



DAKOTA RESOURCE COUNCIL

LEGISLATIVE UPDATE FEBRUARY 4, 2011



BILL STATUS UPDATES

HB 2131, Oil and Gas Surface Access Fee. Bill was heard on January 14. DRC Opposed this bill. **Failed to Pass 6 yes, 40 no**

HB 1221, *Advance Determination of Prudence*; not allowing utilities a return on equity or interest for a project that is deemed imprudent after an initial prudence decision. DRC Supported this bill. **Passed 92 yes, 0 no**

HB 1451

Relating to elimination of the permanent oil tax trust fund; to provide for a transfer to the state general fund; and to provide an effective date of 01 August 2011. **No Action Taken.**

HB 1210: *a bill to require the Public Service Commission to adopt rules providing for Net Metering.* **Do not pass recommendation.**

SB 2202 – This bill give a sales and use tax exemption for materials used in compressing, processing, gathering, or refining gas, the sales and use tax

exemption for materials used in construction or expansion of an oil refinery, and the use tax on contractors. **Passed in Senate Unanimously.**

SB 2196: *siting requirements for energy facilities; wind ½ megawatt, all other sources 50 megawatts.* **Passed: 47 yes, 0 no**

HB 1218: This bill amends subsections 4 and 5 of section 17-07-01 of the Century Code to require the legislative assembly develop the state Comprehensive Energy Policy not the Energy Policy Commission. In addition, this bill takes away power from the Energy Policy Commission to make changes to the State Energy Policy. DRC is tracking this bill. **Do Pass Recommendation.**

HB 1460, Bill Regarding allocation of wind rights. This bill attempts to create equitable situations for landowners directly impacted by wind turbines and wind farms by unitizing wind development. **No Action Taken.**

HCR 3007, This resolution is for a study of state eminent domain laws, which currently allow companies like TransCanada to take private property for pipelines like Keystone, which have no direct benefit to the state. **No Action Taken.**

Report on Hearings for the Week of January 31

SB 2336, Tax exemptions for new mining equipment for mines permitted after December 31, 2010. This bill specifically applies to the mining permit in South Heart and the new mine expansion near the Falkirk mine.

Scott Skokos and Ashley Lauth from DRC testified at this hearing in opposition to the bill. In addition, one DRC member and Wayde Shafer from Sierra Club also testified in opposition to this bill. Support for this bill came from the Lignite Energy Council, Senator Wardner, and North American Mining Company.

HB 1462 – Do pass recommendation in House Agriculture Committee

This bill language specifically omits 'agriculture' out of 'agriculture mediation service.' The bill does not address specifically the mechanics of how the service will handle cases, including compensation or compliance. *Should any party asked to mediate deny the request, mediation does not occur and the initiator is directed to litigation.* Supporters of the bill argued that this is an easy way to handle mediation voluntarily, *although they did admit that they are not fully prepared to handle non-agriculture mediation.* There was no verbal testimony in opposition.

SB 2274 – Do not pass recommendation in Senate Natural Resource Committee

This bill establishes a surface rights board to mediate disputes involving damages caused by oil and gas exploration and production and provides landowners a choice to mediate, serving as an alternative to litigation for surface-related disagreements. Those in support of the bill included landowners, DRC, and bill sponsors. Those in opposition were the ND Petroleum Council and the O&G Division. They argued that this bill would create too much interference with oil and gas development.

SB 2290 – Do not pass recommendation in Senate Natural Resource Committee

Relates to enforcement of laws, rules, and regulations concerning the conservation of oil and gas; and to provide a penalty. It gives the Industrial Commission greater power to enforce rules by allowing them to fine non-compliant companies. Very passionate, emotionally driven, and compelling testimony given from dozens of landowners in support of this bill, urging the Industrial Commission to enforce oil and gas laws designed to protect surface owners. Opposition said that it would place an unfair burden on the industry and that it is not the Industrial Commission's job to act as an enforcer.

SB 2343 – Do pass recommendation in Senate Appropriations Committee

SB 2347 – Do *not* pass recommendation in Senate Industry, Business, and Labor Committee

SB 2363 – Do *not* pass recommendation in Senate Natural Resource Committee

This bill is designed to require annual assessment of stripper wells in order to determine if they produce enough oil to qualify for the extraction tax. A fiscal note was attached of \$60 *in revenue*. Support for the bill argued that stripper wells are necessary as part of responsible development, but when left regularly un-assessed, are tax loopholes. Opposition argued that the oil and gas industry does not have enough money to support annual assessments or a conversion of some stripper wells into producing well status, and that the Oil and Gas Division does not have enough staff to annually assess.

SB 2368 – Do pass recommendation in Senate Natural Resource Committee

This bill allocated a tax credit for surface owners of property on which oil or gas wellheads are located. Support for the bill argued that this bill would help surface owners with impacts, and that the oil and gas industry does not have enough money to pay every surface owner. There was no verbal testimony in opposition. Neutral testimonies stated that while they support surface owner compensation, it is unconstitutional to tax the public for certain individuals' gain.

Hearings for the Week of February 7

Senate Natural Resources Committee, Fort Lincoln Room

SCR 4011

09:00 AM- A concurrent resolution directing the Legislative Management to study the feasibility and desirability of creating a 25 year sustainability vision plan for state facilities with the intent to lower our energy usage, energy costs, and improve the environment. Sponsors: DRC Supports this bill.

House Energy and Natural Resources Committee, Pioneer Room

HCR 3019

09:00 AM I- A resolution urging the United States Army Corps of Engineers to forego any attempt to charge water users in North Dakota a fee to use water from Lake Sakakawea or Lake Oahe.

DRC is tracking this bill due to its significance concerning water sources for oil and gas development.

HCR 3026

09:00 AM II- A concurrent resolution urging Congress to require renegotiation of United States Fish and Wildlife Service wetlands easements.

DRC is tracking this resolution due to its applicability to farmland.

HCR 3028

09:00 AM III- A concurrent resolution urging Congress to adopt legislation prohibiting the Environmental Protection Agency by any means necessary from regulating greenhouse emissions, including, if necessary, defunding Environmental Protection.

DRC Strongly opposes this bill because of its intent to dismantle clean air measures.

HCR 3031

09:00 AM IV- A concurrent resolution expressing the concern of the Legislative Assembly with the scope, justification, and substances of the Office of Surface Mining Reclamation and Enforcement's stream protection rule. This resolution calls upon the Office of Surface Mining Reclamation and Enforcement to

1. immediately suspend work on the environmental impact statement and the regulation until such time as the agency clearly and publicly articulates why the 2008 regulation has not been implemented and provides specific details regarding each of its provisions and why the agency believes that they are insufficient;
2. provide scientific data and other objective information to justify each and every provision of the new proposal;
3. explain why the agency is contradicting its own annual state inspection reports, which indicate good environmental performance and refute the need for this new regulation;
4. justify why a more limited approach would not achieve the objectives of the agency;

The resolution also calls upon the North Dakota Congressional Delegation and the Governor to oppose this unwarranted effort by the administration by withholding any further funding for the Office of Surface Mining Reclamation and Enforcement for the stream protection rule and environmental impact statement until such time as the agency justifies the need for the new rule.

DRC Strongly opposes this bill because of its attempt to safeguard the destruction of North Dakota waterways by the coal industry.

HCR 3033

09:00 AM V- A concurrent resolution recognizing the indispensable role of nuclear energy to a comprehensive, integrated United States economic, energy security, and environmental strategy and supporting a host of federal and state policy initiatives to spur a new wave of nuclear plant development.

DRC is tracking this bill.