

2015 SENATE AGRICULTURE

SB 2271

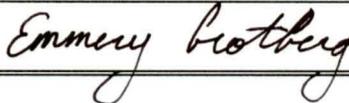
2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2271
1/30/2015
Job # 22880

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to a pipeline restoration and reclamation oversight problem

Minutes:

Attachments: #1-5

Chairman Miller opened the hearing on SB 2271.

Senator Unruh: (0:40) Introduced SB 2271.

Vice Chairman Luick: Are you looking at problems in the past or just from day one going forward?

Senator Unruh: That was part of the discussion. If you would look on page 1, lines 13-16. "The ombudsman may not investigate or assist with any pipeline installed before January 1, 2006, regulated by the public service commission under title 49, or assist in easement negotiations." So back to 2006 would be the look-back period for this. Anything prior than that, the program would not apply to.

Chairman Miller: You said that people have been in conversation for a very long time, what length of time are you referring to?

Senator Unruh: I have been involved in these conversations for about six months now, but prior to that, the petroleum council, pipeline companies, and landowners were having a lot of conversations about doing something. This is the result of that.

Chairman Miller: What type of complaints do landowners having to bring about this bill?

Senator Unruh: There are a couple of different complaints. I think the agriculture department could respond to that better than I could. I know they have already been receiving these calls, which is part of the reason is program belongs with them. I know a lot of those concerns happen during the reclamation process of the pipeline. If there is an erosion feature or rocks that get left during the reclamation process on the site or even grass not getting planted over those sites, those are all different kinds of concerns

landowners are having with the pipeline reclamation process. That's the reason why some of the local folks need to be part of the process. They have technical expertise with the individual soils in the area and the type of plants that grow best in those areas is critical to this program. Having those folks work with the landowners will give us the best product in the end.

Doug Goehring, Agriculture Commissioner: (6:53) (see attached #1)

Chairman Miller: (12:00) When you get a call like this right now, what is your process to deal with it?

Doug Goehring: I generally take all the information from the landowner and check the typography and the vegetation on the area, and then contact the company. Those companies go and visit with the landowner and I never hear from them again. So I assume that it's being taken care of.

Chairman Miller: How many calls do you get?

Doug Goehring: Over the last five years, I've probably dealt with 30 plus calls. I think it's less than 50, definitely over 20.

Chairman Miller: So you envision having a staff member in your office, that's what you imagine this money being used for?

Doug Goehring: No, we don't need more staff in the office, this is going to be a person out there in those 17 oil producing counties.

Senator Warner: I'm always suspicious of numbers that are rounded to the nearest million, where do you anticipate the cost of the project? Sounds like you're doing a good job with the way you're doing it now.

Doug Goehring: It is a bit taxing and it is hard to stay on top of things and people feel a bit disconnected and establish better relationships within the community. This would ensure that there would be follow-up and connection. With respect to your question, this would probably take three people as identified. It would mean us hiring an ombudsmen in our department overseeing this program and the implementation of this program. It would give us the ability to hire with local entities, like a soil district for example. The reason the budget is as such is the cost of operations and salaries for that individual in a biennium. So it leaves \$737,000 to look at contracting someone. But if we are unable to establish a contract with somebody, then we'll have to hire someone to do that work. It's hard to pin it all down when we are working with unknowns and variables.

Senator Warner: Near the bottom of the first page, you're asking to be exempt from the provisions of 54-44.4 when contracting for the services of the ombudsmen. Can you tell me what that chapter is?

Doug Goehring: This would be under procurement. Right now we are required to go through a process where anything over \$25,000 has to be put out in a request for proposals

and bid. They are not allowed to go back and inspect prior to 2006; and they cannot be advocates in negotiations on right ways and easements.

Vice Chairman Luick: So in the program itself, are you looking at just hiring contractors for the pilot program, and that money is going to come out of this appropriation or are you looking at doing the paperwork to make sure whoever is responsible for that non-restoration is going to take care of that themselves and its going to come out of their funds to make sure that it gets handled properly. Let's say you've got a place that needs some restoration, are these dollars going to be used for that restoration or is it going to be just for facilitating the proper people to restore that site?

Doug Goehring: These funds are not used to restore or reclaim any land. These funds are used to put the people and the resources out there to help bring these parties together to address the issues of reclamation and restoration. Those agreements that were signed previously between the landowner and the farmer or rancher in the company, those terms have already been negotiated. It's just a matter of making sure that they're coming back together and those things are being addressed. The companies themselves are doing the work and coming back we just need to make sure that we are establishing a reasonable amount of time that that's going to happen and then following up to make sure that it did happen.

Vice Chairman Luick: Can we expand this program to ditch work and roadway improvements?

Doug Goehring: Yes we can probably think of a lot of things to do, but at this point in time this pilot program is designed to look at pipelines directly, right ways, and those issues. If we get really good at this and the legislature asks us to move into other areas, we will.

Chairman Miller: Do you think we are using a post pounder to drive a nail? We are putting a lot of money and creating a new FTE when we already have the resources out there, we have county agents and staff, why can't someone from your staff just call them and tell them to take care of the problem? You've already said you're dealing with the issue quite well.

Doug Goehring: This gets into a different area, it has to with authority. You can't just extend or give authority to somebody.

Chairman Miller: But we have the authority to extend that authority.

Doug Goehring: You can, but what do you have that backs that up? For example, if I call an oil company, they aren't necessarily afraid of the agriculture commissioner but they are afraid of what the agriculture commissioner can do on the industrial commission. If you give it to us, the agriculture commissioner calling the oil company to address might have more clout than the county authorities

Vice Chairman Luick: Why wouldn't you consider running this program through the industrial commission instead of the agriculture department?

Doug Goehring: Right now the landowners are calling the agriculture commissioner and the agriculture department. Most everything that exists under the industrial commission, you have programs that are design to do specific things. This doesn't have a regulatory component to it, but it doesn't mean that if there isn't a issue out there and it isn't getting dealt with, the next step will be that we have documentation that didn't happen and it can be used and forwarded to the department of health or the department of mineral resources which has regulatory authority. This provides a different venue that there's a lot more comfort in because they are already coming to us. I think this is an avenue that works and works very well.

Senator Klein: I think we are taking a hammer to drive and drive in a huge pole. I think the issue is huge and my concern is what kind of hammer we do have as relates to working with the folks who are putting the pipes in the ground. I just heard you say that we have an opportunity through the industrial commission and health department to address those issues. You said in your last dissertation that you do feel like you have the clout to bring the parties together and address the problem that's been reported to you.

Doug Goehring: We do. There's a couple different ways to go with it, but it's getting people together to talk and take care of the issue themselves. If there is an issue that isn't of a regulatory nature, we can take it to mediation because that's going to be the precursor to litigation. On the other side, if there is problem of a regulatory nature, it can be forwarded on and taken to the health department or forwarded on the department of mineral resources.

Senator Larsen: Of these issues, how many are in litigation or is there a history of litigation where folks come and have these problems and they can't get it resolved so they take that step?

Doug Goehring: I'm not always aware of what litigation may be pending out there. It's generally not brought to our attention. There are things that are brought to our attention concerning an impending court case if this doesn't get fixed. When that happened, the issue did get resolved. I can talk about the remediation program, we've had some pipeline cases and we've had some successes. When I look at our entire program, when we're dealing with energy I believe we're close to a 72% to a 76% success rate. Sometimes it just comes down to that there is no agreement that could be found so it has to go to court. A that point a judge will make a decision as to what is going to happen concerning royalty interests, etc.

Representative Anderson, District 6 (35:00) Testified in support of the bill. He stated that he believed it would make the easement process go faster so that those commodities can get to market. Representative Anderson stated that landowners trust the agriculture department more than the industrial commission, so they'd rather work with the agriculture department. Senator Miller, you mentioned letting extension people do this work but they won't do regulatory work. They can give advice.

Chairman Miller: This has already been said, this isn't regulatory, this is mediatory. If we're going down that road, we have to have a whole different idea here.

Representative Anderson: When we asked the extension people to get involved, that's what they said. Senator Warner also asked a question about money, I'm a farmer and we lose 50 - 75 cents a bushel on every bushel of grain that is shipped out of the state because of the increased freight rates. The only thing that's going to lower the freight rates is if we get more competition in that industry and the best way to it is if there's more product being moved out of state with the pipeline, so it's a big plus for farmers if this easement process and the pipe gets put in the ground better. I think this bill will increase the level of trust and it will move that process forward.

Alexis Brinkman-Baxley, ND Petroleum Council: (38:00) (see attached #2)

Senator Warner: (43:10) I'm intrigued by the word pilot program. I usually think of that being in one place, but 17 counties is dimly spread.

Alexis Brinkman-Baxley: We'd love to have one in every county. But we knew that wasn't realistic and we had to start small. Our intent was one on the North side of the river and one on the South side of the river. If we get really good at it, we'd love to expand the program but we have to start somewhere.

Chairman Miller: You said nobody has used the incident report form, are they aware that it exists?

Alexis Brinkman-Baxley: We are doing outreach and putting our efforts on that. That would be part of the program, there are a number of resources available like the commissioner said. Including what we've put together and what the extension agents, that form and the mediation service would be part of this. We would hope that this ombudsmen would be able to help educate landowners about what resources they have out there. We've put together things to help advertise the resources through newsletters, etc. But I think most of you know that farmers and ranchers don't spend the majority of their day perusing the internet for resources.

Chairman Miller: When a company is going to put a pipeline in, don't they tell the farmer this is how you make complaints?

Alexis Brinkman-Baxley: Yes, that was part of our discussions. I think our pipeline companies can answer that better, but including these resources with their offer of an easement.

Chairman Miller: So that does currently happen?

Alexis Brinkman-Baxley: I believe it does most of the time, I think all of the good companies are good operators which is a majority, do that. It's the source again. If a neutral source presents it as an option to a landowner, I think they're much more likely to use it than if it just comes from industry.

Chairman Miller: I have to question the validity of this bill, when nobody's ever filed a complaint.

Alexis Brinkman-Baxley: The agriculture commissioner talked about the thirty calls he got that doesn't take into account the thirty calls a year we get in our office that we then facilitate. It doesn't take into account the calls Tom gets from his members that he helps facilitate or the call the counties and the calls the companies get. There are plenty of needs out there, but they are just not going to the same place and it's not the most efficient way to deal with them. As the commissioner said, it's a little haphazard. He follows up but unless he receives a call back, he's not sure something's happening. I think this would be a way to corral everything into one place so a landowner feels like he can trust the process.

Chairman Miller: Wouldn't it have been prudent for the various groups to send their complaints to the pipeline authority or whoever's got this document?

Alexis Brinkman-Baxley: You're right, in a perfect world, absolutely. But it's not happening. We've tried a number of ways to reach out and encourage that but there is just that lack of trust right now.

Vice Chairman Luick: We're looking at a lot of money but has the Petroleum Council or any energy group looked at cost sharing this program?

Alexis Brinkman-Baxley: I would say we cost share a lot of different things in a lot of ways, I can't speak to this program. When industry is funding it, it becomes that question of trust again.

Danette Welsh, Manager of Government Relations for Oneok: Introduced Dick Vande Bossche who's our director of project development out of our Sydney, MT office. He's our subject matter expert.

Dick Vande Bossche, Director of project development for Oneok Rockies Midstream:
(see attachments #3a-#3d)

Chairman Miller: (59:32) How many companies are engaged in doing what you are doing what you are doing?

Dick Vande Bossche: Two dozen or more.

Chairman Miller: You spoke as if there is a great deal of landowner mistrust in government and in particular industries. Don't you feel that with this bill, you are trying to push the trust back on to government? You need, as an industry, to build that trust.

Dick Vande Bossche: I agree 100%, but again I think that that is going to take time. Our approach is that hopefully as we look back two years later that the agriculture commission won't receive any calls from Oneok because we self-performed.

Vice Chairman Luick: What is the biggest problem that you see out there that landowners have?

Dick Vande Bossche: It varies landowner to landowner or area to area. You may be trying to pipeline in an area with minimal top soil and then topsoil becomes an issue. It's a multi-menu of items that are land-owner specific and area to area.

Vice Chairman Luick: The reason I bring that up is because I am a contractor myself and I have a corridor coming in the southeast part of the state and two pipelines going out there and I am the contractor who is hired to maintain a 100-125 miles of that corridor. I run into the same problems we have here, but we've gotten to the point that if they know that there is some restoration that can happen, farmers contact me. The gas line companies are the last ones to know about it. I don't know if it's the trust issue or because I get stuff done, but the possibility of getting someone to do the mediating between the parties may be a good idea.

Senator Warner: The biggest complaint that I hear about pipelines out there is that there doesn't seem to be any coordination of easements. The real concern is that there is a spaghetti of pipelines that's not very well documented and that we don't have GPS coordinates filed with the public entity where exactly these lines are. In a few years, we will have a difficult time allocating projects to different areas.

Dick Vande Bossche: If I use our organization as an example, we have agreements with the producer to gather gas, so we are going to design our system accordingly to where that beginning point of that pipeline at the wellhead and where it needs to terminate to ultimately get to a gas processing facility. You may have an adjacent property that is another producer that I don't have an agreement with who has an agreement with another midstream company. They are going to have a totally different objective about how they are going to gather that gas from that piece of property in relationship to where I took my pipeline route. It makes it difficult as an organization, there's not a lot of information sharing that goes on from that stand point. The landowner has the ability to drive towards a common corridor on their property if that does so fit the lay of the land. Each company has a different objective about where that line needs to end. They may be heading a totally different direction of where I'm going with my pipeline. In some areas we do share common corridors as much as we can with the various utilities.

(1:06:50) To respond to the second part of your question about GIS survey data, within the department of mineral resources every pipeline company is now required to submit GIS centerline data for oiliness, saltwater lines, and gas gather lines into the department of mineral resources and there is a central repository now for those. It becomes an available data library for multiple users.

Senator Warner: I work in the electric industry and we have territorial integrity agreements which are essentially guarantees that you have a monopoly in this area; that'd be really problematic in your area I'm guessing.

Dick Vande Bossche: Yes.

Senator Klein: As we move forward and we are attempting eliminate and reduce the amount of flaring, isn't this another tool that would certainly help provide some comfort out there? I see this as another opportunity to get this flaring reduced.

Dick Vande Bossche: I agree. It becomes another thing to help facilitate the right discussions between the landowner base and the producing company. If they have questions and they are hesitant to ask it becomes a resource for them to get some questions in a level of comfort so that we can move forward.

Vice Chairman Luick: Right now is the proposed program just for the oil counties or is this going to be state wide? Because the bill doesn't address that.

Dick Vande Bossche: I'm not the right one to answer that.

Alexis Brinkman-Baxley, ND Petroleum Council: (1:09:27) The intent would be in the oil counties. As I mentioned before, our initial thoughts were one north of the river and one south of the river. If it goes well, that's up to you.

Vice Chairman Luick: Do we have to put something in the bill to identify that that's the intent of this?

Alexis Brinkman-Baxley: I think you could but in section 1 subsection 1 you're giving the agriculture commissioner authority to establish the program.

Chairman Miller: I think if this goes well we shouldn't need it, that's what going well is.

Roger Kelley, Continental Resources (1:10:45) Testified in support of SB 2271. He commended the commissioners in ND. He stated that there's been two documents that have been created that are going to be used for this: (1) the first is created by the American petroleum institute and is a decision tree analysis on treating different types of soil contamination. There's another process that we've developed under the direction of the environmental protection agency on dealing with national pollution and discharge delineation systems and we developed a decision tree process for that as well. No matter how good of a job a company does, sometimes things happen. With respect to the question about the Industrial Commission, in TX the railroad commission has an army of inspectors who go out and treat these things there. That's hundreds of millions of dollars and they don't have the trust of the agriculture community. The industry bears the brunt of the repair and reclamation. The industry is already partnered in. stated that the land is the farmers and sometimes the industry doesn't satisfy everyone's needs and so a mediator would be helpful.

Chairman Miller: (1:18:29) Isn't it your company's responsibility to come back periodically and talk to the landowners and make sure things are going well?

Roger Kelley: We do. But the key is trust. There's a level of trust that people have that is engendered by the press and is engendered by the nongovernmental organizations whether it's the Sierra Club or anyone else who pays millions of dollars put into the press that aren't necessarily true about the industry in general that destroys that trust and is an on going battle that is always going to be there. We try our best to get along with our land owners because anything that threatens our land threatens our operations as well.

Senator Oban: If you think the Sierra Club is the one making any waves in ND, that's just not the case. If there's an issue of trust then I think we need to look at what that cause is because I assure you the Sierra Club has no clout in this state.

Roger Kelley: I'm new to this state, Senator, my apologies. I didn't mean to offend anybody.

Thomas Wheeler, Vice-Chair of Northwest Landowner's Association (1:20:03)
Testified in support of SB 2271. Spoke on the behalf of the farmers stating that many of them have taken care of the reclamation themselves. He stated that many feel that when a company comes to put a pipeline in, the farmers will refuse to sign. Testified that he received calls and complaints. Believed that the program was short-lived. As time has gone on, things have improved and the farmers view the agriculture department as a friend.

Chairman Miller: The challenge with writing a bill and doing this is this creates a whole new program. A few years we'll get caught up and get a process in place and we won't need this anymore. The reality is that we create this as it's written right now it will be for eternity. I don't want to create a bunch of advocates sucking a bunch of money when companies should be handling this themselves. Because of the sins of the past they are starting to straighten out.

Senator Oban: My concern is how piecemeal approach we are doing this. It's my understanding that there are a number of bills that we have to provide some oversight over pipelines. Wouldn't it be more appropriate for it to be a package instead of a piecemeal program? If no one knows where to go now, how is this going to change anything.

Thomas Wheeler: We would like to keep local control and have a central point where the agriculture department oversees the local people. It has to be run by Bismarck but we need a local person whom people trust. You talked about the piecemeal aspect but for the last few months, we've been part of the right away task force with the industry discussing these issues. If we can work together with industry and prove that we can work with them, we can build that trust.

Senator Klein: You've been with the landowners association for a long time, you live on a farm and you understand. That's why you're here--this is an opportunity to get folks together and as a member of folks that are out there, do you think this is another step that you think is really important?

Thomas Wheeler: Hopefully it is a resolution to resolve the issue. Most of the people are not complainers. When we first started getting calls, I got burned in a hurry because I trust everyone. I found out that there are some landowners out there that have just enough trouble telling the truth as a landman does. 6 years ago, I let them put an oil well pad on my land. When they want to put a pipeline in, I have a choice. Right now I'm an advocate of pipelines. We need these pipelines in the ground to save the roads and to compete with the oil field.

Kayla Pulvermacher, ND Farmers Union: (1:33:25) The piece we are particularly interested in is allowing local people involved in this and so that the farmers know someone

local they can talk to where they have some communications and answers. We need some single point of access where they can get their

Vawnita Best, Rancher, County Commissioner for McKenzie County: (35:27) It really boils down to trust in relationships and I am one of those landowners that just says no because of lack of trust. It mainly boils down to lack of design standards, lack of construction standards, and the lack of monitoring and verification. It is also key knowing that you have the ability to communicate with the company you're considering entering into a right away agreement. The tools that exist out there, we've attempted to get that information out to people in our area so they can use those portals for complaints. One of them had before the session was to offer a disclosure bill. So every right away lease would come with a one page disclosure that would have all of that information: 24/7 contacts, the portal for complaints, etc. It was shared that that would come under opposition so that didn't happen. The county understands that this is an energy impact issue, so the county has applied for an energy impact grant because this is energy impact. We have a concern to keep it local for our landowners to build that trust with companies and surface owners.

Senator Warner: Do you see any particular advantage to starting a new program as opposed to existing county agents or conservation districts where they already have an established relationship and established phone number?

Vawnita Best: There has been a lot of discussion and a lot of the ranchers and landowners are standing behind me today. When you talk to those specific agencies, especially extension, they know they don't have the technical expertise. The specific grant application that the soil conservation district of McKenzie County has in, we're looking at someone who can actually do site planning so you're looking at engineering level type of expertise. County agents are not and will not because of that nature, thus it is a very technical skill set. If you haven't been out there, there's so much infrastructure building going on right now, you see a contractor, they put it in the ground and they're gone. You try to make those connections, it is difficult right now.

Chairman Miller: We seems that everyone is saying that we want to hire this intermediary, so it doesn't speak to any specific technical skill sets. From what I'm gathering the problems are, we just need to connect a with b, we don't necessarily need a scientist to walk around out there and evaluate everything. The company should do that and everyone has said that the landowner knows his land the best. So I'm thinking a county agent has enough skill sets that he should be able to identify if there's a problem.

Vawnita Best: We have had those conversations, specifically our extension agent said that that was far beyond her level of comfort. One of the five principle focuses of the grant application to the soil conservation district is to work on site planning. So when a company comes to you to acquire a right away, they have their specific project program and your land is part of that. Their concerns are that project, not necessarily that parcel of land. So the specific reclamation specialists that we want to bring into our county will focus on that parcel of land and if they have areas that they suggest rerouting, they'll bring that recommendation to the landowner. Landowners know their land, but they don't know the results of construction on their land.

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Julie Ellingson, Stockmen's Association and Daryl Dukart, Dunn County Landowner:
submitted written testimony (see attachments #4 and #5)

Chairman Miller closed the hearing on SB 2271.

2015 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2271
2/6/2015
Job # *23374*

- Subcommittee
 Conference Committee

Committee Clerk Signature

Emmery Broberg

Explanation or reason for introduction of bill/resolution:

Relating to a pipeline restoration and reclamation oversight problem

Minutes:

Attachments: #1

Chairman Miller opened the committee work on SB 2271.

Senator Klein handed out proposed amendments 15.0550.03002 (see attachment #1). He commented that the bill was important to the landowners. Some of the resistance to the bill was the million dollars, so the agriculture commissioner stated that he could do the program for \$660,000. Senator Miller recommended the emergency clause.

Senator Klein moved to adopt the amendments.

Senator Oban seconded the motion.

Chairman Miller stated that the bill would probably change by the end of the process, but that it was important for the western area to keep the bill alive.

A Roll Call vote was taken. Yea: 5; Nay: 0; Absent: 1 (Vice Chairman Luick)

Senator Klein moved Do Pass As Amended and Refer to Appropriations.

Senator Oban seconded the motion.

Chairman Miller summarized the committees work to Vice Chairman Luick.

Senator Warner stated that he was going resist the bill because he believed these issues should be prevented and adding to the bureaucracy isn't going to address the root problem.

Senator Oban stated that the only reason she was supporting the bill was because the landowners need someone to go to for help. She said that she hopes the program is short

lived and the problem companies will get their acts together and stop giving the industry a bad name.

Chairman Miller concurred with the comments made, but stated that he was going to support the bill.

A Roll Call vote was taken. Yea: 4; Nay: 2; Absent: 0.

Do Pass carries.

Senator Klein will carry the bill.

February 5, 2015

2/6/15
JAL

PROPOSED AMENDMENTS TO SENATE BILL NO. 2271

Page 1, line 2, remove the second "and"

Page 1, line 3, after "appropriation" insert "; and to declare an emergency"

Page 1, line 24, replace "\$1,000,000" with "\$660,000"

Page 2, after line 3, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2271: Agriculture Committee (Sen. Miller, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2271 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the second "and"

Page 1, line 3, after "appropriation" insert "; and to declare an emergency"

Page 1, line 24, replace "\$1,000,000" with "\$660,000"

Page 2, after line 3, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2015 SENATE APPROPRIATIONS

SB 2271

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2271
2/13/2015
Job # 23809

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grava Justice Dehner

Explanation or reason for introduction of bill/resolution:

A BILL relating to a pipeline restoration and reclamation oversight program, and to declare an emergency (Do Pass)

Minutes:

Testimony 1 - 3

Chairman Holmberg called the committee to order on Friday, February 13, 2015 at 8:30 am in regards to SB 2271. All committee members were present. Chris Kadrmas, Legislative Council, and Becky Deichert, OMB

Senator Jessica Unruh, District 33 Introduced the bill. What this bill does is it creates a program that would be run through the Department of Agriculture. It would be called The Pipeline Restoration and Reclamation Oversight Pilot Program. This would be a pilot program to see if it's something, hopefully not permanently, that would help with reclamation in the western part of the state and then, if needed, expanded to other areas of the state. This would provide technical assistance and support to surface owners and surface tenants on pipeline restoration and provide follow-up support. The Ag Commissioner would be able to contract or hire an ombudsman who would be a liaison between pipeline companies, the landowner and then, possibly, local entities, such as the soil conservation district, to alleviate some of the landowner fatigue. The reason that I'm here is to make sure that you are all okay with the appropriation. That was reduced from \$1M to \$660,000 in committee. The Ag Dept. agrees that is also appropriate. Any questions. (2.16)

Senator Mathern: In light of this development, throughout the state of the pipeline activity, why would you see it as temporary?

Senator Unruh: It is my hope that this program raises awareness that there are problems out there that are not being solved and that with the Ag Dept. and the local entities working with pipeline companies and landowners, that this will encourage pipeline companies to do the right thing the first time.

Senator Carlisle: On line 15, you have cleared this with PSC because we've got their budget? In other words, it says what they can't do with this so there isn't any overlap.

Senator Unruh: Those pipelines are not included in the program because they are regulated by the PSC.

Chairman Holmberg: The politically correct folks at UND have changed the title of ombudsman, because it's sexist, to ombuds.

Senator Gary Lee: I'd like to clarify what Senator Carlisle brought up, so this isn't an overlap with the PSC in terms of their responsibilities here? It's a separate entity and a separate process that they are using.

Senator Unruh: This is geared more towards gathering lines than anything else, which are not regulated by the PSC.

Ken Junkert, Ag Dept Testified in favor of SB 2271 and Testimony Attached # 1, which explains the purpose of this bill. (6.40) He also submitted Testimony Attached # 2 - which is a packet that contains logistical details regarding how the Department of agriculture foresees potentially implementing SB 2271.

Chairman Holmberg: Was this part of any budget request of yours in the executive budget or is this strictly a legislative initiative that your commissioner supports?

Ken Junkert: This is a legislative initiate that the commissioner supports.

Senator Mathern: This seems like something we ought to do, but why don't we have the PSC do it? So we got some pipelines, you go to the PSC, some pipelines you go to the ag commissioner. Wouldn't it be a lot easier for citizens to have just one place to go if you've got issues to work out?

Ken Junkert: I think that is the point. I think they are looking for a one stop place to contact that they can trust. The Department of Agriculture has a long history of servicing landowner needs in ND. We are the conduit for people to call us, to interact with us, and we have been effective in trying to bring people together to resolve complaints. That is why the ag commissioner believes that this program would be best centered in the ag department's office.

Senator Mathern: Some of the complaints would be handled in the PSC office. It's right in the bill. A citizen, a landowner, a farmer would have to figure out when was the pipeline put in, do I call that office or do I go to that office?

Ken Junkert: I think we could provide that service. Part of this program that would be very helpful: when people would call in with the complaints, the ombudsman program would be able to help send individuals to the proper authorities, if we can't service them within the program.

Senator Carlisle: Beings we have the PSC budget, for council OMB just flag 2271 so when we bring it up we may have you come down? I think we're okay on the separation.

Senator O'Connell: You already do the mediation, and I believe that has been a great program with the landowners. Am I correct on that?

Ken Junkert: Yes, I am the mediation program administrator. Two sessions ago you expanded my program to include oil mediation. So we go into oil country to help settle disputes. We have handled over 40 cases. We have been out trying to work in the field to communicate to people that, either through the mediation program or a program like this where we will go into the field and be the boots on the ground. Once a complaint comes into our program, we will sign either a contract ombudsman, and we will send somebody to meet with the landowner, the surface tenant, the pipeline company, on site to take a look, to hear the complaints, come up with a plan, a timeline for resolution of the disputes and hopefully solve these things.

Senator Sorvaag: To verify, the PSC is a regulator. This is not a regulator. This is a facilitator. They might end up going to the PSC. The logic is that this would be separate from the PSC because that might not be the place to go.

Ken Junkert: That is correct. This is a non-regulatory program. This program won't have any type of penalty authority or any civil penalty authority. Our role is to facilitate communication between the pipeline companies and the landowners or the surface tenant to make sure that we can bring these people together, craft a plan and move forward.

Senator Carlisle: You are running about 8 out of 10 resolutions, on the cases you've had so far?

Ken Junkert: We are approaching 73% success rate in the mediation program. We think that is very successful. We have a much higher success rate than litigation and we're much cheaper. (11:56-12:20)

Chairman Holmberg: Anyone else.

Tom Wheeler, Northwest Land Association: testified in favor of SB 2271. A lot of times the land owner doesn't know where to go. But they see the ag department as a friend. It could be that the ombudsman sends them to the health department or some other place, but if its pipeline issues, that's where they go. What I hear from people is, I am done with pipe lines. They didn't do it right the last time, why would I let them come again? This should help remedy those situations. I appreciate what I've heard on the fiscal note. I am hoping in 6 years this program can go away. The industry is done a lot better in recent years to get the job done right the first time. (14.17)

Senator Mathern: You make my point, what do you mean shoddy work? This is supposed to be regulated. So now we have somebody watching the regulator. Maybe we should put a program in the Dept. of Human Services so these people who get shoddy work done and then have stress in their family, then have child abuse, should have some counseling? Why don't you go to the beginning of the stream and fix what happened? Someone was supposed to regulate this and evidently didn't, and now we are going to add another program to do social work with regulators and landowners. I think it is excellent that we

have this protection but are we doing something so that the original work done is done properly so there is no need for this.

Tom Wheeler: We see the improvement coming in the industry. They are hiring better contractors. How do we fix it so that the landowner is comfortable and we so we can get pipe in the ground? We are proponents of getting pipe in the ground so that we can get the trucks off the roads and save the roads.

Alexis Baxley represents the ND Petroleum Council: Testified in favor of SB 2271 and Testimony Attached # 3 which states that this bill would create a pilot program a local resource for landowners. (18.34)

Senator Erbele: This is taking general fund money putting it to the Ag Commissioner. We've kicked the Ag Commissioner's budget out. Will this money catch up?

Chairman Holmberg: If the bill passes, it will catch up. Does the committee wish to act on this?

V. Chairman Krebsbach: I move a do pass on 2271. 2nd by V.Chairman Bowman.

A roll call vote was taken on a Do Pass of SB 2271. Yes: 13; No: 0; Absent: 0.

Senator Klein from the Agriculture Committee will carry the bill. The hearing was closed on SB 2271.

Date: 2-13-17
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2271**

Senate 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 Krebsbach Seconded By Bowman

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Heckaman	✓	
Senator Bowman	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator O'Connell	✓	
Senator Carlisle	✓		Senator Robinson	✓	
Senator Sorvaag	✓				
Senator G. Lee	✓				
Senator Kilzer	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent _____

Floor Assignment ag Klein

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

REPORT OF STANDING COMMITTEE

SB 2271, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2271 was placed on the Eleventh order on the calendar.

2015 HOUSE ENERGY AND NATURAL RESOURCES

SB 2271

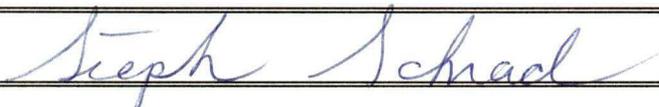
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

SB 2271
3/6/2015
Job # 24438

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to a pipeline restoration and reclamation oversight program; to provide an appropriation; and to declare an emergency.

Minutes:

Attachments 4

Chairman Porter opens hearings

Senator Jessica Unruh, District 33 explains bill.

Rep. Bill Devlin: This looks duplicative. Why didn't you give the pilot project to the (Public Service Commission) PSC? I think they would be in a better position to deal with this.

Unruh: We thought that since this was land owner initiated, land owner based program that the Agricultural Department (Ag Dept.) we thought this was the best department to service this program. They have technical expertise on staff relating to agriculture and the appropriate grasses to be seeding on these pipeline corridors. I think that's where a lot of the problems lie. They would be able to work with the local extension agents, soil conservation districts to be able to come up with the right solution. The pipelines that are regulated by the PSC are not included in this program.

Rep. George Keiser: the groups that come in with problems tend to be with Legacy wells. Why don't we include the legacy wells?

Unruh: this is geared towards newer lines; we don't want to take on too much for a pilot project.

Chairman Porter: The language in sub 2, states that this is only for gathering lines.

Chairman Porter: How do you see the firewall between the already established mediation program for this type of situation and this pilot project so that the individuals using one or both of these programs feel that there isn't any favoritism or cross communication between the programs?

Unruh: We are hoping that before it gets to the mediation program that we can head off a lot of these issues using the local folks, ag folks, and expertise to solve the problem before it gets to mediation.

Tom Wheeler, Northwest Landowners Association; written testimony #1

Chairman Porter: All the authority for lines lies inside the Industry Commission-Oil and Gas division. Do we go with what we funded last time and keep that going, because we don't even know if that worked yet. And then start a pilot program in addition to that?

Wheeler: The landowners don't see a friend in some of the state entities that they can call with these issues. The Ag Department has proven that they can help with these issues. The other program will stay there, but we need things to move faster, we need to get the pipe in the ground faster. This bill will help speed up the process.

Chairman Porter: Inside the mediation program where the agreed parties can go, is inside of the Ag department. How do we keep that sense of fairness and a sense of neutral when we have this ombudsman located inside the same agency sitting across from each other? Who we have already set up as a successful mediation program inside of it?

Wheeler: In my experience, those people in the mediation program are contracted people, there are not in the office with the other department employees.

Chairman Porter: I do not want to jeopardize the mediation process.

Wheeler: That's why this is a pilot program, we can change it or get rid of it.

Rep. Bob Hunsakor: because of the history, there is a huge barrier to the land owners being receptive to putting in pipeline. So, working through a third party will help?

Wheeler: The ombudsman will not be involved in negotiations to put in a pipeline. This is to help clean up the work that was done in the past, that wasn't done correctly.

Alexis Brinkman-Baxley, ND Petroleum Council (NDPC); written testimony #2

Regarding keeping the two programs at the Ag Dept. separate; the Ag department would be contracting with folks in the West for the ombudsman. We see this as non-regulatory position.

Chairman Porter: How many individuals will this to procure? Who are we contracting with?

Baxley: We explored many options and determined that an independent contractor; one north of the river and one south of the river. The most important thing here is that whoever would fill this role would be a local and trusted person.

Chairman Porter: How does the contract work, how does that get to the actually feet on the ground?

Baxley: Tom would have to expand on that. It was my understanding that the appropriation would cover the two ombudsmen and the necessary travel.

Rep. George Keiser: These people, can't regulate, can't advise contractually, have no power to do anything, how can they help if a problem arises?

Baxley: Our companies want to be good stewards; they want to fix it when things happen. Sometimes when a land owner has an issue he looks for a phone number, that phone number takes him out of state. Sometimes it takes two weeks to find the appropriate person in the company to work with. It's our goal that a landowner could call this ombudsman who could say here's my contact with this company. The ombudsman checks in to make sure the problem was taken care of, if not he would take it to the next step.

Tom Bodine, Deputy Agriculture Commissioner-ND Department of Agriculture on behalf of Doug Goehring, Agriculture Commissioner; written testimony #3A, #3B.

In regard to hiring ombudsmen, we would hire for contract. One thing the ombudsman will not do is give legal advice or negotiation of an easement.

Rep. Glen Froseth: How many disputes reach mediation? How much appropriation goes to mediation? Will this project ward off mediation?

Bodine: I don't know the exact number, I would say around 80, with about 85% being resolved. I think this program would avoid some mediation and regain landowner confidence back and get pipeline in faster.

Rep. Roger Brabandt: Are there specific education requirements and experience for the ombudsman?

Bodine: The key is trust and experience of soil types, and how to correct something that might be in the soil. It's important that there is trust by the land owner and the company too.

Rep. Roger Brabandt: You wouldn't require someone with an engineering degree or someone that had been in the pipeline business?

person that is Not necessarily.

Chairman Porter: Why isn't this in your budget? If this is a pilot program, why isn't the Ag Dept. contracting instead of hiring?

Bodine: This program came after we submitted our budget in July; this came to fruition in October. The reason its hire not contract is that it would be partially administrative. The ombudsman doesn't have to be hired, it can be contracted. We don't look at this as a permanent position. Hopefully with this, it's an investment for getting pipe into the ground for the state.

OPPOSITION:

Pete Hanebutt, ND Farm Bureau: We are in opposition to this bill because it's a duplication of government and don't see it as something that's needed.

Chairman Porter calls Lynn Helms, Director of Department of Mineral Resources.

Chairman Porter: In regards to what we did in previous sessions; the inspection process, the reclamation process, and all the things we were hearing in the past about land owner fatigue and the installation of pipes. Where are we with your agency to alleviate some of those problems?

Helms: The program we have in place has been running for less than a year. There are three inspectors that are dedicated to pipeline inspection work. We have filled two positions. That program is a self-certified program by the operators. The companies inform the commission as to where the pipeline was, what type of fluid was going through it, how it was constructed, what size it was, and certify that it had been installed according to best practices. Then the inspectors are to follow up to be sure that it was done correctly.

This bill is just with gathering pipelines. The regulatory authority to make something happen comes back to the Department of Mineral Resources to take enforcement action. I think there are some positives to this program from the standpoint that the Ag Dept. is trusted very highly by land owners. Their intention is to hire local people as ombudsman and those should be trusted individuals.

We have had zero success in getting land owners to submit complaints to our online web form or print it and send it in. There either isn't the trust level there or the interest of going through that process to actually have regulatory enforcement of whatever it was they had agreed to with the pipeline company. These easements and rights of way are private contracts. Final enforcement will be decided by the courts.

Chairman Porter: If somebody installs a gathering line improperly, the complaint is to you and the field inspector to determine the problem. The process of making sure that the work is done properly, already resides with you?

Helms: Yes and the authority to initiate a complaint and penalty.

Chairman Porter: So, how does this bill help when a pipe system is installed wrong?

Helms: This would insert an individual to try to fix the issue before it comes to my department. This would insert an individual that would look at the right of way agreement and talk with the pipeline operator and try to get them to voluntarily resolve the issue before it goes to mediation or to a civil complaint or a court room.

Rep. Mike Lefor: These inspectors are hard to hire. Now we are going to hire local, trusted people as ombudsman. What is the skill set they need to have?

Helms: The ombudsman is somebody from NRCS or a local county extension agent who has a skill set that centers on vegetative growth, and proper reclamation practices. The skill

set that we have been seeking are people who understand clearing a pipeline right of way, properly digging a ditch, properly assembling the pipeline, and back filling the trench. I have not found anyone with both of those skill sets.

Rep. Mike Lefor: How many complaints a year do you get?

Helms: A few dozen per year.

Patrick Fahn; gives testimony for Casey Furey, Attorney-Public Service Commission; written testimony #4, explains proposed amendment.

Chairman Porter closes hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Pioneer Room, State Capitol

SB 2271

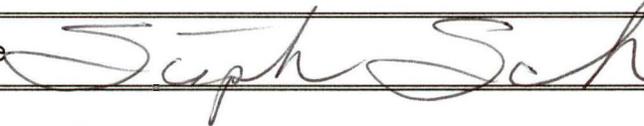
3/20/2015

Job # 25179

Subcommittee

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to a pipeline restoration and reclamation oversight program; to provide an appropriation; and to declare an emergency.

Minutes:

Attachments 1

Chairman Porter opens discussion. Explains proposed amendments; written testimony #1.

Rep. Corey Mock: Could we request what we fund with the abandoned oil and gas trust fund? How much is it replenished and how much is expected to come out of that fund? I want to make sure we're not putting additional burden on a fund that's not replenished fast enough to do what it's expected to do.

Chairman Porter: That fund is one of the buckets out of the one percent. If you remember 1032 that came out of the interim, that fund can fill at 5 million dollars a year up to a maximum of 75 million dollars. We changed it to 10 million dollars a year if the big trigger doesn't go on. If the big trigger goes on then it goes up to 7.5 million a year. We raised the ceiling to 100 million. Currently we took 3 million dollars out of that fund for 1358 that will leave around 8 million dollars in the fund going into the next biennium.

Rep. Corey Mock: At the conclusion, we'll have 8 million remaining and the anticipated expenditures for the fund would be?

Chairman Porter: There's no way to know. The fund was established to take away the likelihood that the oil and gas would go to the emergency commission and request emergency general funds to do the clean ups if something would happen. If we have a major event all bets are off. Remember that is the fund of last resort, only if the responsible party cannot be identified are funds permanently taken out. If the responsible party is identifiable, funds are taken out for the initial response and then the responsible party has to pay the funds back.

Rep. Bob Hunsakor: Why was the emergency clause taken off? The amendments it states Page2; remove line 4, that's the emergency clause.

Chairman Porter: It wasn't intended to be, that's a very good catch. We don't want that. Whoever makes the motion needs to be sure that is taken care of. It's amendment .4002 minus "page 2 remove line 4", so the emergency clause stays in.

Rep. Bill Devlin: Certainly the amendments make it a better bill, I'm still reluctant to start a new program in the fiscal environment we're in, everyone one of us will watch this session as things important to our districts are not funded. So I'm not excited about starting a new program. If we were going to start one I would much rather it went to the Public Service Commission (PSC), Oil and Gas Division and had them contract with the ND Extension service because I think they would have the experts for the ag situation in each county.

Rep. Dick Anderson: This is a pilot program, the extension people didn't want anything to do with the regulatory part.

Rep. Bill Devlin: I wonder how many pilot programs we've sent through this chamber in my years that are still going strong and growing. I would guess that there are lots of state agencies that are not impressed with the duties we assign them, but they do it anyway. I don't think the extension service would be any different.

Rep. Dick Anderson: I move the proposed amendments .04002 with the removal of "page 2; remove line 4" and to remove "Page 1, line 3, remove 'and to declare an emergency'".

Rep. Bob Hunskor: Second.

Voice vote: Carries.

Rep. Glen Froseth: PSC offered an amendment; page 1; line 15 insert the word "or" after 2006. (No written testimony.)

Rep. Dick Anderson: I move to adopt the amendment page 1; line 15 insert the word "or" after 2006.

Rep. Bob Hunskor: Second.

Voice vote: Carries.

Rep. Bill Devlin: Does this go to appropriations?

Chairman Porter: Yes.

Rep. Dick Anderson: I move a Do pass as amended and referred to appropriations.

Rep. Corey Mock: Second.

Vote: Yes 10, No 3, Absent 0

Rep. Dick Anderson: Carrier.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2271

Page 1, line 2, after the first semicolon insert "and"

Page 1, line 2, remove the second semicolon

Page 1, line 3, remove "and to declare an emergency"

Page 1, line 12, replace "or employ" with "for"

Page 1, line 23, replace "general" with "abandoned oil and gas well plugging and site reclamation"

Page 1, line 24, replace "\$660,000" with "\$400,000"

Page 2, line 2, after "program" insert "without additional full-time employees"

Page 2, line 2, remove "this"

Page 2, line 2, after "section" insert "1 of this Act"

Page 2, remove line 4

Renumber accordingly

March 20, 2015

AK
3-20-15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2271

Page 1, line 12, replace "or employ" with "for"

Page 1, line 15, after the first underscored comma insert "or"

Page 1, line 15, replace "or" with "and may not"

Page 1, line 23, replace "general" with "abandoned oil and gas well plugging site reclamation"

Page 1, line 24, replace "\$660,000" with "\$400,000"

Page 2, line 2, after "program" insert ", without additional full-time employees,"

Page 2, line 2, remove "this"

Page 2, line 2, after "section" insert "1 of this Act"

Renumber accordingly

Date: 3/20/15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2271**

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: 15.0550.04002

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. D. Anderson Seconded By Rep. Hunsakor

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					

Voice
Vote
Carries

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Propose amendment .04002 minus " Page 1, line 3; remove 'and to declare an emergency.'", minus " Page 2, 'remove line 4! "

Date: 3/20/15
 Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2271**

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: See below

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. D. Anderson Seconded By Rep Hunskor

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					

*Voice Vote
 Carries*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
PSC proposed amendment on page 1; line 15 insert the word "or" after code.

Date: 3/20/15
 Roll Call Vote #: 3

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2271**

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. D. Anderson Seconded By Rep. Mock

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) 10 No 3

Absent 0

Floor Assignment Rep. D. Anderson

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

REPORT OF STANDING COMMITTEE

SB 2271, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2271 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "or employ" with "for"

Page 1, line 15, after the first underscored comma insert "or"

Page 1, line 15, replace "or" with "and may not"

Page 1, line 23, replace "general" with "abandoned oil and gas well plugging site reclamation"

Page 1, line 24, replace "\$660,000" with "\$400,000"

Page 2, line 2, after "program" insert ", without additional full-time employees,"

Page 2, line 2, remove "this"

Page 2, line 2, after "section" insert "1 of this Act"

Renumber accordingly

2015 HOUSE APPROPRIATIONS

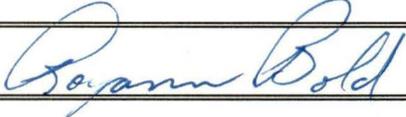
SB 2271

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2271
3/24/2015
25315

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact section 4-01-31 of the North Dakota Century Code, relating to a pipeline restoration and reclamation oversight program; to provide an appropriation; and to declare an emergency.

Minutes:



Chairman Jeff Delzer opened the meeting.

Representative Todd Porter, District 34 spoke on the bill.

Chairman Jeff Delzer

Timing on this; page 2 ...the emergency clause puts it into place quicker and you have a carry-forward item with the money on subsection 4.
What's the reasoning? Doesn't that argue with itself?

Porter: we didn't catch that; sub 4 is not a carry-forward

Brady Larson, Legislative Council: the bidding requirements; but the other does conflict

Porter: page 2, line 4; that would be a good thing to take that out.

Chairman Jeff Delzer

Still need the ending date

Porter: yes

Chairman Jeff Delzer

What happens if the money isn't expended? Does it go back into abandoned wells fund?

Brady: the appropriation would be cancelled, so the money would remain in the fund

Chairman Jeff Delzer: they can't access the money until they've used it?

Brady: correct.

Representative Monson

We have agriculture commissioner's budget; is this ombudsman program different than the mediator program he currently runs?

Porter:

Excellent question, the mediation program is when it reaches the point when they can't agree; out of the agriculture department budget. They hold hearings and do the mediation for that dispute.

Chairman Jeff Delzer

We talked about the county agent is doing this; would it in every county, is that why you went with 54-44.4; is there a problem with a state agency employee contracting with another state agency?

Porter: up to department of agriculture; in Dunn County there is a program up and running

Chairman Jeff Delzer

Brady: does that cause any problems; for the receiving agency?

Brady: I would have to check, not sure

Chairman Jeff Delzer

Pretty small amount, they would have room in their budgets

Representative Kreidt

Tell me about the ombudsman; are they volunteers

Porter: It's for that contract. They will find the person that wants to do the job and allow them to ...work with landowners, create those relationships.

Chairman Jeff Delzer

Use a long term care ombudsman

Representative Silbernagel

Would they have a civil engineering background?

Porter: no, they could be a retired farmer

Representative Nelson

Was that in the original bill?

Porter: no, it was general fund

Representative Nelson: what's the status of that fund?

Porter; I could get you close

Representative Nelson

Was the agriculture commissioner on board with this?

Porter: they appeared in support

Representative Boe

In the not so perfect outcome; sitting in front of a judge, where are the ombudsman and agriculture commission sitting?

Porter: I don't think so; the industry views it as a way to stay out of court

Representative Skarphol

Can this ombudsman be involved in advance of the pipeline being laid? If I have experience with it, how do you expect the individual whose land it on to not ask questions relative to easement negotiations?

Porter: as the bill was drafted, they did not want this position to be the negotiator, they wanted it to be the enabler and the fixer.
The verbiage we are looking for is that this person is sitting there on your behalf.

Representative Skarphol

They were not going to be splitting hairs over what could and couldn't be said.

Chairman Jeff Delzer

Are you comfortable with the language?

Representative Skarphol

I am comfortable, just wanted it to be on the record.

Chairman Jeff Delzer

You would not want them to be the agent for the pipeline company.

Hearing closed.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2271
4/2/2015
25791

- Subcommittee
 Conference Committee

Committee Clerk Signature

Donna Whetham

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact section 4-01-31 of the North Dakota Century Code, relating to a pipeline restoration and reclamation oversight program; to provide an appropriation; and to declare an emergency.

Minutes:

Chairman Jeff Delzer: SB 2271 is a bill that deals with the ombudsman pilot program, having the Agriculture Department access \$400,000 to contract from establishing a pipeline restoration and reclamation oversight pilot program. It is revenue for two years and the \$400,000 comes out of the abandoned oil and gas wells plugging reclamation fund. Which I believe it has about \$8 million dollars, that was after HB 1358, so there should be adequate money there. Did we change the date that they could go back to? Or did we talk about that some Legacy wells before 1981 in HB 1358? I think that money was appropriated in HB 1358 if I remember right. Does anyone have any concerns?

Representative Skarphol: Concerning the dates at the end, under Section 1 of this act for the biennium beginning July 1 why not, then they have the emergency clause, it seems like an oxymoron. If you have the emergency clause why not just an ending date so they could start doing it this spring if they desired?

Vice Chairman Keith Kempenich: I think there is an ending date on it.

Chairman Jeff Delzer: There is an ending date but there is also a starting date and it is for this biennium. Brady do you have any answers to whether this conflicts in the bill?

Brady Larson: North Dakota Legislative Council: When the emergency clause was added there should have been a change to the beginning day, it should have been changed to "with the effective date of the act". Apparently the was missed.

Chairman Jeff Delzer: If we want to go forward with this we should make that change.

Representative Skarphol: Motion to amend SB 2271 to whatever appropriate fashion council deems necessary to change the beginning effective date.

Vice Chairman Keith Kempenich: seconded.

Chairman Jeff Delzer: Any discussion?

Vice Chairman Keith Kempenich: The main reason this bill is here is that one of the bigger bottle necks and pipeline issues is getting access and the attempt is to do something on the front end of pipeline construction and then follow it up.

Chairman Jeff Delzer: We don't have any language on any reporting requirement on how well it works, you would guess that would come natural because of the end gate, if they want to do this in the future they will have to come back and justify why they did it. I don't know if we want to add a report on it.

Vice Chairman Keith Kempenich: That is part of the reason to get one of the agencies involved in this to oversee. I think we will know if it is working because they will be back in requesting again.

Chairman Jeff Delzer: Let's hope it is working well if they come back, again but that will be up to the next Legislative Assembly.

Representative Bellew: I need a good definition of ombudsman.

Chairman Jeff Delzer: It is somebody who is not part of the process it looks to help facilitate everyone be treated fair. That is about as good a definition as they give for long term care and this would be about the same thing.

Representative Kreidt: You are right, it is an independent person that in the nursing home setting will come into the facility, there is no connection with the facility and they come and visit with the residents to see if there are problems with care they are receiving. The first step if there was a problem found they report to the administrator and then it would go up the chain and if it is not taken care of it could result in a survey of that facility because of the complaint that was filed.

Chairman Jeff Delzer: Brady, please have Council research and see if there is a definition that fits ombudsman in this position and an email it to the committee.

Representative Dosch: In reading the bill it is basically restoration and follow-up, I don't know how this works. If a company wants to put a pipeline across someone's land, don't they have a contract which includes restoration and wouldn't that project be bonded so that if there is a problem a claim could be made against the bonding company? I am wondering why the state gets involved in this?

Chairman Jeff Delzer: I can't speak from total knowledge or not but I have had calls with rural water before where things were not done the way they said and there seemed very little they could do to work on this. I think the opportunity for this is to try to get someone

independent working between the two entities to make sure it is taken care of without becoming extremely adversarial as what a court proceeding would be.

Vice Chairman Keith Kempenich: I think it's the front part of this is where more of the emphasis is the resource for technical assistance, is more of the thrust than the reclamation part. There are good and bad operators of going in and reclaiming the area but it is more of making sure they have right assistance.

Chairman Jeff Delzer: I am sure some of the contracts have language in it some might not and it depends on who signs the contract.

Vice Chairman Keith Kempenich: Most of them do but that is to get into the contract to make sure they do have that in there before they start. Most of the players are getting educated but that's been the problem they got educated in a way that they don't want them back again and that is one of the problems, accessing it.

Representative Schmidt: When we take a look at the reclamation the front part of it is basically the technical assistance, we already have soil conservation districts which are elected officials of the local area and they are agricultural producers that deal with this and they have the technical support from the natural resources conservation of USDA to do this very thing. They have technical standards in those field offices and there are common levels that identify the grass seeding and the process to reclaim these lands this ability already exists from local people who are the neighbors of the other folks who are getting the lines. I believe that service exists already and just needs to be used more.

Chairman Jeff Delzer: In some places that might be true but in other places it isn't true and the idea behind this was to try to get it pursued further in some of the places where they are having a hard time getting it done.

Vice Chairman Keith Kempenich: That is true. As example, McKenzie county, their NRCS is very active in what is going on out there, but some aren't. The intent of this was to get more coordination in other areas and to coordinate with the people that are doing it. This is trying to bring everyone together and they do move forward with this. That is where the problem is not everyone is doing it.

Representative Skarphol: I think the intent here is the term ombudsman, because there are no qualifications that are set, no educational standards other than someone who has experience. That is why the term ombudsman is used, the intent is to use the very people but also other people that have experience in identifying and recognizing the issues, helping that landowner who has difficulty and pointing them in the right direction to find the expertise that you referred to. It is to try to create an environment that is more cordial than it has been in the past with regard to these reclamation issues. There a lot of them out there where a pipeline has been put in and 3 years later something happens and you have to go back and get it cleaned up. That is what is all about, not so much the immediate need to clean up the bad things that have gone on out there. I believe after a period of time this will solve itself.

Chairman Jeff Delzer: We have a motion to amend to put in SB 2271 that this would basically take effect whenever the bill signed if the emergency clause carries and end June 30, 2017.

Voice was taken. Motion carried.

Vice Chairman Keith Kempenich: Motion for Do Pass as Amended on SB 2271.

Representative Skarphol: seconded.

A Roll Call Vote was taken. Yes: 19 No: 2 Absent: 2. Motion carried.

Representative Skarphol: will carry the bill.

15.0550.04004
Title.06000

Prepared by the Legislative Council staff for
House Appropriations Committee
April 3, 2015

AK
4-3-15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2271

In addition to the amendments adopted by the House as printed on pages 1095 and 1096 of the House Journal, Engrossed Senate Bill No. 2271 is further amended as follows:

Page 2, line 3, replace "biennium beginning July 1, 2015" with "period beginning with the effective date of this Act"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2271, as engrossed and amended: Appropriations Committee (Rep. Delzer, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (19 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2271, as amended, was placed on the Sixth order on the calendar.

In addition to the amendments adopted by the House as printed on pages 1095 and 1096 of the House Journal, Engrossed Senate Bill No. 2271 is further amended as follows:

Page 2, line 3, replace "biennium beginning July 1, 2015" with "period beginning with the effective date of this Act"

Renumber accordingly

2015 TESTIMONY

SB 2271

#1

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov
www.nd.gov/ndda

NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

Testimony of Doug Goehring, Agriculture Commissioner
North Dakota Department of Agriculture
Senate Bill 2271
Senate Agriculture Committee
Roosevelt Park Room
January 30, 2015

Chairman Miller and members of the Senate Agriculture Committee, I am Agriculture Commissioner Doug Goehring. Thank you for the opportunity to appear before the committee. I am here today in support of SB 2271, which establishes a pipeline restoration and reclamation oversight pilot program.

As agriculture commissioner and a member of the Industrial Commission, pipeline companies and landowners continuously reach out to my office seeking help when dealing with pipeline concerns. As the amount of pipelines placed increases, these calls have also increased. Pipelines will continue to be sited throughout the state, and landowners and companies want assurances that problems will be addressed.

This bill establishes a pilot program to act as a liaison between landowners and pipeline companies. The pilot program will be run by an ombudsman in my office whose responsibility will be receiving and resolving complaints. To resolve issues, the ombudsman or contractors, will work directly with companies and landowners to identify reclamation or restoration issues.

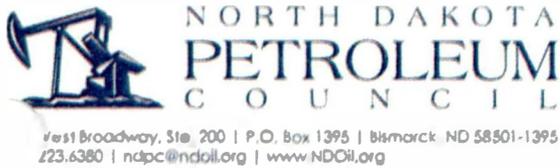
This work will include developing a timeline for corrective measures and conducting follow-up reviews to ensure work is finished in a satisfactory and timely manner.

In situations where a pipeline operator and a landowner cannot agree on a corrective plan of action, mediation is a viable option. Many of the complaints I receive result from misunderstandings or miscommunication. Often, these problems can be solved by bringing both parties to the table and facilitating a conversation.

Going forward, more pipelines will be placed on the landscape. This pilot project is a step forward in ensuring the long-term productivity of the land. I believe landowners in North Dakota need to build confidence and know that their needs will be addressed if they have issues surrounding pipeline reclamation.

Accordingly, Chairman Miller and committee members, I urge a “do pass” on SB 2271. I would be happy to answer any questions you may have.

Thank you.



Senate Bill 2271
Testimony of Alexis Brinkman-Baxley
Senate Agriculture Committee
January 30, 2015

Chairman Miller and members of the Senate Agriculture committee, my name is Alexis Baxley and I represent the North Dakota Petroleum Council. The North Dakota Petroleum Council (NDPC) represents more than 550 companies directly employing 65,000 employees in North Dakota in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I stand before you today in support of SB 2271, which would create a pilot program to provide a local resource, or ombudsman, for landowners.

Ten months ago, the NDPC put together a Right-of-Way Task Force. We brought together industry, regulators, and landowners to figure out why easements had become so difficult to obtain and what we could do to address the problem. We put together a number of things – a database of company contact information, a land agent code of conduct, a project summary worksheet, a pipelines 101, an incident reporting form through DMR and a FAQ. All of these things were made available online. But, the more we talked, and the more we heard from landowners, the more obvious it became that these documents alone were not going to do it.

They're good information, but they lack one major thing: trust. In all of our discussions – and there were many – it became incredibly clear that the one thing the entire process was lacking was a source of trust. Farmers and ranchers don't have hours of time to spend looking online for resources, contacts or what their options are. They needed someone neutral, trustworthy and local who would serve as a resource and an advocate for issue resolution.

The definition of an ombudsman is: *a public advocate who is usually appointed by the government,*

but with a significant degree of independence, who is charged with representing the interests of the public by investigating and addressing complaints. And, that is exactly what we hope this program will be – someone who can take the emotions and the business bottom line out of the equation and advocate for what is right in each particular situation, regardless of what or what that favors.

The program was intentionally kept broad, as with any pilot program, the goal is to figure out exactly what is needed and what works, but here are a few of the things we'd intended it to do:

- Serve as a local point of contact for a landowner and facilitate communication with other entities
- Serve as a resource of information – both on pipeline practices and reclamation
- Serve as support for the landowner both prior to installation and after reclamation if needed
- Provide public education and outreach.

There are also a couple of things we do NOT expect the program to do:

- Provide legal counsel or assistance in negotiating an easement
- Serve as an inspector or regulator

The landowners are tired. If we want to keep putting pipes in the ground, and I think it is important that we do, it's important they we find a way to make the process easier for landowners and give them confidence in the final product. For those reasons I ask for a do-pass recommendation on SB 2271. With that I would stand for any questions.



Written Testimony Provided To:
Senate Agriculture Committee
By Dick Vande Bossche
Director, ONEOK Rockies Midstream
January 30, 2015

Regarding: Senate Bill No. 2271

Mr. Chairman and members of the committee,

For the record, my name is Dick Vande Bossche, and I serve as director of project development for ONEOK Rockies Midstream (ORM) and am based in Sidney, Montana.

ORM is the largest natural gas gathering and processing company in the Williston Basin with approximately 3 million oil production acres in North Dakota dedicated to our network of more than 6,500 miles of natural gas gathering pipelines and 600 million cubic feet per day of natural gas processing facilities.

Working with landowners and tenants is a critical part of ORM's daily operations, and we are proud of our success in signing more than 5,000 easements to connect more than 3,500 wells since 2010, while installing an average of 500 to 600 miles of new pipelines per year during the same four-year cycle. We know, however, that our record is not perfect, and we continually seek new ways to improve our pipeline construction restoration performance and our communications with landowners and tenants. That is why we have been actively involved in the North Dakota Petroleum Council's Landowner Right-of-Way Task Force. As a result of the conversations had through that group, we are currently in the process of building a new internal reporting system where landowners and tenants can notify us of concerns or issues they may have within ORM's pipeline easements on their land. We recognize our relationships with landowners and tenants are continuous and do not stop once the easement has been signed; on the contrary, they are really just beginning. It is our goal to make sure each landowner and tenant is comfortable with our company and confident in our commitment to our easement agreement and the stewardship of their land.

We stand in support of Senate Bill 2271 because we understand landowners and tenants have lost trust and confidence in many of the companies they have dealings with. We hope this pilot program will both help rebuild what has been lost and quickly prove itself unnecessary as direct communication between landowners and companies continue to improve.

Thank you for allowing me to provide these comments, and I will stand for any questions.

Landowner Reclamation Request Guideline



ONEOK WILLISTON BASIN

1. Purpose / Expectation:

This Guideline and Procedures document establishes the recommended procedures for the handling of landowner reclamation requests.

2. Guideline and Procedures:

- I. Receiving a Request: A landowner will have the ability to submit a request in two ways. First, they can submit a request online. They can also call into a toll free number. The employee will be able to utilize the same online request form to submit the request. The website is located at www.oneok.com/landowners.

HOME Print

Landowner Reclamation

Requestor Name:

Landowner Email:

Landowner Name:

Address:

City:

State:

Zip:

Phone (Home):

Phone (Cell):

Preferred Contact:

Property Description:

Last ONEOK Contact (if known):

Description of Request:
(Please briefly describe the issue)

Additional Comments:

The site or live operator would let the landowner know that there would be a field representative following up with them within 48 hours.

ONEOK field employees will be instructed on how to handle landowner requests that are made to them directly. These requests will be routed and appropriately tracked.

Third party groups that relay landowner requests will be given the toll free number and website information to be able to submit requests on the behalf of the landowner.

Landowner Reclamation Request Guideline



ONEOK WILLISTON BASIN

- II. Investigating Request: Upon submission, the system will generate a notification e-mail to ONEOK field staff. The follow up contact to the Landowner will happen within 24 hours of the submission.

Field Staff will take the information from the form and use GIS software to determine the location of the issue and ensure that ONEOK has facilities in the area. The file will then be handed off to the Agent assigned to that area.

The request will be tracked and all records retained. Each step in the process will be tracked by date of completion. A "completion log" will be kept to ensure each request has had the appropriate action taken.

The Agent will make contact with the landowner and schedule a time for the issue to be investigated by the Construction Coordinator. The Agent will ensure that the Landowner knows that the request is being investigated, and that we are committed to fixing the issue.

If the issue is found to originate outside of ONEOK responsibility, the Agent will assist the Landowner in finding reliable contact information for the responsible party.

- III. Completing Request: The Coordinator would be responsible for completing the field work necessary for proper reclamation.

Upon final clean up, the landowner would be asked to sign-off that the reclamation claim was complete.

Landowner Reclamation

3c-1

Requestor Name:

Landowner Email:

Landowner Name:

Address:

City:

State:

Zip:

Phone (Home):

Phone (Cell):

Preferred Contact:

Property Description:

Last ONEOK Contact (If known):

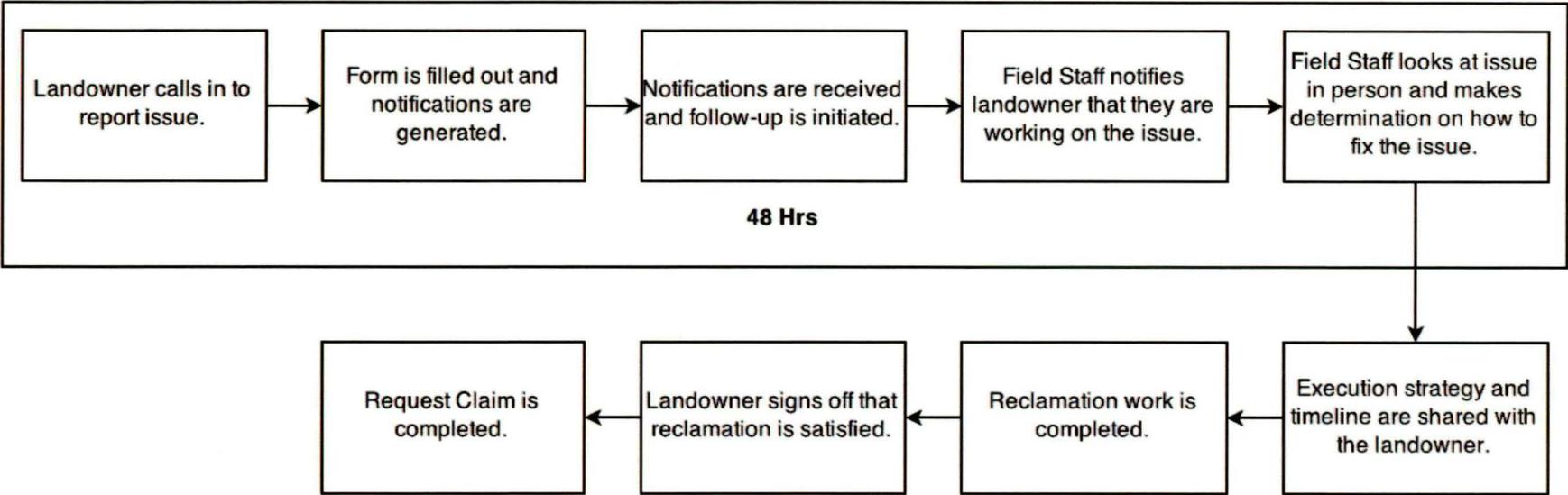
Description of Request:

(Please briefly describe the issue)

Additional Comments:

SUBMIT!

Landowner Reclamation Request Process



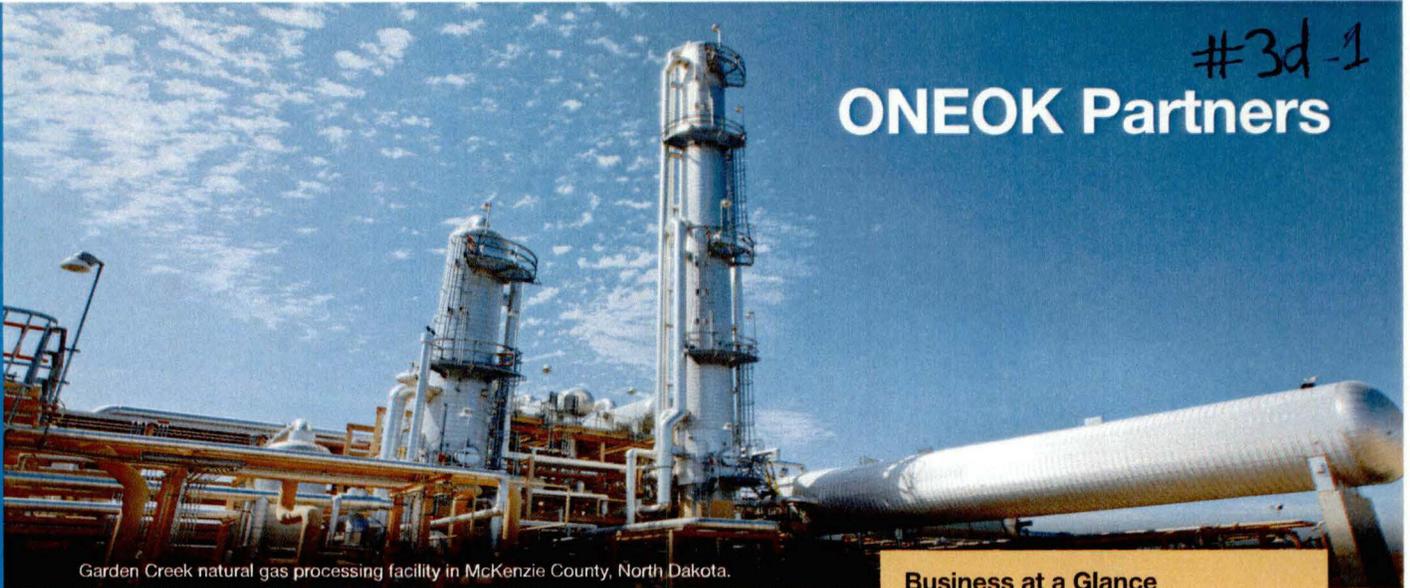
CONFIDENTIAL – DO NOT COPY



3c-2

#3d-1

ONEOK Partners



Garden Creek natural gas processing facility in McKenzie County, North Dakota.

ONEOK Partners, L.P. (pronounced ONE-OAK) (NYSE: OKS) is one of the largest publicly traded master limited partnerships and a leader in the natural gas and natural gas liquids (NGL) businesses. We own and operate assets in the Williston Basin, Mid-Continent and Texas Gulf Coast regions.

ONEOK Partners is the largest independent operator of natural gas gathering and processing facilities in the Williston Basin, with a natural gas gathering system of more than 6,500 miles and more than 3 million acres where production is dedicated to our systems. Our pipeline systems in the Williston Basin gather natural gas from the wellhead, compress it and transport it to processing facilities where NGLs are extracted. We deliver marketable natural gas and NGLs to interstate natural gas and NGL pipelines that serve markets in the Mid-Continent and Rocky Mountain regions.

ONEOK Partners Williston Basin Economic Impact

Payroll (2013)	North Dakota: \$10,847,800	Montana: \$ 7,197,500
Employees (as of July 31, 2014)	North Dakota: 131	Montana: 86
Property Tax (2013)	North Dakota: \$4,046,100	Montana: \$5,028,200
Community Investments (Paid in 2013 and approved for payment in 2014)	North Dakota: \$236,900	Montana: \$11,200

Recently, ONEOK also pledged:

- \$1 million to the McKenzie County Healthcare System toward the construction of a new hospital in Watford City, North Dakota;
- \$250,000 to help fund the expansion of the North Dakota Heritage Center in Bismarck;
- \$50,000 toward the construction of the Northwest Health & Wellness Center located in Crosby, North Dakota; and
- \$25,000 to support the capital campaign for Wolf Run Village, a new affordable day-care facility located in Watford City, North Dakota.

Business at a Glance

North Dakota and Montana Infrastructure

Natural gas pipeline miles:	6,500
Natural gas processing plants:	8
Natural gas processing capacity:	615* MMcft/d

**Projects announced will increase capacity to approximately 1.2 billion cubic feet per day (Bcf/d) by late 2016*

ONEOK Partners is dedicated to creating value for our stakeholders by:

- Investing in necessary natural gas gathering and processing infrastructure that will reduce the flaring of natural gas in the region, benefitting producers and customers, and improving the environment;
- Remaining a safe, reliable and environmentally responsible operator; and
- Recruiting talented employees, dedicated to providing value-added services to our customers.

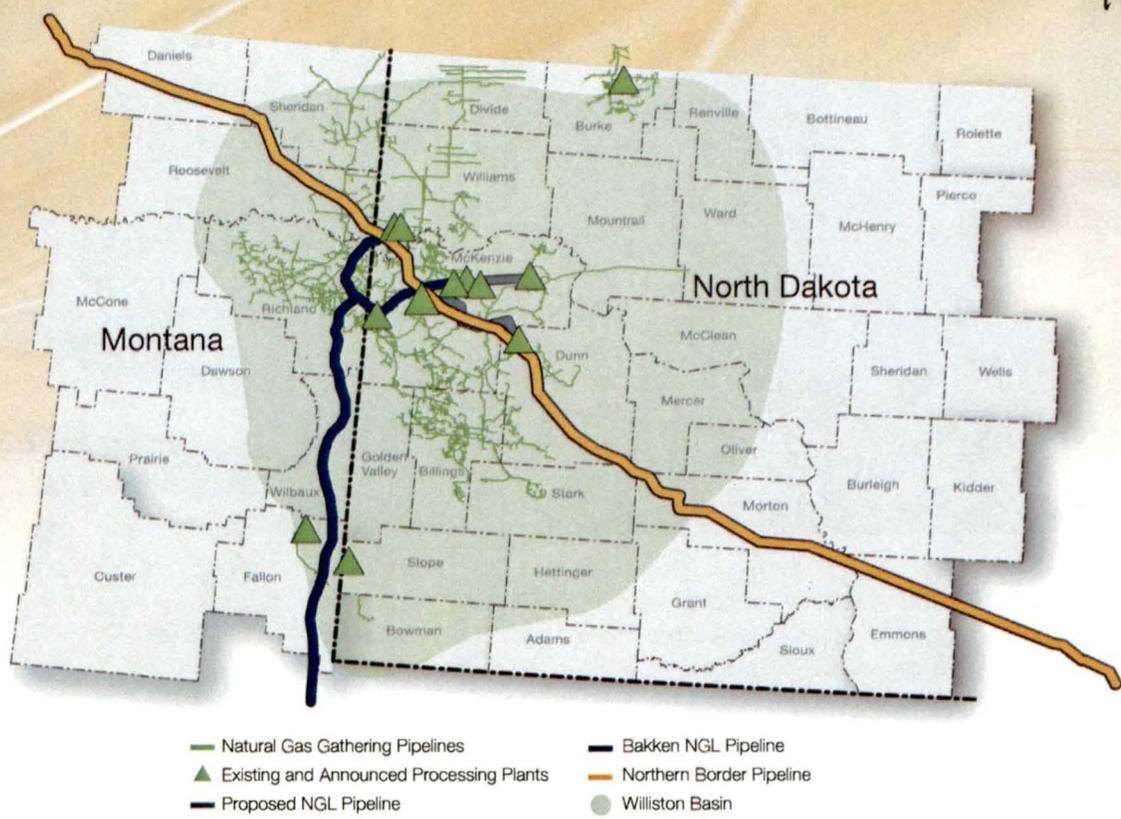
For more information visit
www.oneokpartners.com

The ONE in Energy.™



**ONEOK
PARTNERS**

#3d-2



ONEOK Partners has completed \$8 billion of capital-growth projects and acquisitions from 2006 – 2014 and has investments of approximately \$3 billion in additional capital-growth projects in various stages of construction across its operating areas related to natural gas gathering and processing, and natural gas liquids scheduled for completion through 2016.

ONEOK Partners – Williston Basin Investments

Completed since 2010

- Five 100-MMcf/d natural gas processing plants – the Garden Creek, Garden Creek II and Garden Creek III plants in McKenzie County, N.D. and the Stateline I and II plants, in Williams County, N.D.
- Approximately 2,000 miles of natural gas pipeline infrastructure.
- Approximately 300 MMcf/d additional natural gas compression capacity.
- A 270-mile natural gas gathering system and related infrastructure in Divide County, N.D.

Announced

- Two 200-MMcf/d natural gas processing plants – the Lonesome Creek plant and the Demicks Lake plant in McKenzie County, N.D. *Expected completion: year-end 2015 and third quarter 2016, respectively.*
- An expansion of the Bakken NGL Pipeline, increasing capacity to 160,000 barrels per day from 135,000 bpd. *Expected completion: first half 2016.*
- An 80-MMcf/d natural gas processing facility – the Bear Creek plant – in northwest Dunn County, North Dakota. *Expected Completion: second quarter 2016.*
- An additional 100 MMcf/d natural gas compression to take advantage of additional natural gas processing at the partnership’s Garden Creek and Stateline natural processing plants.

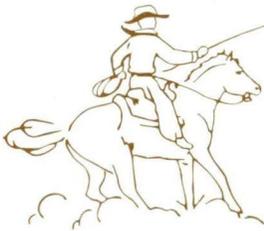
Contact ONEOK Partners:

Careers: www.theonetoworkfor.com
 Government Relations: 701-751-6005
 Media: 918-591-5026
 Operations: 406-433-3664

1/30/15

#4

North Dakota STOCKMEN'S ASSOCIATION



407 S. 2ND STREET, BISMARCK, ND 58504
(701) 223-2522
ndsa@ndstockmen.org • www.ndstockmen.org

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IMMEDIATE PAST PRESIDENT
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Towner

SB 2271

Good morning, Chairman Miller and members of the Senate Agriculture Committee.

For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, an 85-year-old, 3,000-member cattle producers' trade organization.

We rise in support of SB 2271, which will establish a pipeline restoration and reclamation oversight pilot program within the Department of Agriculture.

As the state prepares for more pipeline development, now is the perfect time to put resources in place to support surface owners and surface tenants through technical assistance and follow-up support regarding reclamation and other pipeline-related matters. This is an important issue for many of my members.

The Department of Agriculture's Mediation Service has had a positive track record in helping parties find mutually agreed upon solutions, and we are confident that this program would follow that line and be a positive feature for surface owners.

BOARD OF DIRECTORS

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Washburn
DENNIS JACOBSON
Wildrose
RANDY SCHMITT
Rugby

#5-1

Testimony to the

Senate Agriculture Committee

Provided by Daryl Dukart

January 28th, 2015 1/30/15

RE: SB2271 Pipeline restoration and reclamation oversight pilot program

Senate Ag Committee,

As a landowner, I have a number of easements dealing with Right of Ways for oil and gas production pipelines, Southwest Water, Consolidated Telephone fiber optic lines, and electrical lines. Our 1880 acre ranch has in place over the last 5 years, eleven new easements dealing with one of the enterprises I noted above. The oil and gas industry is not the only one we deal with, for I have found fault with Consolidated Telephone Company in not doing the reclamation work they prescribed in the easement; along with no contact after the line was plowed in to see if we had problems or question of them.

The balance of this testimony will reflect on my views as a County Commissioner, leader, and organizer for Dunn County Energy Development Organization, which consists of landowners who are surface owners in Dunn County.

County landowners or member of the organization often say to me, "I called Name Company to report erosion of an area on their pipeline and they told me they sold the company to New Name Company." The landowner then spends another couple of hours looking for the new company. The company tells them it will be turned over to the correct department and someone will be in contact with them. Several days pass and the wet weather continues to create even greater troubles on the problem area the pipe is showing in the erosion area. Finally after several days, a call is received from New Name Company asking a number of questions to the landowner making sure it their pipeline. The landowner is then told that someone will be out there over the next several days.

I assure you many of these get fixed and repaired to the liking of the landowner. However, we have those few issues which just never get solved and the hardship from this is verbally spread around which then leads to more and more landowners saying we do not want to deal with this any longer.

I see the need for an ombudsman for this highly fast developing area of western North Dakota. Since so many of these pipeline developments are not regulated under the Public Service Commission we need these types of position to help the surface owners with these types of situations. Dr. Kevin Sedivec, NDSU, has put together an excellent presentation on **Successful Reclamation of Lands Disturbed by Oil and Gas Development and Infrastructure Construction**. All of you need to see, read, or hear this. It is a great documentary dealing with the many struggles landowners deal with after infrastructures are placed on our land. I served on the pipeline task force and I believe the direction of our committee was for NDSU Extension to be an educational and material information center for landowners. Mr. Sedivec has provided this.

Now the next step is an ombudsman in the needed pilot areas requested by the Ag Commissioner. I can say McKenzie County and Dunn County Soil Conservation Districts (SCD) and landowners have been building and working with this idea for over a year now. Who better than the people who understand soils – work in the areas of present problems and are environmentally knowledgeable about the area? These

SCD employees work presently with the patrons of their counties, understand the issue, and have access to the property information in their offices.

I could list pages of issues dealing with salt/brine water spills, other pipeline issues, oil well site problem areas, and so on as they are regulated by NDIC or the State Health Department and have the same problems and issue we still do as landowners. Passing the buck is not the answer; the answer as I see it is the need for hands on individual who understand the environmental stress these types of problems cause landowners, our communities, and our state.

I would encourage a do pass with amendments to say this pilot project would be funded with two grants in the sum of \$600,000 per grant to an SCD office area either in McKenzie or Dunn Counties who would then have to share in the ombudsman duties and one in either Mountrail or Williams Counties who too would share. I feel the \$600,000 allows for them to have a second employee in the area and allows for work to be done outside these four area counties under some kind of contract agreement. One other thing that, I believe, adds strength to this idea is the SCD county boards who will still oversee the functions of this position.

I do not feel we need another state government position to address this issue. Local landowners in general, I believe, will or would suggest much the same. Local control will get this job done quickly and less costly. It becomes a hands-on pride issue for these communities and landowners in these impacted counties.

Thank you,

Dunn County Landowner

Dunn Energy Development Organization Facilitator

Dunn County Commissioner

15.0550.03002
Title.

Prepared by the Legislative Council staff for
Senator Klein

February 5, 2015

#1
2/6/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2271

Page 1, line 2, remove the second "and"

Page 1, line 3, after "appropriation" insert "; and to declare an emergency"

Page 1, line 24, replace "\$1,000,000" with "\$660,000"

Page 2, after line 3, insert:

"SECTION 3. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov #1
www.nd.gov/ndda

2-13-15
SB 2271

NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

Testimony of Ken Junkert, Director, Administrative Services Division
North Dakota Department of Agriculture
SB 2271
Senate Appropriations Committee
Harvest Room
February 13, 2015

Chairman Holmberg and members of the Senate Appropriations Committee, I am Ken Junkert, Director of the Administrative Services Division at the North Dakota Department of Agriculture.

Thank you for the opportunity to appear before the committee. I am here today on behalf of Agriculture Commissioner Doug Goehring in support of the appropriation for the SB 2271, which funds the creation of a pipeline restoration and reclamation oversight pilot program.

Section 2 of this bill provides a \$660,000 appropriation to the agriculture commissioner for the purpose of establishing and administering the pilot project. The budget will be used for the following:

- Salaries: \$203,933
- Operating: \$456,067
- TOTAL: \$660,000

The salary funds will be used to hire a temporary ombudsman and to pay for 25 percent of a position for administrative support for the program. The agriculture commissioner is not requesting any new FTEs for the pilot program. The majority of operating expenditures will be used for contracting local ombudsmen to assist with case work.

The mission of the pilot program is to enhance landowner trust and cooperation in North Dakota's energy development future by providing timely, effective, and impartial complaint management between surface owners and tenants and pipeline companies. Most importantly, this pilot program can assist in resolving reclamation issues before further erosion of confidence by the surface owners and tenants and before loss of productivity by both parties. This bill will provide a balanced approach by using non-regulatory approaches to balance land use needs and foster relationships between land stakeholders.

Accordingly, Chairman Holmberg and committee members, Commissioner Goehring urges you to support the appropriation and to provide a "do pass" on SB 2271. I would be happy to answer any questions you may have.

Thank you.

COMMISSIONER
DOUG GOEHRING



NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E. BOULEVARD AVE. - DEPT. 602
BISMARCK, ND 58505-0020

ndda@nd.gov
www.nd.gov/ndda

2

2-13-15

SB2271

February 9, 2015

Dear Senator Appropriations Clerk:

The attached packet contains logistical details regarding how the Department of Agriculture foresees potentially implementing SB 2271, the pipeline restoration and reclamation oversight program. You will find information regarding the vision, mission and goals of the program; as well as details about the ombudsman's position and duties.

Please feel to contact me or Administrative Services Division Director Ken Junkert at 701-328-4756 or kjunkert@nd.gov with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Doug Goehring".

Doug Goehring
Agriculture Commissioner

#2.1



Doug Goehring, Agriculture Commissioner

DRAFT 2.0

Pipeline Restoration and Reclamation Oversight Pilot Program

Vision Statement

"The ombudsman is the recognized lead facilitator for promoting fairness when resolving pipeline reclamation and restoration issues, concerns, and disputes."

Mission Statement

"To enhance landowner trust and cooperation in North Dakota's energy development future by providing timely, effective, and impartial complaint management between surface owners/tenants and pipeline companies."

Values

"These values guide activities and actions of the pilot program as carried out by the ombudsman. They demonstrate the agriculture commissioner's belief that the manner in which the pilot program is administered must be purposeful in progressing the goals North Dakota is trying to achieve by creating the pilot program."

The pilot program values:

- *Fairness*
- *Respect*
- *Integrity, and*
- *Equity*

This pilot program also values a working environment that fosters innovation and collaboration.

Ombudsman Position Description

This position is employed by the North Dakota Department of Agriculture (NDDA). The ombudsman will manage complaint cases by receiving, reviewing, and attempting to resolve complaints from surface owners/tenants. In addition, the ombudsman will analyze complaint data and provide the agriculture commissioner with recommendations for the improvement of the pilot program. The ombudsman will have frequent contact with

surface owners/tenants, and representatives from pipeline companies by conducting outreach and managing complaints.

Knowledge, Skills, and Abilities

To be an effective ombudsman, individuals employed must have the following attributes:

- Concern for fairness
- Effective consensus-building and facilitator skills
- Good listening skills
- Established analytical ability
- Effective stress management skills
- General knowledge of subject matter
- Keep professionally current by pursuing continuing education and training

Primary Functions

The ombudsman has the following primary functions:

- Problem prevention
- Conflict resolution
- Communication facilitation

Functional Description

The ombudsman:

- Serves as a designated neutral resource for surface owners and tenants to raise concerns and request assistance to informally resolve conflicts and problems
- Implements, evaluates, and improves pilot program processes
- Promotes the availability of the pilot program to surface owners/tenants and pipeline companies
- Monitors and tracks inquiries, complaints, and disputes
- Seeks to provide effective and equitable conflict resolution
- Focuses on customer service to provide an identifiable and accessible process for receiving complaints and resolving disputes
- Directs surface owners/tenants to the correct process or agency (outside the ombudsman program) when appropriate
- Makes recommendations to the agriculture commissioner if a general problem trend is identified

Pilot Program Process

The ombudsman proceeds by way of independent and impartial examinations initiated upon complaints by surface owners/tenants. The ombudsman's objective is to develop a service culture characterized by fairness, dedication, openness, and accountability. The ombudsman may use informal facilitation or mediation to avoid actions that can be costly and damaging to the surface owner/tenant and the pipeline company.

The below steps will be followed:

1. NDDA will:

- a. Establish methods for surface owners/tenants to issue complaints
 - i. Complaints will be taken by:
 1. Phone
 2. Email
 3. Web reporting
 4. Personal interview
 - b. Establish a method to track and assign complaint cases assigned to ombudsmen
 - c. Prepare periodic reports to the agriculture commissioner regarding pilot program activity
 - d. Hire or contract with qualified ombudsmen
2. The ombudsman will:
 - a. Make initial contact with the surface owner/tenant within 48 hours of receiving the complaint
 - b. Conduct a site examination with the surface owner/tenant and document all issues associated with the complaint
 - i. Site issues and impacts may include:
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 4. Slumping
 5. Lack of established vegetation
 6. Non-native species invasion
 7. Scalping of native vegetation and soils
 8. Incomplete topsoil and subsoil retrieval from storage areas
 9. Alteration of natural landscape topography and drainage patterns; possible disruption of normal groundwater flows
 10. Improper vehicle access to work site
 11. Other
 - c. Meet with surface owner/tenant and pipeline company on site to review reclamation/restoration issues
 - d. Work with surface owner/tenant and pipeline company to develop a plan and timeline to address the complaint
 - e. Monitor agreed upon reclamation/restoration site work
 - f. Provide final report to all parties to the dispute and to the agriculture commissioner
3. The ombudsman will not:
 - a. Provide legal counsel or assistance in negotiating an easement
 - b. Interfere with or supersede any agreements between surface owners/tenants and pipeline companies
 - c. Conduct any regulatory functions

Outreach and Education

NDDA will conduct a carefully planned and managed outreach program.

Things to consider by surface owners/tenants

Surface owners/tenants are in the best position to identify challenges, concerns, or potential problems that may occur from pipeline installation. These efforts will improve communication and head off any issues before problems occur.

Surface owners/tenants may consider the following:

- Pipeline pathway
- Type of pipeline installation: trenched, plowed, backhoed
- Soil impacts: soil type, top soil and subsoil impacts, slope
- Type of vegetation/species being reestablished: grass, legumes, forbs
- Timeline: beginning project date, work site cleanup, reclamation/restoration work, general maintenance
- Other issues you feel the contractor/pipeline company should know about your property: springs, access points (gates), livestock, field operations, activities

Program Assessment

NDDA will use customer satisfaction surveys and stakeholder interviews to complete an annual program assessment.

Pilot Program Goals

Goal 1: Recognized authority

- Be recognized as an authority that can evaluate issues and identify options after an impartial review of the complaint

Goal 2: Create trust

- Create surface owner/tenant trust in working with pipeline companies
- The state's creation of the pilot program creates a venue to address concerns and enhance communication

Goal 3: Save resources

- Save valuable resources by preventing disputes and resolving them in a timely manner in place of costly litigation

Goal 4: Balanced approach

- Support surface owners/tenants and the energy industry by using a non-regulatory approach to balance land use needs and foster the relationship between land stakeholders

General Pilot Program Objective Statements

1. Pipeline reclamation and restoration problems addressed in the early stages have a higher degree of resolution and can often be resolved before further erosion of confidence by the surface owner/tenant and before loss of productivity by both parties

2. Effective education of key stakeholders regarding the goals of the program will create buy-in and cooperation
3. The ombudsman does not necessarily have to identify the solution to a problem
 - The ombudsman will be most successful by helping surface owners/tenants and pipeline companies identify and carryout solutions
4. The ombudsman must be an effective consensus-builder and facilitator

For further pilot program information, please contact Ken Junkert at 701-328-4756.

DRAFT



#3

SB 2271

2-13-15

Senate Bill 2271
Testimony of Alexis Brinkman-Baxley
Senate Agriculture Committee
February 13, 2015

Chairman Holmberg and members of the Senate Appropriations committee, my name is Alexis Baxley and I represent the North Dakota Petroleum Council. The North Dakota Petroleum Council (NDPC) represents more than 550 companies directly employing 65,000 employee in North Dakota in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I stand before you today in support of SB 2271, which would create a pilot program to provide a local resource, or ombudsman, for landowners.

Ten months ago, the NDPC put together a Right-of-Way Task Force. We brought together industry, regulators, and landowners to figure out why easements had become so difficult to obtain and what we could do to address the problem. We put together a number things – a database of company contact information, a land agent code of conduct, a project summary worksheet, a pipelines 101, an incident reporting form through DMR and a FAQ. All of these things were made available online. But, the more we talked, and the more we heard from landowners, the more obvious it became that these documents alone were not going to do it.

They're good information, but they lack one major thing: trust. In all of our discussions – and there were many – it became incredibly clear that the one thing the entire process was lacking was a source of trust. Farmers and ranchers don't have hours of time to spend looking online for resources, contacts or what their options are. They needed someone neutral, trustworthy and local who would serve as a resource and an advocate for issue resolution.

The definition of an ombudsman is: *a public advocate who is usually appointed by the government,*

#3 - 1

but with a significant degree of independence, who is charged with representing the interests of the public by investigating and addressing complaints. And, that is exactly what we hope this program will be – someone who can take the emotions and the business bottom line out of the equation and advocate for what is right in each particular situation, regardless of what or what that favors.

The program was intentionally kept broad, as with any pilot program, the goal is to figure out exactly what is needed and what works, but here are a few of the things we'd intended it to do:

- Serve as a local point of contact for a landowner and facilitate communication with other entities
- Serve as a resource of information – both on pipeline practices and reclamation
- Serve as support for the landowner both prior to installation and after reclamation if needed
- Provide public education and outreach.

There are also a couple of things we do NOT expect the program to do:

- Provide legal counsel or assistance in negotiating an easement
- Serve as an inspector or regulator

The landowners are tired. If we want to keep putting pipes in the ground, and I think it is important that we do, it's important they we find a way to make the process easier for landowners and give them confidence in the final product. For those reasons I ask for a do-pass recommendation on SB 2271. With that I would stand for any questions.

3 / 6 / 15

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Chairman Porter and committee members, I am Tom Wheeler from Ray, representing North West Landowners Association. I would like to express why SB 2271 is important to North Dakota.

Some call it pipeline fatigue. Landowners in general especially those that live in oil country are tired of the process of putting pipe in the ground and all that goes with it.

At the beginning of the boom the rush to produce oil and natural gas created an environment where industry was hiring anyone to get the job done. Many of those early contractors were not the best. It seemed like get the pipe in the ground fast and keep moving.

The results were: trenches settling, top soil not replaced, fences not fixed properly, grass not established sufficiently to prevent erosion, and stones not removed. Common practices not followed correctly.

We have had many landowners tell us " the way I was treated last time, I will never allow another pipeline."

But the fact is, we need pipelines to get trucks off the roads. Pipe lines are essential to saving the roads. Pipe lines are also the means to reduce flaring of natural gas. And they are the safest method to move product for refining.

SB 2271 will set forth a program that will put in place somewhere landowners can go for proper reclamation. An ombudsman will check out the landowners concerns and work with the company to correct issues.

It appears that the bad actors are either gone or have changed their methods. I hope that work done presently and in the future will be done properly and this program will not be needed.

SB 2271 provides an opportunity to make amends for past mistakes and give landowners a reason to be more receptive to requests for putting pipe in the ground.

This in turn will get product to the market faster. Thereby making more money for industry, mineral owners and the state of North Dakota. Also saving money on rebuilding and repairing roads for local and state entities.



Senate Bill 2271
Testimony of Alexis Brinkman-Baxley
House Energy & Natural Resources Committee
March 6, 2015

Chairman Porter and members of the House Energy and Natural Resources committee, my name is Alexis Baxley and I represent the North Dakota Petroleum Council. The North Dakota Petroleum Council (NDPC) represents 500 companies directly employing 65,000 employee in North Dakota in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I stand before you today in support of SB 2271, which would create a pilot program to provide a local resource, or ombudsman, for landowners.

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They're good information, but they lack one major thing: trust. In all of our discussions – and there were many – it became incredibly clear that the one thing the entire process was lacking was a source of trust. Farmers and ranchers don't have hours of time to spend looking online for resources, contacts or what their options are. They needed someone neutral, trustworthy and local who would serve as a resource and an advocate for issue resolution.

The definition of an ombudsman is: *a public advocate who is usually appointed by the government,*

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And, that is exactly what we hope this program will be – someone who can take the emotions and the business bottom line out of the equation and advocate for what is right in each particular situation, regardless of what or what that favors.

The program was intentionally kept broad, as with any pilot program, the goal is to figure out exactly what is needed and what works, and the Ag Department will testify today to describe how they intend to run the program. There are, however, couple of things we do NOT expect the program to do:

- Provide legal counsel or assistance in negotiating an easement
- Serve as an inspector or regulator

The landowners are tired. If we want to keep putting pipes in the ground, and I think it is important that we do, it's important they we find a way to make the process easier for landowners and give them confidence in the final product. For those reasons I ask for a do-pass recommendation on SB 2271. With that I would stand for any questions.

COMMISSIONER
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600 E BOULEVARD AVE DEPT 602
BISMARCK, ND 58505-0020

Testimony of Tom Bodine, Deputy Agriculture Commissioner
North Dakota Department of Agriculture
Senate Bill 2271
House Energy and Natural Resources Committee
Pioneer Room
March 6, 2015

Chairman Porter and members of the House Energy and Natural Resources Committee, I am Deputy Agriculture Commissioner Tom Bodine here today on behalf of Commissioner Doug Goehring. Thank you for the opportunity to appear before the committee. I am here today in support of SB 2271, which establishes a pipeline restoration and reclamation oversight pilot program.

Commissioner Goehring, as agriculture commissioner and a member of the Industrial Commission, receives contacts from pipeline companies and landowners seeking help with pipeline concerns. As the amount of pipelines placed increases, these calls have also increased. Pipelines will continue to be sited throughout the state, and landowners and companies want assurances that problems will be solved.

This bill establishes a pilot program to act as a liaison between landowners and pipeline companies. The pilot program will be run by an ombudsman in the department whose responsibility will be receiving and resolving complaints.

To resolve issues, the ombudsman or contractors, will work directly with companies and landowners to identify reclamation or restoration issues. This work will include developing a timeline for corrective measures and conducting follow-up reviews to ensure work is finished in a satisfactory and timely manner.

In situations where a pipeline operator and a landowner cannot agree on a corrective plan of action, mediation is a viable option. Many of the complaints we receive result from misunderstandings or miscommunication. Often, these problems can be solved by bringing both parties to the table and facilitating a conversation.

Going forward, more pipelines will be placed on the landscape. This pilot project is a step forward in ensuring the long-term productivity of the land. Commissioner Goehring believes landowners in North Dakota need to build confidence and know that their needs will be addressed if they have issues surrounding pipeline reclamation.

Accordingly, Chairman Porter and committee members, Commissioner Goehring urges a “do pass” on SB 2271. I would be happy to answer any questions you may have.

Thank you.

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Doug Goehring, Agriculture Commissioner

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For further pilot program information, please contact Ken Junkert at 701-328-4756.

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#4

Engrossed Senate Bill 2271

Presented by: Casey A. Furey, Attorney
Public Service Commission

Before: House Energy and Natural Resources Committee
The Honorable Todd Porter, Chairman

Date: March 6, 2015

TESTIMONY

Mister Chairman and committee members, I am Casey Furey, Attorney with the Public Service Commission. The Commission is neutral on the substance of this bill. However, the Commission believes an amendment is necessary to eliminate possible confusion that could be caused by the existing bill language

As it currently exists, Engrossed SB 2271 page 1 lines 13 – 16 read, “The ombudsmen may not investigate or assist with any pipeline installed before January 1, 2006, regulated by the public service commission under title 49, or assist in general easement negotiations.” The Commission is concerned this language could be interpreted to mean jurisdiction would extend over pipelines installed after January 1, 2006 regulated by the Public Service Commission under Title 49.

To clarify the intent of Engrossed SB 2271, the Commission proposes to amend page 1 line 15 by inserting an “or” into the sentence. The proposed amended language would read, “The ombudsmen may not investigate or assist with any pipeline installed before January 1, 2006, or regulated by the public service commission under title 49, or assist in easement negotiations.”

Mister Chairman, this concludes my testimony. I will be happy to answer any questions.

PREPARED BY PUBLIC SERVICE COMMISSION
March 6, 2015

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2271

Page 1, line 15, after "2006," insert "or"

Mar. 20, 2015 # 1 p 1

15.0550.04002
Title.

Prepared by the Legislative Council staff for
Representative Porter

March 17, 2015

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2271

Page 1, line 2, after the first semicolon insert "and"

Page 1, line 2, remove the second semicolon

Page 1, line 3, remove "and to declare an emergency"

Page 1, line 12, replace "or employ" with "for"

Page 1, line 23, replace "general" with "abandoned oil and gas well plugging and site reclamation"

Page 1, line 24, replace "\$660,000" with "\$400,000"

Page 2, line 2, after "program" insert "without additional full-time employees"

Page 2, line 2, remove "this"

Page 2, line 2, after "section" insert "1 of this Act"

Page 2, remove line 4

Renumber accordingly