in support of House Bill 1218.

We believe this bill can have a positive impact on oil and gas activity in the state. Last session you helped pass SB-2120, which changed the percent required to form an oil production unit from 70% to 60%. As these graphs indicate, that legislation has been very effective.

"The "Percentage of North Dakota Oil Production From Units" graph indicates unit production is very important to the State of North Dakota and approximately 60% of North Dakota's oil production is currently from units. **This is up approximately 5% from August 1, 2001.**

The "North Dakota Units Approved Each Year" graph shows the dramatic increase in units approved by the North Dakota Industrial Commission (NDIC). All units approved by the NDIC since August 1, 2001 have been ratified by over 70%. At first glance, one might conclude the change has had no effect on unitization. However, the fact of the matter is, a number of these units might not have been attempted without this change in the required percentage. **"The dramatic increase in the number of units brought before the NDIC since August 1, 2001 confirms the change was beneficial"** says, Bruce E. Hicks, Assistant Director, NDIC Oil & Gas Division.

House Bill 1218 is another piece of the puzzle that can help increase oil and gas activity in the state. Let me first give you a few industry statistics and then describe the bill in simple terms.

North Dakota Oil and Gas Industry Update

Production Statistics for 2001

- Ninth largest oil producing state
- 31 million barrels of oil were produced
- 85,000 barrels of oil produced per day
- 3,287 producing wells
- Average 14 drilling rigs per day
- 148 oil producers operating in the state

Tax Revenues

2000 tax collections were $73.4 million - 2001 tax collections were $63.7 million.

2002 tax collections were $58.1 million plus $6 million in collections from federal lands.

The largest tax revenue source for the State behind general sales, income, corporate, and motor vehicles tax collections

98.5% of the oil and gas tax revenues collected in the U.S. Forest Service system are from North Dakota

Jobs & Economic Impact

More than 2,500 people directly employed in the oil patch

The average wage was $44,305. That wage is 80% above the statewide average wage of $24,683.

It's expected that between 50%--75% of the industry's work force will retire in the next 5–15 years

HB 1218 - Incentive Pooling:

This is an effort to encourage development on tracts and in secondary recovery units where either unleased or leased owners refuse to participate in the costs of development and where these nonparticipating owners are potentially holding up oil and gas production activity in units that are economically on the bubble. Under current law, operators in these situations are required to carry the financial risk of additional development and in some cases that may prevent future oil and gas production. This legislation attempts to spread the risk and costs of the project among all participants.

If the nonparticipating owner(s) interest in the spacing unit is not subject to any lease or other contract for development, the risk penalty is one hundred percent of the nonparticipating owner(s) share of the reasonable actual costs of drilling and completing the well and may be recovered out of, and only out of, production from the pooled spacing unit.

If the nonparticipating owner(s) interest in the unit is derived from a lease or other contract for development, the penalty is two hundred percent of the nonparticipating owner(s) share of the unit expense and may be recovered out of, and only out of, production from the unit.

In the original bill, as protection for royalty and working interest owners, the bill requires that a "good faith" attempt to have the unleashed mineral or royalty owner participate in the by leasing or participating in the project was made.

The uncooperative mineral owner is a problem faced by everyone trying to develop oil and gas in the State of North Dakota on an almost daily basis. The typical profile of the mineral owner that this applies to is as follows:

- Severed mineral owner from Texas, Louisiana, Oklahoma, or Colorado
- Very wealthy individual or company in the oil and gas industry
- Little incentive to cooperate – often tries to extract unreasonable terms believing they have us "over a barrel"
- Knows how the game is played and knows that North Dakota is weak in this area -- Exploits this "loop-hole" in our risk-penalty rules

This change would almost never affect a surface owner or local owner. Generally, a surface owner or local mineral owner is going to own a fairly large percentage of the mineral rights – too big for the company to even consider using the risk penalty.

The only time a company would even look at utilizing the risk penalty (even at the higher percentage of cost plus 100%) is after all reasonable offers have been refused. It's important to know that cost plus 100% does not turn this into a "no-brainer" option for the company. We are still generally better off to just work a deal out with the mineral owner.

Another point that often gets overlooked is that the higher penalty works to protect the rest of the mineral owners that own interests in the same lands who want their mineral rights developed but are being blocked by the guy holding out for the moon. This change in the law will help way more mineral owners in that regard than it will ever hurt the few obstinate owners who are blocking development.

House Bill 1218 is another piece of the puzzle that can help increase activity in areas of the state that have new oil production; as well as older fields where new technology or secondary recovery methods can be used to add life to an old field. Some of these fields are on the economic bubble and the life of the field may be extended with passage of this bill.

Again, there is no magic bullet but merely a number of positive steps that can help promote activity and help the economy in some of these struggling communities, while adding tax revenues to the state coffers. There are no winners when a well is not drilled – the state, county, school district, leased interests, unleashed interests, the community, rural electric provider, and other local businesses loose when development does not occur because someone can hold up a project. This bill will help address an increasing problem by encouraging participation by all parties in a project.

Thank you, for your consideration on this bill. We urge a Do Pass on SB-1218. I would be happy to answer any questions.

LEGISLATIVE REVENUE FORECAST
OFFICE OF MANAGEMENT AND BUDGET
March 2003

REVENUES AND TRANSFERS	2001-03 BIENNIUM November Forecast	2001-03 BIENNIUM Legislative Forecast	2001-03 BIENNIUM Change	2003-05 BIENNIUM November Forecast	2003-05 BIENNIUM Legislative Forecast	2003-05 BIENNIUM Change
Sales and Use Tax	646,331,333 $	643,668,333 $	(2,663,000) $	676,286,000 $	671,670,000 $	(4,616,000)
Motor Vehicle Excise Tax	121,857,675	119,742,675	(2,115,000)	130,237,000	126,829,000	(3,408,000)
Individual Income Tax	388,997,091	396,136,091	7,139,000	431,311,000	435,083,000	3,772,000
Corporate Income Tax	86,598,287	87,884,287	1,286,000	90,554,000	91,814,000	1,260,000
Financial Institutions Tax	5,165,548	5,200,000	34,452	5,200,000	5,200,000	-
Oil & Gas Production Tax	39,159,000	39,159,000	-	39,016,915	39,748,000	731,085
Oil Extraction Tax	22,841,000	22,841,000	-	26,368,744	26,863,000	494,256
Cigarette & Tobacco Tax	39,702,582	39,435,582	(267,000)	67,394,000	66,436,000	(958,000)
Coal Conversion Tax	47,396,802	46,779,802	(617,000)	48,804,000	47,221,000	(1,583,000)
Insurance Premium Tax	47,669,204	49,752,204	2,083,000	51,503,000	55,869,000	4,366,000
Wholesale Liquor Tax	11,131,782	11,131,782	-	11,634,000	11,634,000	-
Gaming Tax	26,302,222	27,474,000	1,171,778	23,178,000	23,178,000	-
Lottery				5,000,000	1,835,000	(3,165,000)
Departmental Collections	57,308,000	57,512,000	204,000	60,228,575	63,728,575	3,500,000
Interest	9,775,000	8,796,000	(979,000)	12,866,000	12,629,000	(237,000)
Mineral Leasing Fees	5,847,000	6,225,800	378,800	3,870,000	4,215,000	345,000
Bank of North Dakota Profits - Transfer	60,000,000	60,000,000	-	60,000,000	60,000,000	-
State Mill Profits - Transfer	6,000,000	6,000,000	-	5,000,000	5,000,000	-
Gas Tax Admin. - Transfer	1,383,392	1,383,392	-	1,386,200	1,386,200	-
Student Loan Trust Fund Interest	9,000,000	9,000,000		9,000,000	9,000,000	-
Other Transfers	15,370,171	15,383,481	13,310	19,300,000	26,243,762	6,943,762
Total Revenues and Transfers	$ 1,847,015,798	$ 1,852,445,138	$ 5,429,340	$ 1,768,286,434	$ 1,775,633,537	$ 7,347,103

*Other Transfers - 2001-03:	
Land & Minerals Trust Fund	$ 3,845,102
Sale of Dev. Dis. Loan Fund	$ 2,000,000
Water Development Trust Fund	9,733,820
Miscellaneous Transfers	84,559
Total 1999-01 Other Transfers	$ 15,363,481

*Other Transfers 2003-05	
Land & Minerals Trust Fund	$ 2,000,000
Permanent Oil Tax Trust Fund	22,243,762
State Bonding Fund	2,000,000
	$ 26,243,762

Oil + Gas Tax Revenue - $93.1 million

Plus Counties recieve 50%-60%
of all Collections - $100 + million

Nearly $200 million

HB 1218
Representative John Warner
14 March 2003

What Does Every New Oil Well Mean to North Dakota?

A typical North Dakota oil well produces an average of 10 years.

- If economical, additional secondary recovery efforts can be made to extend the life of the well.

An Average Oil Well in the First 10 Years:

- Produces over 200,000 barrels of oil (55 barrels of oil per day)
- Generates $4.4 million gross profit
- Pays $332,000 in taxes:
  Oil production tax - $200,020
  Extraction tax - $77,000
  Sales tax - $40,000
  Gas production tax - $16,000
- Pays royalties to mineral owners of $178,000
- Pays salaries of $814,000
- Has operating expenses of $720,000

Oil and gas development accounts for a major portion of the business for RECs in western ND -- as much as 75% in some instances.

Local businesses such as road contractors, electricians, welders, service companies,
and other retailers rely on oil field businesses for their livelihood

About 46% of the value of an oil well is returned to the local economy in taxes,
wages, and other expenses, which help keep the local economy

running, the government operating, and helps reduce your tax burden.

The average cost of drilling a well in North Dakota in 2001 was $ 1.3 million.

- The success ratio for wells in existing fields in 2001 was 92% and for wildcat wells it was 41%.

Oil and gas companies are major consumers of electricity. A thriving oil field has the same impact on a rural electric cooperative as a developed commercial area. It allows the fixed costs of the cooperative to be amortized over a much larger customer base and lowers the costs to all consumers of electric power.

Testimony in Support of House Bill 1218

Presented by Tom Luttrell
Continental Resources, Inc.
February 13, 2003

Mr. Chairman and Members of the Committee, my name is Tom Luttrell. I am a Senior Vice President of Continental Resources, Inc. I appear before you today in support of House Bill 1218.

First, let me tell you about Continental so you understand the perspective and level of experience from which we support House Bill 1218.

Continental is one of the most active exploration and production companies in the state of North Dakota. During 2002 we spent over $50 million on oil & gas development in the state. We plan to spend over $30 million in 2003.

We operate over 200 wells in the state and are the state's 4th largest oil producer. Our wells in the state produce about 6,000 barrels of oil and 5 million cubic feet of gas per day. We currently have 4 rigs drilling in the state, which is 40% of all rigs presently drilling.

We operate five (5) enhanced recovery units in the state, three of which were formed within the last three years. Continental's Cedar Hills North Red River Unit located in Bowman and Slope Counties is one of the largest units in the lower 48 states, containing approximately 78 square miles of land and over 120 wells. We estimate that an additional 50 million barrels of oil will be recovered from this unit through enhanced recovery operations over the next 30 years. Continental has plans to form yet another unit in the state during 2003, for which we will be making application to the NDIC in the near future.

Continental's experience in North Dakota makes it keenly aware of the need to pass House Bill 1218.

House Bill 1218 impacts two different areas of the business. One relates to the integration or pooling of fractional interests within a spacing unit, usually for the drilling of a single well; the other relates to the integration or pooling of fractional interests in numerous wells for the purpose of implementing enhanced recovery operations, otherwise known as unitization.

First I'll discuss the individual well spacing unit situations.

It's not uncommon for a company wanting to drill a well to encounter a situation where the majority of the mineral owners under the spacing unit agree to lease, but a few owners can't be found or simply refuse to lease.

Of course in these instances it isn't fair for the few who can't be found or refuse to lease to hold up drilling of the well, thereby depriving those who want to drill from receiving the benefit.

Thus the need for pooling laws as created by NDCC Section 38-08-08. The current law, however, is unfair to those parties willing to take the risk to drill and actually rewards a party for refusing to take the risk to drill. The purpose of House Bill 1218 is to shift the reward from those who refuse to take the risk of drilling to those who are willing to spend the drilling dollars in the State of North Dakota.

The current pooling law provides that the mineral owners who refuse to lease or pay their way in drilling the well receive royalty payments from first production forward. These payments are equal to the average royalty rate received by the other cooperative mineral owners who agreed to lease.

The parties willing to take the risk and expense of drilling must pay the way of the non-paying party. But then, when the parties paying the bills and taking all the risk get only their money back, the obstinate party becomes fully vested with the interest.

Think about it, how many of you would invest in a risky business venture if you knew the most you could possibly get back was just your investment, and no profit regardless of how good the project turns out to be.

Of course none of you would invest in that scenario. But yet, that is what those who invest in drilling wells in North Dakota are required to do under the current law – and we're talking about perhaps the riskiest business there is.

Also, bear in mind that because of horizontal drilling and other technologies necessary to maximize production from North Dakota's oil-bearing reservoirs, the average well cost in North Dakota today probably exceeds $1.5 million. If non-paying owners comprise 10% of the well, that's over $150,000 being gambled with no chance whatsoever of getting any rate of return.

House Bill 1218 isn't a golden parachute - it in no way creates a situation where paying the way for a non-paying owner becomes economic. In fact, it only reaches the point where it's barely palatable to drill.

Under the amendment, those owners who pay the way for the non-paying mineral owner will receive their money back plus 100%.

With respect to other companies or persons in the business who may own oil & gas leases in the spacing unit for the well and don't want to take the risk of drilling; the revised bill allows those taking the risk to get their money back plus 200% then the interest reverts to the non-paying owner.

Certainly that's fair. After all, those parties are in the oil and gas business – if they aren't willing to anti up for their share of the risk of drilling, then those parties who have to bear the burden of paying the way should be entitled to some benefit.

Also, another critical deficiency in the current law that House Bill 1218 corrects is to require that the party wanting to drill a well must make a good faith effort to negotiate either an oil and gas lease or some other arrangement with those parties not wanting to drill before the forced integration provisions can be utilized.

How that works is at a public hearing which is held before the NDIC where a party is trying to implement the risk penalty, sworn testimony must be given as to the efforts made to reach agreement with the non-joining parties. If the NDIC does not determine that a reasonable negotiating effort was made, it can deny the risk penalty request.

House Bill 1218 also proposes to make changes to current law relative to carrying interests in enhanced recovery operations.

The current law provides that those parties willing to take the risk of implementing a unit operation must finance those owners who refuse to take the risk. There is no risk penalty whatsoever. The only return risk takers get for paying the non-participating owners way is interest on their money, usually at Prime Rate plus 1%. Many companies cannot borrow money at Prime plus 1%.

Think about it, not only does current law require one party to take all the risk of the venture, but that same party also has to become a banker and finance the way for those parties who don't want to put up for their share of the costs. In fact, if you have to borrow money and pay interest at a higher rate than prime and 1% (and most small companies do), then you are actually going in the hole.

Of course, this isn't fair or conducive to development. What House Bill 1218 does is to change the law to provide units to have the same level of risk penalties that apply to spacing units, with the unleased mineral owners receiving a royalty beginning with first production from the unit.

In closing, I must tell you that there is a negative stigma that exists throughout the industry against exploring for oil and gas in North Dakota.

It's common knowledge that there is an enormous amount of oil and gas remaining to be found in the state. However, the statutory and regulatory environment must be conducive to investment, or regardless of the potential the activity will be stymied, as is the current case.

As you may be aware, you have an enormous and urgent problem facing you that you need to be keenly aware of. The facts clearly show the oil & gas business in the state is in a desperate situation that requires your attention. Oil price is selling for over $30 per barrel and natural gas for over $6 per mcf.

But North Dakota only has 10 rigs running in the state - and 7 of those are drilling in enhanced recovery units that having nothing at all to do with exploration for new reserves. If that isn't an attention getter, then I don't know what is.

This bill is an extremely important piece of legislation. It is part of a package of several critical bills pending before this legislative assembly that together goes a long way to eliminate the negative stigma and reverse the spiraling decline of drilling activity and production in the state.

I'm confident you will do what's necessary by passing this bill and the others pending before you to ensure that all North Dakotans realize maximum benefit from this vital natural resource of oil and gas that you have been blessed with.

If you do, then I believe 20 years from now, everyone will look back and say that the 2003 legislative assembly passed perhaps the most visionary and impactual package of legislation ever for the development of North Dakota's oil & gas reserves.

Thank you for allowing me this opportunity to provide testimony. I'll be happy to answer any questions you may have.

HB 1218 IS NOT IN THE INTEREST OF CITIZENS OF NORTH DAKOTA AND UNFAIRLY FAVORS LARGE CORPORATIONS AND OIL DRILLING COMPANIES.

It replaces one set of potential abuses with another set of abuses.
Restricts competition and favors one competitor over another
Makes your property less attractive to speculators.
Can force you to lease your minerals in a down market in favor of speculators.
Devalues your mineral equity.
Places private property owners at a disadvantage in negotiating (placement of wells, roads, disposal, tanks etc.)
Destroys the value of minority mineral owners who bought minerals to help protect their personal property.
Affects personal financial planning
Do you have the right not to lease your minerals?
Do you have the right to lease your minerals to whom you want and for how much you want?
Do you have the right to control your personal financial planning?
You may wish to lease or not for many reasons including, timing, tax planning and inheritance planning
Not enough information to make the decision to lease or not to lease to take the risk.
IF YOU ARE GOING TO HAVE A PENALTY AND FORCED TO TAKE A RISK FOR NOT PARTICIPATING IN A BUSINESS VENTURE (OIL DRILLING) YOU SHOULD HAVE FULL ACCESS TO ALL THE INFORMATION DEALING WITH THAT VENTURE INCLUDING BUT NOT LIMITED TO COMPLETE SYSMIC INFORMATION AND LONG AND SHORT TERM DEVELOPMENT PLANS ETC. ALLOWING YOU TO MAKE AN INFORMED BUSINESS DECISION NOT ONE BASED ON THE THREAT OF PENALTIES BEING FORCED UPON YOU. YOU SHOULD BE ON EQUAL TERF WHEN NEGOTIATING, IF THE OIL COMPANY HAS MORE INFORMATION THEN YOU AND A CLUB CALLED A 100% OR 200% PENALTY YOU ARE DEFINITLY NOT IN A GOOD FAITH NEGOTIATING POSITION.
If a well costs a million dollars to drill and produces only one million or two million dollars and you are penalized 100% or 200% you may not receive anything for your minerals and the drilling company will have a free ride. This may encourage drilling companies to speculate on wells using your penalty to reduce their risk.
Is there anything that prevents a company from selling, transferring, or trading your mineral interests or there company to another company before drilling?
This bill is not in the interest of private property owners it limits there negotiation ability and choices it replaces one set of potential abuses for another set of potential abuses unfairly favoring oil companying and corporations over private property owners. Clearly places private mineral and private property holders at a competitive disadvantage.
Oil field development has occurred in the past and HB 1218 will not significantly increase development it is a limited special interest corporate bill.
Thank you for a **do not pass recommendation.**

Wally Owen- Private Property Owner, Medora, North Dakota

An example of the potential abuse of HB 1218

An oil company could lease an individual under the pressure of forced participation and penalties a 3 to 5 year lease during a non-competitive and low market. Wait 3 to 5 years or any time and before required drilling resale those leases at a much higher rate to another company. Using HB1218 to pressure or negotiate the lease and speculating on a much higher return, never intending to actually drill. They would have a lease derived from the threat of participation and consequent penalties to market.

Diamond Resources, Inc.
Complete Energy Land Services
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Donn Skadeland, CPL
President
dskad@cltlink.net
Tod G. Maleckar, CPL
Vice President
maleckar@cltlink.net

March 12, 2003

2003 North Dakota Legislative Session
Senate Natural Resources Committee

Re: **House Bill 1218**

Dear Committee:

My name is Tod Maleckar and I am vice-president of Diamond Resources, Inc., an oil and gas lease brokerage firm in Williston. I have worked as a landman in North Dakota for the last 23 years and during that time have been involved in the acquisition of more than 10,000 leases and the drilling of more than 250 wells in the Williston Basin.

The non-consenting mineral owner is a problem faced by everyone trying to develop oil and gas in the state of North Dakota on an almost daily basis. The typical profile of the mineral owner that this applies to is as follows:

- Severed mineral owner from Texas, Louisiana, Oklahoma or Colorado.
- Very wealthy individual or company in the oil and gas industry.
- Little incentive to cooperate – often tries to extract unreasonable terms believing they have us "over a barrel".
- Knows how the game is played and knows that North Dakota is weak in this area. Exploits this "loop-hole" in our risk-penalty rules.

Based on my considerable experience with leasing and the drilling of wells, I can tell you with confidence that this change would almost never affect a surface owner or local owner. Generally, a surface owner or local mineral owner is going to own a fairly large percentage of the mineral rights – too big for the company to even consider using the risk penalty.

The only time a company would even look at utilizing the risk penalty (even at the higher percentage of cost plus 50%) is after all reasonable offers have been refused. It's important to know that cost plus 50% does not turn this in to a "no-brainer" option for the company. We are still generally better off to just work a deal out with the mineral owner.

Another point that often gets overlooked is that the higher penalty will work to protect the rest of the mineral owners that own interests in the same lands who want their mineral rights developed but are being blocked by the guy holding out for the moon. This change in the law will help way more mineral owners in that regard than it will ever hurt the few obstinate owners who are blocking development.

As far as the risk penalty as it applies to Working Interest owners, many of the same points apply here. It doesn't sound like anyone really has a problem with this change.

Thank you for allowing me to express my opinion on this very important bill.

Tod G. Maleckar
Certified Professional Landman

"Tod Malecker"
<malecker@nemontel.net>

04/02/2003 06:22 PM

To: "Stan Lyson" <slyson@state.nd.us>
cc:
Subject: HB 1218

Hi Stan,

Most oil and gas producing states do not differentiate between unleased mineral owners and non-consenting Lessees (the penalty is the same for both). Here is a sampling of some other state's laws:

Alabama: cost + 200%
Arkansas: cost + 300%
Louisiana: cost + 100%
Michigan: cost + 200%
Mississippi: cost + 200%
Michigan: cost + 200%
Montana: cost + 100%
South Dakota: cost + 100%
Wyoming: cost + 200%
Oklahoma: forces owners to accept what you have done with others in the area (with Lessees, normally with cost plus 400-500%). For unleased mineral owners, it forces them to lease under whatever terms you have paid in the area.