

FISCAL NOTE
Requested by Legislative Council
01/13/2015

Bill/Resolution No.: SB 2190

- 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				\$400,000		\$400,000
Expenditures				\$400,000		\$400,000
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 measure amends N.D.C.C. §38-08-04.5 to allow for the transfer of funding from the Abandoned Well Plugging & Site Reclamation Fund (AWPSRF) to the Environmental Quality Restoration (EQR) fund. If a transfer occurs, the EQR fund will restore the amount transferred to AWPSRF.

- 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.*

The measure has no fiscal impact as revenues offset expenditures.

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.*

Section 1 of the measure allows for the restoration of amounts transferred. Recovery of funds will ensue from responsible parties as directed in N.D.C.C §23-31.

- 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.*

Section 1 of the measure allows for the transfer of funding from AWPSRF to the EQR fund. Expenditures for the EQR fund are estimated at \$200,000 per year, or \$400,000 per biennium.

- 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.*

No appropriations are anticipated at this time.

Name: Robyn Loumer

Agency: Industrial Commission

Telephone: 701-328-8011

Date Prepared: 01/17/2015

2015 SENATE ENERGY AND NATURAL RESOURCES

SB 2190

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources
Fort Lincoln Room, State Capitol

SB 2190
1/23/2015
22428

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kate Oliver

Explanation or reason for introduction of bill/resolution:

Relating to the abandoned oil and gas well plugging and site reclamation fund

Minutes:

1 attachment

Chairman Schaible called the committee to order, roll was taken and all members were present. Senator Armstrong was on hand to introduce the bill.

Senator Armstrong: This bill deals with abandoned oil and gas well site reclamation fund and through discussions with the Department of Health and people in the executive branch some of these emergencies occur, they come off sight and then they become the Department of Health's prevue an as more and more things are occurring this would be a situation where the Department of Health can ask for help in an emergency. The Department of Health would be required to recoup the cost from the person who caused the emergency. This would allow the Department of Health more flexibility limited emergency circumstances.

David Glatt: North Dakota Department of Health Environmental Health Section. See attachment #1.

Chairman Schaible: How much effort do you put into finding the responsible party in these matters?

David Glatt: We work with local law enforcement, pinpoint where they came from, talking to the industry. Sometimes we are successful, sometimes we are not.

Senator Triplett: Can you remind us what the source of the environmental quality restoration fund is where the revenues come from to go into that plan.

David Glatt: That was established when there was a chemical fire in Grand Forks and there was not response going on to contain it. As part of the penalty they put money into a fund and we could access them get response actions on the ground insuring someone would be paid. It is not a large fund, typically it is used when money is taken out and we ask the

person responsible to put it back in there. In some cases where you do not have a responsible party you take a loss.

Senator Triplett: So was it a penalty from one big case that brought it about?

David Glatt: We will draw down on that and ask the company to reimburse our effort.

Senator Triplett: Do other penalties go into the general fund?

David Glatt: Yes, they do go into the general fund. I like the idea of it going to the general fund; it would alleviate the conflict of interest.

Senator Triplett: If I remember correctly the issue came up with the Radioactive.

David Glatt: Not really, there is another case where enough trucks did that and he had a problem m there. We did what we could and could not get reimbursed for.

Senator Triplett: Where did the money come from to deal with the Filter Socks?

David Glatt: I believe it did come from this fund. We provided assistance as far as oversight and what type of work plans should be done and did not seek reimbursement.

Senator Triplett: Did the mineral resources manage that process then because they have control of the fund. You gave technical advice, they used money from the fund but there was no transfer, correct?

Dave Glatt: Correct.

Ron Ness: North Dakota Petroleum Council. This is a good bill, we support it, gives the agency the tools they need to get the job done. I would be happy to answer any questions.

There was no further testimony in support or opposition to the bill, Chairman Schaible closed the hearing on SB 2190. Vice Chair Unruh made a motion for a Do Pass with a second by Senator Murphy, with no further discussion roll was taken, the motion passed 7-0-0 with Vice Chair Unruh carrying the bill to the floor.

REPORT OF STANDING COMMITTEE

SB 2190: Energy and Natural Resources Committee (Sen. Schaible, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2190 was placed on the Eleventh order on the calendar.

2015 HOUSE ENERGY AND NATURAL RESOURCES

SB 2190

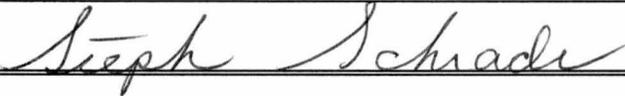
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

SB 2190
3/5/2015
Job # 24361

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the abandoned oil and gas well plugging and site reclamation fund.

Minutes:

Attachments 1

Vice Chairman Damschen opens hearing.

Senator Kelly Armstrong, District 36 explains bill.

Senator Brad Bekkedahl, District 1. I think there is a lot of need out there, it provides some flexibility. I discussed it with Mr. Helms of the Mineral Resources Division, he thought it would help some of the issues we're having in NW North Dakota.

Karl Rockeman, Director of the Water Quality Division-North Dakota Department of Health; written testimony #1

Rep. Dick Anderson: How many wells does this happen on in a year?

Rockeman: It's not used very often, in the last year it has been used on one spill.

Rep. George Keiser: With our increased regulation and over site, you made the comment that it is going to be more difficult in the future because of volume to identify responsible parties. That seems contradictory, why are we spending so much money on regulation and oversight if you can't tell us who's responsible?

Rockeman: One of the primary concerns that we deal with is illegal dumping. The more trucks the more opportunities out there for someone to commit an act that would cause that environmental impact.

Rep. Mike Nathe: How much is in the Environmental Quality Restoration fund?

Rockeman: There are roughly 400,000 dollars in that fund.

Rep. Glen Froseth: Is there an appropriation to that fund each biennium?

Rockeman: There is no continuing appropriation. In instances where that fund has been drawn down, we have sought additional funding in the next biennium to replenish the fund.

OPPOSITION: None

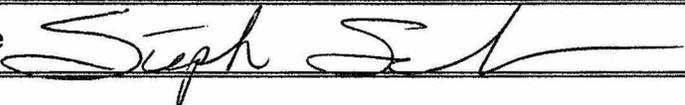
Vice Chairman Damschen closes hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

SB 2190
3/12/2015
Job # 24775

- Subcommittee
 Conference Committee

Committee Clerk Signature 
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Explanation or reason for introduction of bill/resolution:

Relating to the abandoned oil and gas well plugging and site reclamation fund.

Minutes:

Attachments 0

Chairman Porter opens discussion.

Rep. Mike Nathe: I move a Do Pass and Rereferral to Appropriations.

Rep. Corey Mock: Second.

Vote: yes 13, no 0, absent 0.

Rep. Mike Nathe: Carrier.

Chairman Porter closes discussion.

Date: 3/12/15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 2190

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 Mock

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hunsakor	✓	
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) 13 No 0

Absent 0

Floor Assignment Rep Nathe

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

REPORT OF STANDING COMMITTEE

SB 2190: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2190 was rereferred to the **Appropriations Committee**.

2015 HOUSE APPROPRIATIONS

SB 2190

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2190
3/24/2015
25317

- Subcommittee
 Conference Committee

Boyan Bold

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 38-08-04.5 of the North Dakota Century Code, relating to the abandoned oil and gas well plugging and site reclamation fund.

Minutes:

No attachments

Chairman Jeff Delzer

Opened the meeting

Representative Todd Porter, District 34: spoke on the bill.

Chairman Jeff Delzer

Does it give them appropriation authority for the money out of there?

Porter: I do not believe so; I think there has to be an incident in order for them to access it.

Chairman Jeff Delzer

Brady, how does it fit in their budget?

Brady Larson, Legislative Council: there is no appropriation authority in this bill, I'm checking to see if there happens to be a continuing appropriation from the environmental quality fund and I will let you know.

Chairman Jeff Delzer

How are they funding it now, if they run into this situation?

Porter: they used the environmental quality restoration fund to assist in these cases and they don't always have enough to do it.

Chairman Jeff Delzer

Have they run into a time where they didn't have enough in the fund?

Porter: there were some examples, yes

Chairman Jeff Delzer

Why didn't you leave that as it is so that he would have to give his ok that this fund be used and repaid them rather than switching it all over to the health department and give them straight access?

Porter: inside of those responses, they are two separate responsibilities; and as we looked at it their responsibilities to the environment were as important as Mr. Helms to why the pipeline was leaking. One shouldn't have to ask permission from the other.

Chairman Jeff Delzer

Was this more the pipeline or the filter socks?

Porter: it's anything

Chairman Jeff Delzer

What happens if they don't get money to pay it back?

Porter: it is just depleted out of that account; that account is set up as the payer of last resort from the permanent standpoint but it's revolving enough to get in and get out to do initial responses that then go back after the company and get the money back

Chairman Jeff Delzer: is this considered a secondary or primary source?

Porter: primary

Chairman Jeff Delzer: What are they using, the EQR fund?

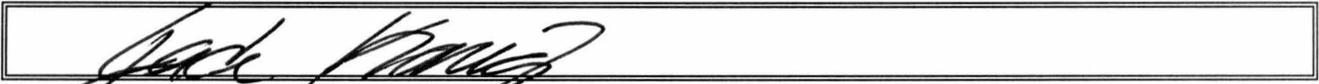
Porter: for everything else; for all other responses they are responsible for.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2190
4/10/2015
26043

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 38-08-04.5 of the North Dakota Century Code, relating to the abandoned oil and gas well plugging and site reclamation fund.

Minutes:



Chairman Jeff Delzer: SB 2190 came out of energy and natural resources, what it does it I believe makes 400,000 dollars available from the abandoned wells plugging and site reclamation fund to the environmental quality restoration fund. What happens from my understanding is this would make the money available to the health department to do the initial clean up when they get money back that pays them for the clean-up then they are supposed to refund it to the abandoned wells fund.

Vice Chairman Keith Kempenich: I'm going to move a Do Pass.

Representative Brandenburg: Second

Chairman Jeff Delzer: It sits in the abandoned wells fund until it is requested to be used and then it has to come back as soon as possible and if it doesn't come back, there is no bond or whatever then it ends up shorting the abandoned wells fund.

Representative Skarphol: How did they deal with this in the past, because obviously they have dealt with it?

Chairman Jeff Delzer: I think they did it out of that fund and I would guess they probably ran short. I don't know exactly how they did that. I think this does allow them money but I think that was one of the problems they had was they had to take it out of their regular operating and when that money came back they had to try to get the money back into the regular operating. I am not sure this is listed as a onetime expenditure. It wouldn't be because it is special funds, but I am not sure that there is any kind of expiration date on it either.

Vice Chairman Keith Kempenich: This is an on-going process and I don't think there was intended to be an expiration date. I think we will see how much we are using it next session.

Chairman Jeff Delzer: It does say in subsection 4 on the second page "the commission shall report to the budget section of the legislative management on the balance of the fund and expenditures from the fund each biennium."

Motion for a Do Pass on SB 2190.

Motion made by Representative Kempenich.

Seconded by Representative Brandenburg.

Total yes 22. No 0. Absent 1.

Motion carries.

Floor assignment Representative Nathe.

Date: 4/10/15
 Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES

BILL/RESOLUTION NO. 2190

House: Appropriations 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: Kempenich Seconded By: Brandenburg

Representatives	Yes	No	Absent
Chairman Jeff Delzer	✓		
Vice Chairman Keith Kempenich	✓		
Representative Bellew	✓		
Representative Brandenburg	✓		
Representative Boehning	✓		
Representative Dosch	✓		
Representative Kreidt	✓		
Representative Martinson	✓		
Representative Monson	✓		
Representative Nelson	✓		
Representative Pollert			AB
Representative Sanford	✓		
Representative Schmidt	✓		
Representative Silbernagel	✓		
Representative Skarphol	✓		
Representative Streyle	✓		
Representative Thoreson	✓		
Representative Vigesaa	✓		
Representative Boe	✓		
Representative Glassheim	✓		
Representative Guggisberg	✓		
Representative Hogan	✓		
Representative Holman	✓		
TOTALS	22	0	1

Motion
 Carries

Floor Assignment: Repr. Nathe

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

REPORT OF STANDING COMMITTEE

SB 2190: Appropriations Committee (Rep. Delzer, Chairman) recommends DO PASS
(22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2190 was placed on the
Fourteenth order on the calendar.

2015 TESTIMONY

SB 2190

Testimony
Senate Bill 2190
Senate Energy and Natural Resources Committee
January 23, 2015, 9:00 am
North Dakota Department of Health

Good morning Chairman Schaible and members of the Senate Energy and Natural Resources Committee. My name is David Glatt, Environmental Health Section Chief for the North Dakota Department of Health. The Environmental Health Section has the primary responsibility to implement the majority of the environmental protection programs in the state. I am here today to support SB 2190 as it relates to the ability of the North Dakota Department of Health to access funds to be used to address environmental emergencies related to oil development.

Responding to and ensuring the implementation of appropriate remedial action at environmental emergencies is one of the responsibilities of the Environmental Health Section. Environmental emergencies can happen anywhere in the state and be the result of unintentional, accidental or intentional releases of contaminants into the environment. These releases can range from being considered a nuisance with little impact on the public or environment to having major impacts requiring large amounts of staff time and money to remedy. For the vast majority of the environmental emergencies addressed by the Environmental Health Section, a responsible party is identified. The responsible party typically covers the cost to address the public and environmental impacts. However, in some instances, either due to the fact that a responsible party cannot be identified or the responsible party is unable or unwilling to cover the cost of the remedy, the Health Department is left trying to find funding for the remedy.

In the past, we have used a small fund entitled the Environmental Quality Restoration Fund to assist in these cases. The fund was established to be used by the Department to initiate emergency action in the absence of a responsible party. In cases where a responsible party is eventually located, the Department seeks reimbursement. In other cases where a responsible party cannot be found, the Environmental Quality Restoration Fund is depleted. We are concerned that, with the increasing oilfield development, there is greater potential for the Department to have to address environmental emergencies without the prospect of locating a responsible party. The net result is that the emergency fund would be depleted, leaving the Department without the ability to address pressing public or environmental health concerns. SB 2190 will enable the Department to request funding from the Industrial Commission and seek reimbursement in cases which

involve oilfield development. This will ensure the long-term viability of the Environmental Emergency Response Fund and a timely response.

This concludes my testimony. I would be happy to answer any questions.

1

Testimony
Senate Bill 2190
House Energy and Natural Resources Committee
March 5, 2015; 9:00 am
North Dakota Department of Health

Good morning Chairman Porter and members of the House Energy and Natural Resources Committee. My name is Karl Rockeman, Director of the Water Quality Division for the North Dakota Department of Health. The Environmental Health Section has the primary responsibility to implement the majority of the environmental protection programs in the state. I am here today to provide testimony in support of SB 2190 as it relates to the ability of the North Dakota Department of Health to access funds to be used to address environmental emergencies related to oil development.

Responding to and ensuring the implementation of appropriate remedial action at environmental emergencies is one of the responsibilities of the Environmental Health Section. Environmental emergencies can happen anywhere in the state and be the result of unintentional, accidental or intentional releases of contaminants into the environment. These releases can range from being considered a nuisance with little impact on the public or environment to having major impacts requiring large amounts of staff time and money to remedy. For the vast majority of the environmental emergencies addressed by the Environmental Health Section, a responsible party is identified. The responsible party typically covers the cost to address the public and environmental impacts. However, in some instances, either due to the fact that a responsible party cannot be identified or the responsible party is unable or unwilling to cover the cost of the remedy, the Health Department is left trying to find funding for the remedy.

In the past, we have used a fund entitled the Environmental Quality Restoration Fund to assist in these cases. The fund was established to initiate emergency action in the absence of a responsible party. In cases where a responsible party is eventually located, the Department seeks reimbursement. In other cases where a responsible party cannot be found, the Environmental Quality Restoration Fund is not restored. We are concerned that, with the increasing oilfield development, there is greater potential for the Department to have to address environmental emergencies without the prospect of locating a responsible party. The net result is that the emergency fund could be depleted, leaving the Department without the ability to address pressing public or environmental health concerns. SB 2190 will enable the Department to request funding from the Industrial Commission and seek

reimbursement in cases which involve oilfield development. This will ensure the long-term viability of the Environmental Emergency Response Fund and a timely response.

This concludes my testimony. I would be happy to answer any questions.