

FISCAL NOTE
Requested by Legislative Council
01/14/2019

Amendment to: SB 2123

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

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This is a maintenance bill providing technical corrections regarding confiscation of equipment and recovery for costs of plugging and reclamation of sites. Amendment 19.8153.01001 expands the technical corrections.

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

This amended measure has no fiscal impact.

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

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

There could be a monetary benefit, but it would be unpredictable and infrequent.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

We do not expect to expend any funds in implementing this bill.

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

No impacts to agency appropriations.

Name: Robyn Loumer

Agency: Industrial Commission

Telephone: 701-328-8011

Date Prepared: 12/28/2018

FISCAL NOTE
Requested by Legislative Council
12/26/2018

Bill/Resolution No.: SB 2123

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

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

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

This is a maintenance bill providing technical corrections regarding confiscation of equipment and recovery for costs of plugging and reclamation of sites.

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

This measure has no fiscal impact.

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

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

No revenue is anticipated at this time. There could be a monetary benefit, but it would be unpredictable and infrequent.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

We do not expect to expend any funds in implementing this bill.

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

No impacts to agency appropriations.

Name: Robyn Loumer

Agency: Industrial Commission

Telephone: 701-328-8011

Date Prepared: 12/28/2018

2019 SENATE ENERGY AND NATURAL RESOURCES

SB 2123

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2123
1/11/2019
Job Number 30673

- Subcommittee
 Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to confiscation of equipment and recovery for costs of plugging and reclamation of sites with bonds held by the North Dakota industrial commission.

Minutes:

2 Attachments

Chair Unruh called the hearing to order, attendance was taken, a quorum was present.

Senator Patten: (1:00-1:57) Introduced the bill on behalf of the Department of Mineral Resources. This bill deals with the confiscation of the physical assets on an abandoned oil well. The intent is to make use of those assets to offset the costs of reclaiming the well.

Bruce Hicks, Assistant Director North Dakota Industrial Commission - Department of Mineral Resources – Oil and Gas Division: (2:10-6:00) testified in favor, please see attachment 1. Attachment 2 is a proposed amendment provided by the department.

Senator Roers: How big of a problem is this, how many wells are abandoned in a year?

Mr. Hicks: It doesn't happen frequently, but we do have some bad actors out there. When prices of oil go down, that when we get real issues. Company might go bankrupt, might not be available, no funds, or they might have abandoned site. We've had 4-5 treating plants that have been abandoned. We've been on those operators to temporarily abandon them by removing fluids that would be a possible threat to the environment. We've been pretty successful with that, but right now we're dealing with one around Williston that's a real problem; we may end up expending some funds on that. Typically, 1-2 wells a year are abandoned.

Senator Piepkorn: You mentioned bonding, is that company you just mentioned not bonded? Don't they have money to pay the cost of the work you're left doing?

Mr. Hicks: We don't require full bonding for every instance. In this particular case, the company had a rogue employee, that pumped some fluids over the side of a dike, and caused hundreds of thousands of dollars of damage. They did have some environmental insurance, the liability company went out and did the work outside, they've been working with the Health

Department on that. They've got numerous issued inside the site, we're dealing with that. The bonding is a couple hundred thousand dollars, which is fairly substantial but they've probably got 2-3 times that much liability in the work that has to be done.

Senator Piepkorn: That remaining work will be done by the state?

Mr. Hicks: Actually, we are still working with that company, I was just using as an example, that we might have to expend some funds. We are hopeful that the officers of the corporation will step up. We are also suing them individually, and we're trying to get them to step up and clean the site up, it may actually go away; but this is an ongoing theme, we need to make sure we have everything in order so we can go in and confiscate equipment and charge those working interest owners appropriately when work needs to be done.

Senator Piepkorn: The abandoned oil and gas well plugging and site well reclamation fund, money can be used to defray costs of plugging wells and reclaiming sites, how does the money get into that fund in the first place?

Mr. Hicks: There's moneys that go in from the gross production tax, or the extraction tax. A certain percentage goes in there every year; you guys were very gracious in allowing that to go in. It's been robbed several times, so we've built it back up; it has \$100 million cap on it, we currently have \$21 million in the fund if we had a major company go in and disappear, we would expend all those funds. The money goes in by confiscating bonds and equipment, and saleable oil. All of those things go back into this fund, and then we have the authority to use funds to take care of these issues.

**No further agency, in favor or opposing testimony.
Public Hearing was closed.**

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2123
1/11/2019
Job Number 30679

- Subcommittee
 Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to confiscation of equipment and recovery for costs of plugging and reclamation of sites with bonds held by the North Dakota industrial commission.

Minutes:

1 Attachment

Vice Chair Kreun: I make a motion to adopt the proposed amendments (attachment #1).

Senator Roers: I second.

A voice vote was taken, motion carries.

Senator Kreun: I move do pass as amended.

Senator Roers: I second.

A roll call vote was taken.

Motion passed 6-0-0.

Senator Kreun will carry.

January 10, 2019

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2123

Page 1, line 1, after "sections" insert "38-08-04.4, 38-08-04.5,"

Page 1, line 1, after "38-08-04.8" insert a comma

Page 1, line 2, after "to" insert "the authorization to enter contracts, abandoned oil and gas well plugging and site reclamation fund, and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 38-08-04.4 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04.4. Commission authorized to enter into contracts.

The commission may enter public and private contractual agreements for the plugging or replugging of oil and gas or injection wells, the removal or repair of related equipment, the reclamation of abandoned oil and gas or injection well sites, the reclamation of saltwater handling facility sites, the reclamation of treating plant sites, and the reclamation of oil and gas-related pipelines and associated facilities, including reclamation as a result of leaks or spills from a pipeline or associated facility, if any of the following apply:

1. The person or company drilling or operating the well or equipment cannot be found, has no assets with which to properly plug or replug the well or reclaim the well site, cannot be legally required to plug or replug the well or to reclaim the well site, pipeline, or associated pipeline facility, or damage is the result of an illegal dumping incident.
2. There is no bond covering the well to be plugged or the site to be reclaimed or there is a bond but the cost of plugging or replugging the well or reclaiming the site, pipeline, or associated pipeline facility exceeds the amount of the bond or damage is the result of an illegal dumping incident.
3. The well, equipment, pipeline, or associated pipeline facility is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety.

Sealed bids for any well plugging or reclamation work under this section must be solicited by placing a notice in the official county newspaper of the county in which the work is to be done and in such other newspapers of general circulation in the area as the commission may deem appropriate. Bids must be addressed to the commission and must be opened publicly at the time and place designated in the notice. The contract must be let to the lowest responsible bidder, but the commission may reject any or all bids submitted. If a well or equipment is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety, the commission, without notice or the letting of bids, may enter into contracts necessary to mitigate the problem.

The contracts for the plugging or replugging of wells or the reclamation of well sites must be on terms and conditions as prescribed by the commission, but at a minimum the contracts shall require the plugging and reclamation to comply with all statutes and rules governing the plugging of wells and reclamation of well sites.

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

38-08-04.5. Abandoned oil and gas well plugging and site reclamation fund - Continuing appropriation - Budget section report.

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

1. Revenue to the fund must include:
 - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
 - b. Moneys received from the forfeiture of drilling and reclamation bonds.
 - c. Moneys received from any federal agency for the purpose of this section.
 - d. Moneys donated to the commission for the purposes of this section.
 - e. Moneys received from the state's oil and gas impact fund.
 - f. Moneys recovered under the provisions of section 38-08-04.8.
 - g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.
 - h. Moneys transferred from the cash bond fund under section 38-08-04.11.
 - i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
 - j. Civil penalties assessed under section 38-08-16.

2. Moneys in the fund may be used for the following purposes:
 - a. Contracting for the plugging of abandoned wells.
 - b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.
 - c. To pay mineral owners their royalty share in confiscated oil.
 - d. Defraying costs incurred under section 38-08-04.4 in reclamation of saltwater handling facilities, treating plants, and oil and gas-related pipelines and associated facilities.
 - e. Reclamation and restoration of land and water resources impacted by oil and gas development, including related pipelines and facilities that were abandoned or were left in an inadequate reclamation status before August 1, 1983, and for which there is not any continuing

reclamation responsibility under state law. Land and water degraded by any willful act of the current or any former surface owner are not eligible for reclamation or restoration. The commission may expend up to five million dollars per biennium from the fund in the following priority:

- (1) For the restoration of eligible land and water that are degraded by the adverse effects of oil and gas development including related pipelines and facilities.
 - (2) For the development of publicly owned land adversely affected by oil and gas development including related pipelines and facilities.
 - (3) For administrative expenses and cost in developing an abandoned site reclamation plan and the program.
 - (4) Demonstration projects for the development of reclamation and water quality control program methods and techniques for oil and gas development, including related pipelines and facilities.
- f. For transfer by the office of management and budget, upon request of the industrial commission, to the environmental quality restoration fund for use by the state department of health for the purposes provided under chapter 23-31, if to address environmental emergencies relating to oil and natural gas development, including the disposal of oilfield waste and oil or natural gas production and transportation by rail, road, or pipeline. If a transfer requested by the industrial commission has been made under this subdivision, the state department of health shall request the office of management and budget to transfer from subsequent deposits in the environmental quality restoration fund an amount sufficient to restore the amount transferred from the abandoned oil and gas well plugging and site reclamation fund.
- 3. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purposes in this section.
 - 4. The commission shall report to the budget section of the legislative management on the balance of the fund and expenditures from the fund each biennium.

(Contingent effective date - See note) Abandoned oil and gas well plugging and site reclamation fund - Continuing appropriation - Budget section report.

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

- 1. Revenue to the fund must include:
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- c. Moneys received from any federal agency for the purpose of this section.
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 - f. Moneys recovered under the provisions of section 38-08-04.8.
 - g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.
 - h. Moneys transferred from the cash bond fund under section 38-08-04.11.
 - i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
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 - d. Defraying costs incurred under section 38-08-04.4 in reclamation of saltwater handling facilities, treating plants, and oil and gas-related pipelines and associated facilities.
 - e. Reclamation and restoration of land and water resources impacted by oil and gas development, including related pipelines and facilities that were abandoned or were left in an inadequate reclamation status before August 1, 1983, and for which there is not any continuing reclamation responsibility under state law. Land and water degraded by any willful act of the current or any former surface owner are not eligible for reclamation or restoration. The commission may expend up to five million dollars per biennium from the fund in the following priority:
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 - (4) Demonstration projects for the development of reclamation and water quality control program methods and techniques for oil and gas development, including related pipelines and facilities.

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- f. For transfer by the office of management and budget, upon request of the industrial commission, to the environmental quality restoration fund for use by the department of environmental quality for the purposes provided under chapter 23.1-10, if to address environmental emergencies relating to oil and natural gas development, including the disposal of oilfield waste and oil or natural gas production and transportation by rail, road, or pipeline. If a transfer requested by the industrial commission has been made under this subdivision, the department of environmental quality shall request the office of management and budget to transfer from subsequent deposits in the environmental quality restoration fund an amount sufficient to restore the amount transferred from the abandoned oil and gas well plugging and site reclamation fund.
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4. The commission shall report to the budget section of the legislative management on the balance of the fund and expenditures from the fund each biennium."

Renumber accordingly

Date: 1.11.19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2123

Senate Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: 19. 8153. 01001

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 sen. Kreun Seconded By sen. Roers

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh			Senator Merrill Piepkorn		
V. Chair Curt Kreun			Senator Jim Roers		
Senator Dwight Cook					
Senator Donald Schaible					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote, motion carries

Date: 1.11.19
 Roll Call Vote #: 2

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2123**

Senate Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: 19. 8153.01001

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 Sen. Kreun Seconded By Sen. Roers

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh	X		Senator Merrill Piepkorn	X	
V. Chair Curt Kreun	X		Senator Jim Roers	X	
Senator Dwight Cook	X				
Senator Donald Schaible	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Kreun

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

REPORT OF STANDING COMMITTEE

SB 2123: Energy and Natural Resources Committee (Sen. Unruh, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEARS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2123 was placed on the Sixth order on the calendar.

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1. The person or company drilling or operating the well or equipment cannot be found, has no assets with which to properly plug or replug the well or reclaim the well site, cannot be legally required to plug or replug the well or to reclaim the well site, pipeline, or associated pipeline facility, or damage is the result of an illegal dumping incident.
2. There is no bond covering the well to be plugged or the site to be reclaimed or there is a bond but the cost of plugging or replugging the well or reclaiming the site, pipeline, or associated pipeline facility exceeds the amount of the bond or damage is the result of an illegal dumping incident.
3. The well, equipment, pipeline, or associated pipeline facility is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety.

Sealed bids for any well plugging or reclamation work under this section must be solicited by placing a notice in the official county newspaper of the county in which the work is to be done and in such other newspapers of general circulation in the area as the commission may deem appropriate. Bids must be addressed to the commission and must be opened publicly at the time and place designated in the notice. The contract must be let to the lowest responsible bidder, but the commission may reject any or all bids submitted. If a well or equipment is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety, the commission, without notice or the letting of bids, may enter into contracts necessary to mitigate the problem.

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1. Revenue to the fund must include:
 - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
 - b. Moneys received from the forfeiture of drilling and reclamation bonds.
 - c. Moneys received from any federal agency for the purpose of this section.
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 - e. Moneys received from the state's oil and gas impact fund.
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 - f. For transfer by the office of management and budget, upon request of the industrial commission, to the environmental quality restoration fund for use by the department of environmental quality for the purposes provided under chapter 23.1-10, if to address environmental emergencies relating to oil and natural gas development, including the disposal of oilfield waste and oil or natural gas production and transportation by rail, road, or pipeline. If a transfer requested by the industrial commission has been made under this subdivision, the department of environmental quality shall request the office of management and budget to transfer from subsequent deposits in the environmental quality restoration fund an

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Renumber accordingly

2019 HOUSE ENERGY AND NATURAL RESOURCES

SB 2123

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau A Room, State Capitol

SB 2123
2/28/2019
32974

- Subcommittee
 Conference Committee

Committee Clerk, Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to the authorization to enter contracts, abandoned oil and gas well plugging and site reclamation fund, and confiscation of equipment and recovery for costs of plugging and reclamation of sites with bonds held by the ND Industrial Commission

Minutes:

Attachment 1

Chairman Porter: opened the hearing on SB 2123.

Bruce Hicks, ND Industrial Commission, Dept. of Mineral Resources, Oil and Gas Division, presented Attachment 1.

Rep. Anderson: Is there containment under those facility sites? Are they padded the same as an oil well is?

Hicks: The sites constructed today are good sound sites. We require liners under them, especially tanks. On treating plants, they typically go out and spread some of this material on the ground outside their facility, so we do require almost the entire location to be lined before they lay down any gravel.

Rep. Anderson: on the new sites. The old sites are not like that.

Hicks: Most of the treating plants are fairly new and we're fairly consistent, even the older ones will have pretty good monitoring systems and liners.

4:03

Rep. Keiser: How much work is involved adding these areas for regulation?

Hicks: When there's times of low oil prices, and these are abandoned or temporarily abandoned, we want to make sure we have the oversight and funds available to go in and do it, and recoup our costs against those working interest owners. We don't anticipate this taking a whole lot of extra time because we spend so much time in the complaint process and other parts, there's going to be a benefit by allowing the Commission to seize certain

equipment and saleable oil, so we'll be bringing in revenue too. It's hard to equate that every plant is different.

Chairman Porter: I would hope none would be abandoned. Further support?

6:30

Ron Ness, ND Petroleum Council: We support this bill. This is a good utilization of those funds.

Chairman Porter: further support? Opposition? Closed the hearing on SB 2123.

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau A Room, State Capitol

SB 2123

2/28/2019

32990

Subcommittee

Conference Committee

Committee Clerk, Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to the authorization to enter contracts, abandoned oil and gas well plugging and site reclamation fund, and confiscation of equipment and recovery for costs of plugging and reclamation of sites with bonds held by the ND Industrial Commission

Minutes:

Chairman Porter: opened the hearing on SB 2123.

Rep. Roers Jones: Move a Do Pass

Rep Bosch: second

Chairman Porter: We have a motion and a second for a Do Pass on SB 2123. Discussion?
Roll call vote: 13 yes 0 no 1 absent. Motion carried. Rep Bosch is carrier.

Date: 2-28-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2123**

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 Roers Jones Seconded By Rep Bosch

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones	✓	
Rep. Bosch	✓		Rep. Ruby	✓	
Rep. Devlin	✓		Rep. Zubke	AB	
Rep. Heinert	✓				
Rep. Keiser	✓		Rep. Mitskog	✓	
			Rep. Eidson	✓	

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep Bosch

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

REPORT OF STANDING COMMITTEE

SB 2123, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2123 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2123



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Pg.1

Senate Bill 2123

Senate Energy and Natural Resources Committee

January 11, 2019

Testimony of Bruce E. Hicks, Assistant Director
North Dakota Industrial Commission—Department of Mineral Resources—Oil and Gas Division

Madam Chair Unruh and members of the Senate Energy and Natural Resources Committee, for your consideration, find below support for the proposed changes to North Dakota Century Code §§ 38-08-04.8 and 38-08-04.9 for the Department of Mineral Resources, Oil and Gas Division.

Purpose of Senate Bill 2123

Current statutes allow the Commission to plug wells and reclaim sites and pipeline facilities when the operator is unable to perform such work or there is a serious threat of pollution or injury to public health or safety, although no such authorization exists for saltwater handling facilities or treating plants. SB 2123, with the proposed amendments, provides for such authorization.

Jurisdiction

- **Bonding** (NDCC § 38-08-04; NDAC § 43-02-03-15):
Required of any owner operating wells, saltwater handling facilities, treating plants, and crude oil and produced water underground gathering pipelines. Noncompliance with Commission rules can result in bond forfeiture.
- **Section 1: NDCC § 38-08-04.8, Recovery of Costs:**
Commission can seek reimbursement for plugging wells and reclaiming well sites from working interest owners.
 - **SB 2123 allows for Commission reimbursement for reclaiming facilities and treating plants.**
- **Section 2: NDCC § 38-08-04.9, Confiscation of Equipment and Salable Oil:**
Commission may confiscate any production related equipment and salable oil at a well site in compensation for plugging and reclamation costs.
 - **SB 2123 allows confiscation of equipment on facilities and treating plants.**
- **Amendment: NDCC § 38-08-04.4, Authorization for Contracts:**
After proper newspaper notice, the Commission may enter contractual agreements for plugging wells, reclaiming well sites, and reclaiming oil and gas pipelines and facilities.
 - **The proposed amendment provides contractual authorization for saltwater handling facilities and treating plant sites.**
- **Amendment: NDCC § 38-08-04.5, Appropriation of Funds:**
Moneys in the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund (AWPSRF) can be used to defray costs to plug wells, reclaim well sites, and reclaim oil and gas pipelines and facilities.
 - **The proposed amendment provides appropriation of funds for saltwater handling facilities and treating plant sites.**

Please refer to the Commission's proposed amendments to SB 2123.

January 10, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2123

Page 1, line 1, after "sections" insert "38-08-04.4, 38-08-04.5,"

Page 1, line 1, after "38-08-04.8" insert a comma

Page 1, line 2, after "to" insert "the authorization to enter contracts, abandoned oil and gas well plugging and site reclamation fund,"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 38-08-04.4 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04.4. Commission authorized to enter into contracts.

The commission may enter public and private contractual agreements for the plugging or replugging of oil and gas or injection wells, the removal or repair of related equipment, the reclamation of abandoned oil and gas or injection well sites, the reclamation of saltwater handling facility sites, the reclamation of treating plant sites, and the reclamation of oil and gas-related pipelines and associated facilities, including reclamation as a result of leaks or spills from a pipeline or associated facility, if any of the following apply:

1. The person or company drilling or operating the well or equipment cannot be found, has no assets with which to properly plug or replug the well or reclaim the well site, cannot be legally required to plug or replug the well or to reclaim the well site, pipeline, or associated pipeline facility, or damage is the result of an illegal dumping incident.
2. There is no bond covering the well to be plugged or the site to be reclaimed or there is a bond but the cost of plugging or replugging the well or reclaiming the site, pipeline, or associated pipeline facility exceeds the amount of the bond or damage is the result of an illegal dumping incident.
3. The well, equipment, pipeline, or associated pipeline facility is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety.

Sealed bids for any well plugging or reclamation work under this section must be solicited by placing a notice in the official county newspaper of the county in which the work is to be done and in such other newspapers of general circulation in the area as the commission may deem appropriate. Bids must be addressed to the commission and must be opened publicly at the time and place designated in the notice. The contract must be let to the lowest responsible bidder, but the commission may reject any or all bids submitted. If a well or equipment is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety, the commission, without notice or the letting of bids, may enter into contracts necessary to mitigate the problem.

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The contracts for the plugging or replugging of wells or the reclamation of well sites must be on terms and conditions as prescribed by the commission, but at a minimum the contracts shall require the plugging and reclamation to comply with all statutes and rules governing the plugging of wells and reclamation of well sites.

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

38-08-04.5. Abandoned oil and gas well plugging and site reclamation fund - Continuing appropriation - Budget section report.

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

1. Revenue to the fund must include:
 - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
 - b. Moneys received from the forfeiture of drilling and reclamation bonds.
 - c. Moneys received from any federal agency for the purpose of this section.
 - d. Moneys donated to the commission for the purposes of this section.
 - e. Moneys received from the state's oil and gas impact fund.
 - f. Moneys recovered under the provisions of section 38-08-04.8.
 - g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.
 - h. Moneys transferred from the cash bond fund under section 38-08-04.11.
 - i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
 - j. Civil penalties assessed under section 38-08-16.
2. Moneys in the fund may be used for the following purposes:
 - a. Contracting for the plugging of abandoned wells.
 - b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.
 - c. To pay mineral owners their royalty share in confiscated oil.
 - d. Defraying costs incurred under section 38-08-04.4 in reclamation of saltwater handling facilities, treating plants, and oil and gas-related pipelines and associated facilities.
 - e. Reclamation and restoration of land and water resources impacted by oil and gas development, including related pipelines and facilities that were abandoned or were left in an inadequate reclamation status before August 1, 1983, and for which there is not any continuing

reclamation responsibility under state law. Land and water degraded by any willful act of the current or any former surface owner are not eligible for reclamation or restoration. The commission may expend up to five million dollars per biennium from the fund in the following priority:

- (1) For the restoration of eligible land and water that are degraded by the adverse effects of oil and gas development including related pipelines and facilities.
 - (2) For the development of publicly owned land adversely affected by oil and gas development including related pipelines and facilities.
 - (3) For administrative expenses and cost in developing an abandoned site reclamation plan and the program.
 - (4) Demonstration projects for the development of reclamation and water quality control program methods and techniques for oil and gas development, including related pipelines and facilities.
- f. For transfer by the office of management and budget, upon request of the industrial commission, to the environmental quality restoration fund for use by the state department of health for the purposes provided under chapter 23-31, if to address environmental emergencies relating to oil and natural gas development, including the disposal of oilfield waste and oil or natural gas production and transportation by rail, road, or pipeline. If a transfer requested by the industrial commission has been made under this subdivision, the state department of health shall request the office of management and budget to transfer from subsequent deposits in the environmental quality restoration fund an amount sufficient to restore the amount transferred from the abandoned oil and gas well plugging and site reclamation fund.
3. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purposes in this section.
 4. The commission shall report to the budget section of the legislative management on the balance of the fund and expenditures from the fund each biennium.

(Contingent effective date - See note) Abandoned oil and gas well plugging and site reclamation fund - Continuing appropriation - Budget section report.

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 - d. Defraying costs incurred under section 38-08-04.4 in reclamation of saltwater handling facilities, treating plants, and oil and gas-related pipelines and associated facilities.
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 - (4) Demonstration projects for the development of reclamation and water quality control program methods and techniques for oil and gas development, including related pipelines and facilities.

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- f. For transfer by the office of management and budget, upon request of the industrial commission, to the environmental quality restoration fund for use by the department of environmental quality for the purposes provided under chapter 23.1-10, if to address environmental emergencies relating to oil and natural gas development, including the disposal of oilfield waste and oil or natural gas production and transportation by rail, road, or pipeline. If a transfer requested by the industrial commission has been made under this subdivision, the department of environmental quality shall request the office of management and budget to transfer from subsequent deposits in the environmental quality restoration fund an amount sufficient to restore the amount transferred from the abandoned oil and gas well plugging and site reclamation fund.
- 3. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purposes in this section.
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Renumber accordingly

January 10, 2019

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#1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2123

Page 1, line 1, after "sections" insert "38-08-04.4, 38-08-04.5,"

Page 1, line 1, after "38-08-04.8" insert a comma

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The commission may enter public and private contractual agreements for the plugging or replugging of oil and gas or injection wells, the removal or repair of related equipment, the reclamation of abandoned oil and gas or injection well sites, the reclamation of saltwater handling facility sites, the reclamation of treating plant sites, and the reclamation of oil and gas-related pipelines and associated facilities, including reclamation as a result of leaks or spills from a pipeline or associated facility, if any of the following apply:

1. The person or company drilling or operating the well or equipment cannot be found, has no assets with which to properly plug or replug the well or reclaim the well site, cannot be legally required to plug or replug the well or to reclaim the well site, pipeline, or associated pipeline facility, or damage is the result of an illegal dumping incident.
2. There is no bond covering the well to be plugged or the site to be reclaimed or there is a bond but the cost of plugging or replugging the well or reclaiming the site, pipeline, or associated pipeline facility exceeds the amount of the bond or damage is the result of an illegal dumping incident.
3. The well, equipment, pipeline, or associated pipeline facility is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety.

Sealed bids for any well plugging or reclamation work under this section must be solicited by placing a notice in the official county newspaper of the county in which the work is to be done and in such other newspapers of general circulation in the area as the commission may deem appropriate. Bids must be addressed to the commission and must be opened publicly at the time and place designated in the notice. The contract must be let to the lowest responsible bidder, but the commission may reject any or all bids submitted. If a well or equipment is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety, the commission, without notice or the letting of bids, may enter into contracts necessary to mitigate the problem.

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 - d. Defraying costs incurred under section 38-08-04.4 in reclamation of saltwater handling facilities, treating plants, and oil and gas-related pipelines and associated facilities.
 - e. Reclamation and restoration of land and water resources impacted by oil and gas development, including related pipelines and facilities that were abandoned or were left in an inadequate reclamation status before August 1, 1983, and for which there is not any continuing

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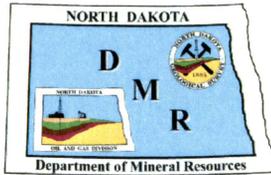
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4. The commission shall report to the budget section of the legislative management on the balance of the fund and expenditures from the fund each biennium."

Renumber accordingly



Senate Bill 2123

House Energy and Natural Resources Committee

February 28, 2019

Testimony of Bruce E. Hicks, Assistant Director
North Dakota Industrial Commission—Department of Mineral Resources—Oil and Gas Division

Chairman Porter and members of the House Energy and Natural Resources Committee, for your consideration, find below support for the proposed changes to North Dakota Century Code §§ 38-08-04.8 and 38-08-04.9 for the Department of Mineral Resources, Oil and Gas Division.

Purpose of Senate Bill 2123

Current statutes allow the Commission to plug wells and reclaim sites and pipeline facilities when the operator is unable to perform such work or there is a serious threat of pollution or injury to public health or safety, although no such authorization exists for saltwater handling facilities or treating plants. SB 2123 provides for such authorization.

- **Section 1: NDCC § 38-08-04.4, Authorization for Contracts:**
After proper newspaper notice, the Commission may enter contractual agreements for plugging wells, reclaiming well sites, and reclaiming oil and gas pipelines and facilities.
 - **SB 2123 provides contractual authorization for saltwater handling facilities and treating plant sites.**
- **Section 2: NDCC § 38-08-04.5, Appropriation of Funds:**
Moneys in the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund (AWPSRF) can be used to defray costs to plug wells, reclaim well sites, and reclaim oil and gas pipelines and facilities.
 - **SB 2123 provides appropriation of funds for saltwater handling facilities and treating plant sites.**
- **Section 3: NDCC § 38-08-04.8, Recovery of Costs:**
Commission can seek reimbursement for plugging wells and reclaiming well sites from working interest owners.
 - **SB 2123 allows for Commission reimbursement for reclaiming facilities and treating plants.**
- **Section 4: NDCC § 38-08-04.9, Confiscation of Equipment and Salable Oil:**
Commission may confiscate any production related equipment and salable oil at a well site in compensation for plugging and reclamation costs.
 - **SB 2123 allows confiscation of equipment and salable oil at facilities and treating plants.**

Please note Senate Bill 2123 passed the Senate Energy and Natural Resources Committee 6-0 and the full Senate 47-0.