

FISCAL NOTE
Requested by Legislative Council
01/14/2015

Bill/Resolution No.: HB 1271

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(1,800,000)	\$1,800,000	\$(1,800,000)	\$1,800,000
Expenditures						
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This Bill directs any fee/civil penalties collected as a result of a violation of specific chapters of NDCC be deposited in the Environmental Quality Restoration Fund rather than the general fund. It also clarifies that amts in this fund are appropriated on a continuing basis to the Dept of Health.

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

Section 1, paragraph 2 results in a decrease of revenue to be deposited in the general fund with a similar increase to revenue deposited in special funds.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The extend of fees and penalties collected relating to violations of the chapters of NDCC outlined in Section 1 of the bill are difficult to estimate and are directly dependent on inappropriate activity which cannot be predicted. The estimate provided is a conservative estimate of what might be expected and is based on previous activity and consideration of current enforcement activity. However there is an equal possibility that the amounts collected could be lower than estimated.

- 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.*

There is no fiscal impact on expenditures based on this legislation.

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

Name: Brenda M. Weisz

Agency: Department of Health

Telephone: 328-4542

Date Prepared: 01/16/2015

2015 HOUSE ENERGY AND NATURAL RESOURCES

HB 1271

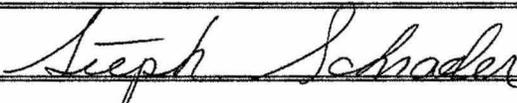
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

HB1271
1/29/2015
Job # 22806

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the environmental quality restoration fund; and to provide a continuing appropriation.

Minutes:

Attachments 3

Chairman Porter opens the hearing.

Rep. Marvin Nelson, District 9

Written testimony #1

Galen Peterson, NW Landowners Association

Written Testimony #2

Opposition:

David Glatt, Environmental Health Section Chief for the ND Department of Health

Written testimony #3

Would like to point out some issues, he is **not** in opposition.

Rep. Glen Froseth: How are you able to access the funds from the Abandoned Oil and Gas Well Fund? Is that in cooperation with the Department of Mineral resources?

Glatt: Currently, we are not able to access those funds. If we identify an issue, then following the criteria that has been established for utilization of the Oil and Gas Fund would be looked at it to determine if it met those criteria.

Rep. Glen Froseth: You will if 2190 becomes law.

Glatt: Yes, we would have the opportunity to petition the Industrial Commission for assistance by identifying a specific issue or item that we have to address.

Chairman Porter: Currently, if a major incident would happen, with an unidentifiable responsible party, it becomes the responsibility of the State of North Dakota. The department would go to the Emergency Commission, to the budget section, deficiency of appropriation, to the next legislative assembly for expenses of the cleanup right out of the general fund since that's where the funds are put. Isn't there a process in place now if there would be something extraordinary, that the state would be in a position to take care of?

Glatt: I believe that could be, fortunately we have not had to go to that level. This fund was initiated from a chemical fire in Grand Forks. Things were happening really quickly and the department did not have access to funding to get contractors to get out there and start containing things. Things happen in these kinds of situations in minutes. This is to provide us with seed money to get things started, to contain issues, not to deal with the whole site.

Rep. Bob Hunsakor: The bill, as written, is not in a good place as far as you folks are concerned because it puts you in a position where you impose fines. From the public's view, it looks like your building up your own little pot of gold. Is there a way you see this could be changed?

Glatt: You're correct, we are concerned about that conflict of interest or even the appearance of a conflict of interest. Access to the Oil and Gas Fund is very much appreciated and I think it will help, but it doesn't address all the issues. We've had many small issues where this seed money has been very helpful. To have money a little broader based would be appreciated. Just to open up how much more we can address issues under the Environmental Restoration Fund, is what we look at.

Chairman Porter closes hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Pioneer Room, State Capitol

HB 1271
2/3/2015
Job # 23147

Subcommittee
 Conference Committee

Committee Clerk Signature

Steph Schwahn

Explanation or reason for introduction of bill/resolution:

Relating to the environmental quality restoration fund; and to provide a continuing appropriation.

Minutes:

Rep. Mike Nathe opens hearing.

This bill doesn't fit 1358 at all. It's my recommendation that we leave it as it is and debate this in full committee.

Rep. Mike Rep. Bob Hunsakor: There is nothing that can fit into 1358?

Rep. Mike Nathe: No, I don't see any connection to 1358.

Ron Ness, Petroleum Counsel: This is not a bill of particular interest.

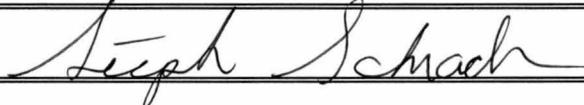
Rep. Mike Nathe closes hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Pioneer Room, State Capitol

HB 1271
2/6/2015
Job # 23425

- Subcommittee
 Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

Relating to the environmental quality restoration fund; and to provide a continuing appropriation.

Minutes:

Attachments 1

Chairman Porter: We have HB 1271 before us.

Rep. Mike Nathe: I move a Do Not Pass.

Rep. George Keiser: Second.

Discussion:

Rep. Mike Nathe: I make this motion because of Dave Glatt's testimony (written testimony #1); they feel a huge conflict of interest would arise if they would assess some large penalties. That it might look as if they were building their own fund balance.

Rep. Bob Hunsakor: Did we not also hear that there is a senate bill similar to this bill.

Rep. Mike Nathe: Yes, there is senate bill 2190 right now that is similar.

Vote: Yes 11, No 2, Absent 0.

Carrier: Rep. Mike Nathe

Date: 2/6/15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1271**

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: _____

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

Motion Made By Rep Nathe Seconded By Rep Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hunskor		✓
Vice Chairman Damschen	✓		Rep Mock		✓
Rep D Anderson	✓		Rep Muscha	✓	
Rep Brabandt	✓				
Rep Devlin	✓				
Rep Froseth	✓				
Rep Hofstad	✓				
Rep Keiser	✓				
Rep Lefor	✓				
Rep Nathe	✓				

Total (Yes) 11 No 2

Absent Ø

Floor Assignment Rep Nathe

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

REPORT OF STANDING COMMITTEE

HB 1271: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
HB 1271 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

HB 1271

Rep. Marvin Nelson

1

HB 1271
1/29/2015

HB 1271 the environmental quality restoration fund

Chairman Porter and members of the House Energy and Natural Resources Committee, HB1271 funds the Environmental Quality Restoration Fund in the Health Department.

Your reaction is probably one of didn't we already do this?

Thinking of course of the abandoned oil and gas well plugging and site reclamation fund. The problem is that is a fund in the Oil and Gas Division and is also somewhat limited in what it can be used for, while the Health Department is often in charge of its own cleanups. While costs can often be recovered, that is not always the case and even when costs can be recovered, the Department should have access to funds of its own so that it does not have to spend time convincing someone else of the need to respond.

Speed of response can be critical in an environmental disaster.

It is my understanding there is about \$400,000 currently in the fund, I do not feel this is sufficient in the case of a significant incident or several smaller incidents.

The fund is to be funded by fines. I realize this is not favored by the Department and I have no real preferences but do feel there needs to be more funds available to the Health Department.

In general, Oil and Gas works on problems on the well pad or in a pipeline right of way. Health Department when the cleanup is outside that area. Note also that we are talking of broader categories of cleanups, radiation, hazardous waste, and waters of the state.

If the committee feels a cap is necessary I would also not object to that but didn't feel that was going to present a problem for now.

Sections from which the fines would apply:

CHAPTER 23-20.1 Ionizing Radiation Development

CHAPTER 23-20.3 Hazardous Waste Management

CHAPTER 23-25 Air Pollution Control

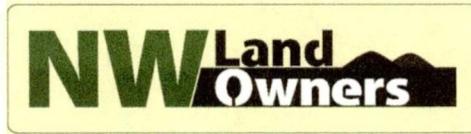
CHAPTER 23-29 Solid Waste Management and Land Protection

CHAPTER 61-28 Control, Prevention, and Abatement of Pollution of
Surface Waters

CHAPTER 61-28.1 Safe Drinking Water Act

#2

HB 1271
1/29/2015



6050 Old Hwy 2
Berthold, ND 58718

**For responsible development of
North Dakota's resources**

Troy Coons	President
Tom Wheeler	Vice President
Bob Grant	Treasurer
Galen Peterson	Secretary
Website	nwlandowners.com
Contact Us	gpete72@gmail.com

Donnybrook, ND
Ray, ND
Berthold, ND
Maxbass, ND

Northwest Landowners Association's Testimony in support of HB1271
House Natural Resources Committee
January 29, 2015

Chairman Porter and members of the House Natural Resources Committee,

I am Galen Peterson from Northwest Landowners Association (NWLA). We currently have 450 members--farmers, ranchers, and landowners, mostly from north central, northwest, and west central North Dakota. We strive for responsible development of our natural resources.

We believe it makes sense that fees and civil penalties collected by the health department should go into the environmental quality restoration fund.

~~However, if the health department objects to this, and you agree with their objection, then the fees and civil penalties should go into the abandoned oil and gas well plugging and site reclamation fund. They can access the funds there via SB2190 which has passed the senate.~~

NWLA supports this bill asks for your favorable consideration.

Thank you.

#3

Testimony
House Bill 1271
House Energy and Natural Resources Committee
January 29, 2015, 9:00 a.m.
North Dakota Department of Health

Good morning Chairman Porter and members of the House Energy and Natural Resources Committee. My name is David Glatt, Environmental Health Section Chief for the North Dakota Department of Health. We are responsible for the implementation of many of the environmental protection programs in the state. I am here to provide information regarding HB 1271.

I want to first point out that the Department appreciates the intent of the bill to ensure a funding source for the Environmental Quality Restoration Fund. The fund has been used to assess, control and/or clean up a variety of environmental incidents for which we were not able to find a responsible party, or for which a responsible party was unable or unwilling to initiate an appropriate response.

However, we are concerned that the current proposal to utilize collected enforcement penalties to maintain the fund could be viewed as a conflict of interest, resulting in extended enforcement negotiations or contested settlements. We are of the opinion that the conflict of interest issue would arise because assessing large penalties could be viewed as a means to increase the balance of the fund from which the Department would directly benefit. We are periodically asked during enforcement meetings where the collected penalties are deposited and who will directly benefit from the penalties. Our response is that the penalties are deposited into the General Fund from which the Department does not directly benefit. Taking these questions off the table reduces the time to complete an enforcement action.

It is important to note that SB 2190 will allow the Department access to the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund to help in the cleanup of oil and gas related spills. SB 2190 has been passed by the Senate.

This concludes my testimony. I would be happy to answer any questions you may have relating to this matter.

1

HB 1271

2/6/15

Testimony
House Bill 1271
House Energy and Natural Resources Committee
January 29, 2015, 9:00 a.m.
North Dakota Department of Health

Good morning Chairman Porter and members of the House Energy and Natural Resources Committee. My name is David Glatt, Environmental Health Section Chief for the North Dakota Department of Health. We are responsible for the implementation of many of the environmental protection programs in the state. I am here to provide information regarding HB 1271.

I want to first point out that the Department appreciates the intent of the bill to ensure a funding source for the Environmental Quality Restoration Fund. The fund has been used to assess, control and/or clean up a variety of environmental incidents for which we were not able to find a responsible party, or for which a responsible party was unable or unwilling to initiate an appropriate response.

However, we are concerned that the current proposal to utilize collected enforcement penalties to maintain the fund could be viewed as a conflict of interest, resulting in extended enforcement negotiations or contested settlements. We are of the opinion that the conflict of interest issue would arise because assessing large penalties could be viewed as a means to increase the balance of the fund from which the Department would directly benefit. We are periodically asked during enforcement meetings where the collected penalties are deposited and who will directly benefit from the penalties. Our response is that the penalties are deposited into the General Fund from which the Department does not directly benefit. Taking these questions off the table reduces the time to complete an enforcement action.

It is important to note that SB 2190 will allow the Department access to the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund to help in the cleanup of oil and gas related spills. SB 2190 has been passed by the Senate.

This concludes my testimony. I would be happy to answer any questions you may have relating to this matter.