

Sixtieth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1462**

Introduced by

Representatives Porter, Damschen, Keiser

Senators Lyson, Tollefson, Wardner

1 A BILL for an Act to provide a sales and use tax exemption for materials used in the  
2 compression, processing, distributing, and refining of shallow gas; to create and enact section  
3 17-01-01 of the North Dakota Century Code, relating to a comprehensive energy policy for the  
4 state and the 25x'25 initiative; to amend and reenact section 54-35-18 of the North Dakota  
5 Century Code, relating to the electric industry competition committee; and to authorize the  
6 legislative council to make certain statutory revisions.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** Section 17-01-01 of the North Dakota Century Code is created and  
9 enacted as follows:

10 **17-01-01. 25x'25 Initiative.** The legislative assembly adopts the 25x'25 initiative with  
11 the goal that not later than January 1, 2025, the agricultural, forestry, and working land of the  
12 United States should provide from renewable resources not less than twenty-five percent of the  
13 total energy consumed in the United States and continue to produce safe, abundant, and  
14 affordable food, feed, and fiber. Increasing America's renewable energy use will bring new  
15 technologies to market and save consumers money, reduce the nation's dependence on oil  
16 from the Middle East, create good new jobs in rural America, and clean up the air and reduce  
17 urban smog and help slow increases in global warming. As used in this initiative, renewable  
18 energy includes biofuels, solar, wind, hydropower, geothermal, and energy efficiency initiatives.  
19 The 25x'25 initiative will benefit agriculture and forestry, the environment, and national security  
20 and provide economic growth.

21 **SECTION 2.** Sales and use tax exemption for materials used in compressing,  
22 processing, distributing, or refining of shallow gas.

- 1           1. Gross receipts from sales of tangible personal property used in compressing,  
2           processing, distributing, or refining of gas recovered from a shallow gas well in this  
3           state are exempt from taxes under chapter 57-39.2.
- 4           2. The owner of the tangible personal property must apply to the tax commissioner for  
5           a refund of sales and use taxes paid by any contractor, subcontractor, or builder for  
6           which the sales or use is claimed as exempt under this section. Application for a  
7           refund must be made at the times and in the manner directed by the tax  
8           commissioner and must include sufficient information to permit the tax  
9           commissioner to verify the sales and use taxes paid and the exempt status of the  
10          sale or use.
- 11          3. For purposes of this section, "shallow gas" has the meaning provided in section  
12          57-51-01.
- 13          4. All of the provisions of chapter 57-39.2 and 57-40.2 apply to the exemption under  
14          this section.

15          **SECTION 3. AMENDMENT.** Section 54-35-18 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17          **54-35-18. (Effective through August 1, 2007 2011) ~~Electric industry competition -~~**  
18 **~~Need for study~~ Energy development and transmission committee.** ~~The legislative council~~  
19 ~~shall study the impact of competition on the generation, transmission, and distribution of electric~~  
20 ~~energy within this state. The legislative assembly finds that the economy of this state depends~~  
21 ~~on the availability of reliable, low cost electric energy. There is a national trend toward~~  
22 ~~competition in the generation, transmission, and distribution of electric energy and the~~  
23 ~~legislative assembly acknowledges that this competition has both potential benefits and~~  
24 ~~adverse impacts on this state's electric suppliers as well as on their shareholders and~~  
25 ~~customers and the citizens of this state. The legislative assembly determines that it is in the~~  
26 ~~best interests of the citizens of this state to study the effects of competition on the generation,~~  
27 ~~transmission, and distribution of electric energy. The legislative council, during each biennium,~~  
28 shall appoint an energy development and transmission committee in the same manner as the  
29 council appoints other interim committees. The council shall appoint six members of the house  
30 of representatives, four of whom must be from the majority political party and two of whom must  
31 be from the minority political party, and six members of the senate, four of whom must be from

1 the majority political party and two of whom must be from the minority political party. The  
2 chairman of the legislative council shall designate the chairman of the committee. The  
3 committee shall operate according to the statutes and procedure governing the operation of  
4 other legislative council interim committees. The committee shall study the impact of a  
5 comprehensive energy policy for the state and the development of each facet of the energy  
6 industry, from the obtaining of the raw natural resource to the sale of the final product in this  
7 state, other states, and other countries. The study may include the review of and  
8 recommendations relating to policy affecting extraction, generation, processing, transmission,  
9 transportation, marketing, distribution, and use of energy, and the taxation of shallow gas to  
10 reduce energy costs for all North Dakota residents.

11 **SECTION 4. LEGISLATIVE COUNCIL TO REDESIGNATE SECTIONS.** The  
12 legislative council shall redesignate sections 4-14.1-07.1, 4-14.1-07.2, 4-14.1-08, 4-14.1-09,  
13 and 4-14.1-10, chapter 6-09.17, sections 9-01-22, 47-05-14, 47-05-15, 47-05-16, and 47-16-42,  
14 and chapter 49-24 as appropriate chapters and sections of title 17. The legislative council may  
15 insert appropriate references in the sections of law listed in this section, consistent with usages  
16 contained in this Act. References inserted may be adjusted to suit the context and grammar of  
17 the sections and must be inserted so as to harmonize existing law with regard to the  
18 redesignation of sections provided by this Act. The legislative council may insert appropriate  
19 references to any measure enacted by the sixtieth legislative assembly which relates to the  
20 biodiesel partnership in assisting community expansion program, ethanol, biofuels, biomass,  
21 solar energy, wind energy, hydropower, geothermal, energy efficiency, the transmission  
22 authority, and a pipeline authority. References inserted may be adjusted to suit context and  
23 grammar of the sections and must be inserted so as to harmonize the legislative measure with  
24 regard to the creation of title 17 as provided by this Act.

Sixtieth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1462

Introduced by

Representatives Porter, Damschen, Keiser

Senators Lyson, Tollefson, Wardner

1 A BILL for an Act to provide a sales and use tax exemption for materials used in the  
2 compression, processing, gathering, and refining of gas and materials used in the construction  
3 or expansion of a refinery; to create and enact section 17-01-01 of the North Dakota Century  
4 Code, relating to a comprehensive energy policy for the state and the 25x'25 initiative; to  
5 amend and reenact section 54-35-18 of the North Dakota Century Code, relating to the electric  
6 industry competition committee; to authorize the legislative council to make certain statutory  
7 revisions; to provide for a department of commerce study; and to provide for a report to the  
8 legislative council.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1.** Section 17-01-01 of the North Dakota Century Code is created and  
11 enacted as follows:

12 **17-01-01. 25x'25 Initiative.** The legislative assembly adopts the 25x'25 initiative with  
13 the goal that not later than January 1, 2025, the agricultural, forestry, and working land of the  
14 United States should provide from renewable resources not less than twenty-five percent of the  
15 total energy consumed in the United States and continue to produce safe, abundant, and  
16 affordable food, feed, and fiber. Increasing America's renewable energy use will bring new  
17 technologies to market and save consumers money, reduce the nation's dependence on oil  
18 from the Middle East, create good new jobs in rural America, and clean up the air and reduce  
19 urban smog and address global warming issues. As used in this initiative, renewable energy  
20 includes biofuels, solar, wind, hydropower, geothermal, carbon recycling, carbon sequestration,  
21 use of waste heat, recycling, low-emission technologies that create or use hydrogen, and  
22 energy efficiency initiatives. The 25x'25 initiative will benefit agriculture and forestry, the  
23 environment, and national security and provide economic growth.

1           **SECTION 2. Sales and use tax exemption for materials used in compressing,**  
2 **processing, gathering, or refining of gas.**

3           1. Gross receipts from sales of tangible personal property used in compressing,  
4 processing, gathering, or refining of gas recovered from a gas well in this state or  
5 used to expand or build a gas-processing facility in this state are exempt from  
6 taxes under chapter 57-39.2.

7           2. The owner of the tangible personal property must apply to the tax commissioner  
8 for a refund of sales and use taxes paid by any contractor, subcontractor, or  
9 builder for which the sales or use is claimed as exempt under this section.

10          Application for a refund must be made at the times and in the manner directed by  
11 the tax commissioner and must include sufficient information to permit the tax  
12 commissioner to verify the sales and use taxes paid and the exempt status of the  
13 sale or use.

14          3. All of the provisions of chapter 57-39.2 and 57-40.2 apply to the exemption under  
15 this section.

16           **SECTION 3. Sales and use tax exemption for materials used in construction or**  
17 **expansion of an oil refinery.**

18          1. Gross receipts from sales of tangible personal property used in expanding or  
19 constructing an oil refinery that has a nameplate capacity of processing at least  
20 five thousand barrels of oil per day in this state are exempt from taxes under  
21 chapter 57-39.2.

22          2. The owner of the tangible personal property must apply to the tax commissioner  
23 for a refund of sales and use taxes paid by any contractor, subcontractor, or  
24 builder for which the sales or use is claimed as exempt under this section.

25          Application for a refund must be made at the times and in the manner directed by  
26 the tax commissioner and must include sufficient information to permit the tax  
27 commissioner to verify the sales and use taxes paid and the exempt status of the  
28 sale or use.

29          3. Chapters 57-39.2 and 57-40.2 apply to the exemption under this section.

30           **SECTION 4. AMENDMENT.** Section 54-35-18 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **54-35-18. (Effective through August 1, 2007 2011) Electric industry competition—**  
2 **Need for study Energy development and transmission committee.** The legislative council  
3 shall study the impact of competition on the generation, transmission, and distribution of electric  
4 energy within this state. The legislative assembly finds that the economy of this state depends  
5 on the availability of reliable, low cost electric energy. There is a national trend toward  
6 competition in the generation, transmission, and distribution of electric energy and the  
7 legislative assembly acknowledges that this competition has both potential benefits and  
8 adverse impacts on this state's electric suppliers as well as on their shareholders and  
9 customers and the citizens of this state. The legislative assembly determines that it is in the  
10 best interests of the citizens of this state to study the effects of competition on the generation,  
11 transmission, and distribution of electric energy. The legislative council, during each biennium,  
12 shall appoint an energy development and transmission committee in the same manner as the  
13 council appoints other interim committees. The council shall appoint six members of the house  
14 of representatives, four of whom must be from the majority political party and two of whom must  
15 be from the minority political party, and six members of the senate, four of whom must be from  
16 the majority political party and two of whom must be from the minority political party. The  
17 chairman of the legislative council shall designate the chairman of the committee. The  
18 committee shall operate according to the statutes and procedure governing the operation of  
19 other legislative council interim committees. The committee shall study the impact of a  
20 comprehensive energy policy for the state and the development of each facet of the energy  
21 industry, from the obtaining of the raw natural resource to the sale of the final product in this  
22 state, other states, and other countries. The study may include the review of and  
23 recommendations relating to policy affecting extraction, generation, processing, transmission,  
24 transportation, marketing, distribution, and use of energy, and the taxation of shallow gas to  
25 reduce energy costs for all North Dakota residents.

26           **SECTION 5. LEGISLATIVE COUNCIL TO REDESIGNATE SECTIONS.** The  
27 legislative council shall redesignate sections 4-14.1-07.1, 4-14.1-07.2, 4-14.1-08, 4-14.1-09,  
28 and 4-14.1-10, chapter 6-09.17, sections 9-01-22, 47-05-14, 47-05-15, 47-05-16, and 47-16-42,  
29 and chapter 49-24 as appropriate chapters and sections of title 17. The legislative council may  
30 insert appropriate references in the sections of law listed in this section, consistent with usages  
31 contained in this Act. References inserted may be adjusted to suit the context and grammar of

the sections and must be inserted so as to harmonize existing law with regard to the redesignation of sections provided by this Act. The legislative council may insert appropriate references to any measure enacted by the sixtieth legislative assembly which relates to the biodiesel partnership in assisting community expansion program, ethanol, biofuels, biomass, solar energy, wind energy, hydropower, geothermal, energy efficiency, the transmission authority, and a pipeline authority. References inserted may be adjusted to suit context and grammar of the sections and must be inserted so as to harmonize the legislative measure with regard to the creation of title 17 as provided by this Act.

**SECTION 6. NORTH DAKOTA ENERGY INDEPENDENCE INITIATIVE - REPORT**

**TO LEGISLATIVE COUNCIL.** During the 2007-08 interim, the department of commerce shall convene an energy independence council for the purpose of developing a comprehensive energy policy for the state that addresses:

1. The policy of this state to stimulate the development of renewable and traditional fossil-based energy within the state with the goal of providing secure, diverse, sustainable, and competitive energy supplies that can be produced and secured within the state to assist the nation in reducing its dependence on foreign energy sources.
2. The policy of this state to promote the development of new technologies, provide innovative opportunities, create additional employment and wealth that contributes to economic development, and decrease dependence on foreign energy supplies.
3. Growth of the fossil fuel and renewable energy industries within this state to encourage the state's competitiveness for both the domestic and export markets.
4. The assistance the state provides in research, development, and marketing of North Dakota-produced energy sources, including biodiesel, biomass, coal, ethanol, geothermal, hydroelectric, hydrogen, natural gas, oil, solar, and wind.
5. The need to:
  - a. Expand the use of existing energy resources such as coal, oil, gas, wind, and hydropower by supporting continued research and development of technologies designed to enhance the use of traditional fuels.

- 1           b. Examine ways to diversify the state's energy resource base by encouraging
- 2           the growth of renewable sources such as wind, biomass, geological, solar,
- 3           and water.
- 4           c. Evaluate existing tax credits and incentives for all energy resources.
- 5           d. Modernize and expand the state's energy infrastructure to ensure that energy
- 6           supplies can be safely, reliably, and affordably transported to homes and
- 7           businesses.
- 8           e. Examine potential innovations that will be necessary to improve
- 9           environmental conditions through the use of new technologies designed to
- 10          encourage the continued use of fossil fuel as well as renewable resources.
- 11          f. Review energy industry workforce and training needs and educational
- 12          opportunities to enhance the future productivity of the energy industry.
- 13          g. Develop a strategy to maximize the state's market opportunities in regional
- 14          and global markets.

15 The energy independence council consists of the commissioner of commerce, a member  
16 appointed by the agriculture commissioner, a representative recommended by the lignite  
17 energy council and appointed by the governor, a representative recommended by the North  
18 Dakota petroleum council and appointed by the governor, a member from the biodiesel industry  
19 appointed by the governor, a member from the biomass industry appointed by the governor, a  
20 member from the wind industry appointed by the governor, and a member from the ethanol  
21 industry appointed by the governor. The commissioner of commerce is chairman of the energy  
22 independence council. The energy independence council shall report to the legislative council  
23 during the 2007-08 interim on the progress of and results from the North Dakota energy  
24 independence initiative.

2007 HOUSE NATURAL RESOURCES

HB 1462

## 2007 HOUSE STANDING COMMITTEE MINUTES

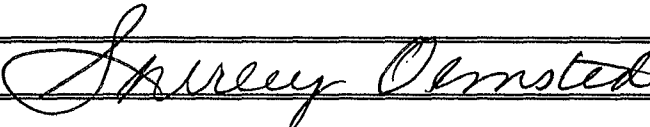
Bill/Resolution No. HB 1462

House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1979

Committee Clerk Signature 

Minutes:

**Vice Chairman Damschen** opened the hearing on HB 1462.

**Chairman Porter**, District #34, introduced HB 1462. He passed out information from the 25x25 initiative. See item marked #1. This is the western governor's initiative that Governor Hoeven has been very involved with. This is a project that we feel is worthy of note within the century code of North Dakota. The 25x25 initiative is mandate free. It refers to all types of renewable energy. It talks about a 25% goal by the year 2025. It talks about the incentives and the ways to get to those goals. North Dakota is in a very unique situation in regards to energy development and energy exploration. We have by far one of the most complex energy development systems in America. We have all types of energy in this state. We have renewables, oil and gas, gasoline and oil refining products, wind energy, the DERC in Grand Forks doing research on hydrogen, biomass, ethanol plants and we have biodiesel plants. We are very well versed and very well poised to go into the year 2025 as a very complex and very energy producing state. We use about 25% of our energy. The rest of our energy is exported to the rest of the country. Part of the bottleneck that was created was addressed last session with the transmission authority allowing us to get our energy outside of the state of North Dakota. This session we are dealing with another bottleneck that has been created; that being

the movement of oil products through pipeline. We are working on a pipeline authority to handle that situation. Section 2 of the bill relates directly to shallow gas exploration and infrastructure and what we started last session. We will be hearing another bill later on that removes the sunset clause on what we created last session in regards to shallow gas exploration. We now have shallow gas exploration going on east of the Missouri River. We are looking at leasing and drilling in Emmons, Barnes, Griggs, and Stutsman Counties. These are areas you would not generally find this activity. Inside of that we have a need again for that infrastructure for compressor stations and other infrastructure to get that product to market. In western North Dakota we have oil wells flaring and burning off natural gas that could otherwise be compressed and used by perhaps an ethanol facility that could be located close by. They can use what is being burned off rather than flaring. We have a huge interest in further developing our energy interests in the state. Section 3 talks about the energy development transmission committee. Section 4 deals with a section in code that tells what we are doing with energy. There is an article about President Bush in Wilmington, Del, that is attached that is on this particular topic. See item marked #2. It is time for North Dakota to move forward and have a comprehensive energy policy.

**Representative Damschen** also came forward in support of HB 1462 as a sponsor. He thinks this is a tremendous opportunity for our state to take the first step forward. The potential we have with all the things that Chairman Porter talked about and the agricultural resources that can be converted to energy, we have only just begun. I am proud to be a sponsor of this bill.

**Mr. Ron Ness**, President of the North Dakota Petroleum Council came forward in support of HB 1462. See written testimony marked as Item #3. This is a very important issue as related to the distribution and consumption. He supports the concept of an energy committee. It is time that we internally look at these issues more seriously. He made reference to the

proposed amendments attached to his testimony. This would put the oil and gas industry on a level playing field with other manufactures in the state that do not pay sales tax when they are building those facilities. We think we should be doing something to increase our refining capacity in the state and I know there is a resolution tomorrow morning on that.

**Mr. David Searle** from Marathon Oil Company came forward in support of this bill. Marathon entered the state of North Dakota working in the western part of the state last year. They are in the early phases of doing that development. They support the bill as well as the amendments by the North Dakota Petroleum Council. They are finding that they are producing some of the characteristics of the shallow gas and this is often in very remote areas. They believe that the incentives offered by the exemption sales and use tax will allow people to construct new gathering facilities which will allow this gas to have value to many.

**David Fischer** from Fischer Oil and Gas, Inc. of Grand Forks came forward in support of this HB. See written testimony marked as Item #4. He also recommended a do pass on this bill.

**Representative Hofstad** asked how the economics fit into the development of ethanol.

**Mr. Fischer** said yes. In fact depending on the size of any additional accumulation, people have suggested that an economic way of developing shallow gas production may be by intertwining local industry with that resource rather than developing very large pools and shipping that out.

**Representative Meyer** asked how large a volume would you need before you would consider drilling or developing an infrastructure.

**Mr. Fischer** said it has been suggested to him by companies who have an interest in this type of resource that they may be looking at as many as 100 to 200 wells each producing about an average of 150 to 250 thousand cubic feet per day in order to have the volume necessary to tie into one of these interstate lines.

**Jeff Herman** of Petro-Hunt, LLC came forward in favor of HB 1462. They operate gas plants in the Killdeer area. They support the amendments as well. We definitely need to expand the plant capacity and also our infrastructure to go out and hook up to some of these wells. The economics of whatever break we could get would definitely help on some of those.

**Mr. Dave Strayle** of the North American Coal Corporation came forward in support in the fact that it creates a comprehensive plan. They would be happy to help in any way in the interim session.

**Chairman Porter** asked for opposition to HB 1462. Seeing none, the hearing was closed on HB 1462.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1462

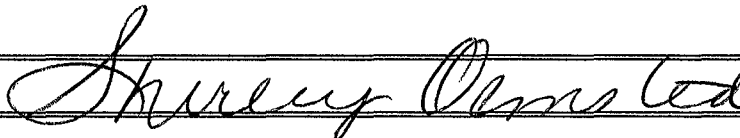
House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3153

Committee Clerk Signature



Minutes:

**Chairman Porter** asked the committee to consider HB 1462. There were two sets of amendments. The first page 1, line 17 attached and marked as Item 1. This is an issue the State Health Department brought forward after the hearing. They wanted us to include in the initiative on carbon recycling, carbon sequestration, the use of waste heat, recycling of low-emission technologies that create or use hydrogen. The main purpose of that is that there is a new and expanded technology going on in the oil fields that is going to be an underground storage of carbon. There is a formation out there that is perfect for this so they want to be sure that it fit into this particular bill.

**Representative Keiser** moved that this be adopted into the bill.

**Representative DeKrey** seconded the motion.

**Chairman Porter** asked for discussion. Hearing none a voice vote was taken. The motion prevailed. He said the second amendment is one that has been a work in progress with the industries as we move forward with energy policy. It starts a new section 3 that talks about the sales and use tax exemption for materials used in the expansion of oil refineries. It sets that trigger before that sales and use tax would go into place. It must be at least 5,000 barrels per day increase in order to qualify for this exemption. Section 6 talks about the energy

independence initiative and then would report back to the Legislative Council which is a study and a further development of policy. See attachment marked as Item #2.

**Representative DeKrey** made a motion for the 2<sup>nd</sup> amendment.

**Representative Nottestad** seconded the motion.

**Representative Meyer** asked how many barrels the refinery was doing now.

**Chairman Porter** asked Mr. Ness if the capacity was 60,000 barrels per day. Mr. Ness confirmed the number.

**Representative Meyer** asked if they would have to increase that capacity by 5,000 barrels per day in order to qualify for this exemption.

**Chairman Porter** confirmed that. He said they must increase the capacity by 5,000 barrels per day to qualify. If they tweak the plant and increase the capacity by 1,000 barrels per day, that would not qualify for this exemption.

**Representative Drovdal** asked if there was an expansion planned.

**Chairman Porter** said this would be a further incentive on this bill.

**Representative Keiser** said that would be a 12% increase and he thought that was reasonable.

**Chairman Porter** asked for discussion. Hearing none, a voice vote was taken and the motion prevailed.

**Representative Nottestad** made a motion for a do pass as amended on HB 1462.

**Representative DeKrey** seconded the motion.

**Chairman Porter** asked for discussion. Hearing none, the clerk called the roll. Let the record show 12 yes, 0 no with 2 absent. The motion for a **do pass as amended on HB 1462**

prevailed. **Representative Keiser** will carry this to the floor.

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/13/2007

Amendment to: HB 1462

**1A. 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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Engr. HB 1462 sets forth a comprehensive energy policy for the state, provides sales tax exemptions for materials used in the compression, processing, gathering, or refining of gas and construction or expansion of an oil refinery.

**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.*

Sections 2 and 3 of the bill provide the sales tax exemptions. The exemptions include materials used in compressing, processing gathering, or refining gas as well as those used in construction or expansion of an oil refinery. We do not know if a refinery will be built, the taxable materials that may be used, and the associated cost that will be subject to the sales tax exemption. We do not have any information upon which to estimate the fiscal impact.

Section 6 deals with the energy independence council and the development of a comprehensive energy policy for the state. There may be some administrative costs for the Department of Commerce associated with this section.

**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.*

**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.*

**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 is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/14/2007

# FISCAL NOTE

Requested by Legislative Council  
01/16/2007

Bill/Resolution No.: HB 1462

**1A. 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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

HB 1462 sets forth a comprehensive energy policy for the state, and provides a sales tax exemption for materials used in the compression, processing, distributing and refining of shallow gas.

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

Section 2 of the bill provides the sales tax exemption. The exemption includes materials used in compressing, processing distributing, or refining gas from a shallow gas well. We do not know if a refinery will be built, the taxable materials that may be used, and the associated cost that will be subject to the sales tax exemption. We do not have any information upon which to estimate the 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.*

**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.*

**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 is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	01/25/2007

*Item #1*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1462

Page 1, line 17, replace "help slow increases in global warming" with "address global warming issues"

Page 1, line 18, after "geothermal" insert "carbon recycling, carbon sequestration, use of waste heat, recycling or low-emission technologies that create or use hydrogen,"

Date: 2-8-07  
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1462

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken 18V is amended without

Motion Made By Keiser Seconded By DeKrey

Representatives	Yes	No	Representatives	Yes	No
Chairman – Rep. Porter			Rep. Hanson		
Vice-Chairman – Rep Damschen			Rep. Hunsakor		
Rep. Charging			Rep. Kelsh		
Rep. Clark			Rep. Meyer		
Rep. DeKrey			Rep. Solberg		
Rep. Drovdal					
Rep. Hofstad					
Rep. Keiser					
Rep. Nottestad					
<i>Vote</i>					

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1462

Page 1, line 2, replace "distributing" with "gathering", remove "shallow", and after "gas" insert "and materials used in the construction or expansion of a refinery"

Page 1, line 5, remove "and"

Page 1, line 6, after "revisions" insert "; and to provide for a department of commerce study and report to the legislative council"

Page 1, line 22, replace "distributing" with "gathering" and remove "shallow"

Page 2, line 2, replace "distributing" with "gathering" and remove "shallow"

Page 2, line 3, after "state" insert "or used to expand or build a gas-processing facility in this state"

Page 2, remove lines 11 and 12

Page 2, line 13, replace "4." with "3."

Page 2, after line 14, insert:

**"SECTION 3. Sales and use tax exemption for materials used in construction or expansion of an oil refinery.**

1. Gross receipts from sales of tangible personal property used in expanding or constructing an oil refinery that has a nameplate capacity of processing at least five thousand barrels of oil per day in this state are exempt from taxes under chapter 57-39.2.
2. The owner of the tangible personal property must apply to the tax commissioner for a refund of sales and use taxes paid by any contractor, subcontractor, or builder for which the sales or use is claimed as exempt under this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
3. Chapters 57-39.2 and 57-40.2 apply to the exemption under this section."

Page 3, after line 24, insert:

**"SECTION 6. NORTH DAKOTA ENERGY INDEPENDENCE INITIATIVE - REPORT TO LEGISLATIVE COUNCIL.** During the 2007-08 interim, the department of commerce shall convene an energy independence council for the purpose of developing a comprehensive energy policy for the state that addresses:

1. The policy of this state to stimulate the development of renewable and traditional fossil-based energy within the state with the goal of providing

secure, diverse, sustainable, and competitive energy supplies that can be produced and secured within the state to assist the nation in reducing its dependence on foreign energy sources.

2. The policy of this state to promote the development of new technologies, provide innovative opportunities, create additional employment and wealth that contributes to economic development, and decrease dependence on foreign energy supplies.
3. Growth of the fossil fuel and renewable energy industries within this state to encourage the state's competitiveness for both the domestic and export markets.
4. The assistance the state provides in research, development, and marketing of North Dakota-produced energy sources, including biodiesel, biomass, coal, ethanol, geothermal, hydroelectric, hydrogen, natural gas, oil, solar, and wind.
5. The need to:
  - a. Expand the use of existing energy resources such as coal, oil, gas, wind, and hydropower by supporting continued research and development of technologies designed to enhance the use of traditional fuels.
  - b. Examine ways to diversify the state's energy resource base by encouraging the growth of renewable sources such as wind, biomass, geological, solar, and water.
  - c. Evaluate existing tax credits and incentives for all energy resources.
  - d. Modernize and expand the state's energy infrastructure to ensure that energy supplies can be safely, reliably, and affordably transported to homes and businesses.
  - e. Examine potential innovations that will be necessary to improve environmental conditions through the use of new technologies designed to encourage the continued use of fossil fuel as well as renewable resources.
  - f. Review energy industry workforce and training needs and educational opportunities to enhance the future productivity of the energy industry.
  - g. Develop a strategy to maximize the state's market opportunities in regional and global markets.

The energy independence council consists of the commissioner of commerce, a member appointed by the agriculture commissioner, a representative recommended by the lignite energy council and appointed by the governor, a representative recommended by the North Dakota petroleum council and appointed by the governor, a member from the biodiesel industry appointed by the governor, a member from the biomass industry appointed by the governor, a member from the wind industry appointed by the governor, and a member from the ethanol industry appointed by the governor. The commissioner of commerce is chairman of the energy independence council. The energy independence council shall report to the legislative council during the 2007-08 interim on the progress of and results from the North Dakota energy independence initiative."

Renumber accordingly

Date: 2-8-01  
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1462

House **Natural Resources** Committee

☐ Check here for Conference Committee

**Legislative Council Amendment Number**

### Action Taken

**Motion Made By**

**Seconded By**

[illegible]

Total	Yes	No
100	50	50

**Absent**

## Floor Assignment

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

Date: 2-8-07  
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1462

House Natural Resources

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken

Do pass as amended

Motion Made By

Nottestad

Seconded By

DeKrey

Representatives	Yes	No	Representatives	Yes	No
Chairman – Rep. Porter	✓		Rep. Hanson	✓	
Vice-Chairman – Rep Damschen	✓		Rep. Hunsakor	✓	
Rep. Charging	✓		Rep. Kelsh		
Rep. Clark	✓		Rep. Meyer	✓	
Rep. DeKrey	✓		Rep. Solberg		
Rep. Drovdal	✓				
Rep. Hofstad	✓				
Rep. Keiser	✓				
Rep. Nottestad	✓				

Total Yes

12

No

0

Absent

2

Floor Assignment

Keiser

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

**REPORT OF STANDING COMMITTEE**

**HB 1462: Natural Resources Committee (Rep. Porter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1462 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "distributing" with "gathering", remove "shallow", and after "gas" insert "and materials used in the construction or expansion of a refinery"

Page 1, line 5, remove "and"

Page 1, line 6, after "revisions" insert "; to provide for a department of commerce study; and to provide for a report to the legislative council"

Page 1, line 17, replace "help slow increases in" with "address" and after "warming" insert "issues"

Page 1, line 18, after the fifth underscored comma insert "carbon recycling, carbon sequestration, use of waste heat, recycling, low-emission technologies that create or use hydrogen,"

Page 1, line 22, replace "distributing" with "gathering" and remove "shallow"

Page 2, line 2, replace "distributing" with "gathering" and remove "shallow"

Page 2, line 3, after "state" insert "or used to expand or build a gas-processing facility in this state"

Page 2, remove lines 11 and 12

Page 2, line 13, replace "4." with "3."

Page 2, after line 14, insert:

**"SECTION 3. Sales and use tax exemption for materials used in construction or expansion of an oil refinery.**

1. Gross receipts from sales of tangible personal property used in expanding or constructing an oil refinery that has a nameplate capacity of processing at least five thousand barrels of oil per day in this state are exempt from taxes under chapter 57-39.2.
2. The owner of the tangible personal property must apply to the tax commissioner for a refund of sales and use taxes paid by any contractor, subcontractor, or builder for which the sales or use is claimed as exempt under this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
3. Chapters 57-39.2 and 57-40.2 apply to the exemption under this section."

Page 3, after line 24, insert:

**"SECTION 6. NORTH DAKOTA ENERGY INDEPENDENCE INITIATIVE - REPORT TO LEGISLATIVE COUNCIL.** During the 2007-08 interim, the department of

commerce shall convene an energy independence council for the purpose of developing a comprehensive energy policy for the state that addresses:

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2. The policy of this state to promote the development of new technologies, provide innovative opportunities, create additional employment and wealth that contributes to economic development, and decrease dependence on foreign energy supplies.
3. Growth of the fossil fuel and renewable energy industries within this state to encourage the state's competitiveness for both the domestic and export markets.
4. The assistance the state provides in research, development, and marketing of North Dakota-produced energy sources, including biodiesel, biomass, coal, ethanol, geothermal, hydroelectric, hydrogen, natural gas, oil, solar, and wind.
5. The need to:
  - a. Expand the use of existing energy resources such as coal, oil, gas, wind, and hydropower by supporting continued research and development of technologies designed to enhance the use of traditional fuels.
  - b. Examine ways to diversify the state's energy resource base by encouraging the growth of renewable sources such as wind, biomass, geological, solar, and water.
  - c. Evaluate existing tax credits and incentives for all energy resources.
  - d. Modernize and expand the state's energy infrastructure to ensure that energy supplies can be safely, reliably, and affordably transported to homes and businesses.
  - e. Examine potential innovations that will be necessary to improve environmental conditions through the use of new technologies designed to encourage the continued use of fossil fuel as well as renewable resources.
  - f. Review energy industry workforce and training needs and educational opportunities to enhance the future productivity of the energy industry.
  - g. Develop a strategy to maximize the state's market opportunities in regional and global markets.

The energy independence council consists of the commissioner of commerce, a member appointed by the agriculture commissioner, a representative recommended by the lignite energy council and appointed by the governor, a representative recommended by the North Dakota petroleum council and appointed by the governor, a member from the biodiesel industry appointed by the governor, a member from the

biomass industry appointed by the governor, a member from the wind industry appointed by the governor, and a member from the ethanol industry appointed by the governor. The commissioner of commerce is chairman of the energy independence council. The energy independence council shall report to the legislative council during the 2007-08 interim on the progress of and results from the North Dakota energy independence initiative."

Renumber accordingly

)

2007 SENATE NATURAL RESOURCES

HB 1462

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1462

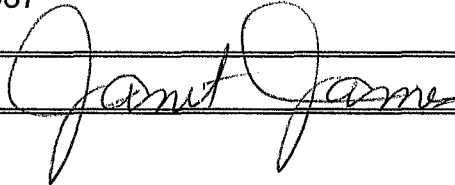
Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: March 8, 2007

Recorder Job Number: # 4687

Committee Clerk Signature



Minutes:

**Senator Stanley Lyson**, Chairman of the Senate Natural Resources Committee opened the hearing on HB 1462 provides a sales and use tax exemption for materials used in the compression, processing, gathering, and refining of gas and materials used in the construction or expansion of a refinery.

All members of the committee were present.

**Representative Todd Porter** from District 34 prime sponsor of HB 1462 introduced the bill stating the sole purpose of the bill of designing and moving forward an energy policy in North Dakota. The 25X25 initiative is about where we are in North Dakota and where we want to be in 2025. 80% of the state's produced energy is exported and have taken huge strides to enhance that exportation by dealing with the transmission authority, pipe line authority and shallow gas exemption. Now we see exploration of shallow gas in area never existed before. One of the missing components is the infrastructure and how do we get it to a pipe line and how do we put it to use. We need to find a use of the "flare off" or natural gas burned off the oil wells. This unused gas is money out of the pockets of the state; therefore have an exemption on sales tax for the expansion of the equipment used for gas production. Section 3 addresses the bottle neck concerns of transportation and oil refineries tax exemption for projects that

expand production by more than 5000 barrels of oil per day. Section 4 renames the interim committee named the Electric industry competition to Energy development and transmission committee. It can develop every facet of the energy industry so we know where we are and where we are going. We want North Dakota to be the energy capital of the US where we have every facet of energy existing including bio fuels, ethanol, wind, hydrogen, oil, gas and coal. Section 5 allows the Legislative council to develop its own chapter in the century code called "energy". Section 6 is the North Dakota initiative or commission to bring together the industries to look at a comprehensive energy policy and report back to the Legislative Council. The subsection outlines the members and their duties. An amendment was proposed and presented to the committee for review. (See attachment #1).

**Senator Joel Heitkamp** asked if all the members were contacted and agreed on the amendments.

**Representative Porter** answered that all the new ones listed are okay but has not talked to the old members.

**Senator Constance Triplett** asked if anything described relate to anything that is already happening in the sense of taking away sales tax receipts form existing commercial activity.

**Representative Porter** answered that it does not and the shallow gas exemption bill that was passed in the house that removes the sunset clause is the exploration piece and this bill is the infrastructure piece.

**Senator Lyson** requested explanation of the amendments.

**Representative Porter** referred the question to others.

**Senator Jim Pomeroy** asked how strong the word "goal" is compared to 'mandate'.

**Representative Porter** answered that goal is exactly what we are looking towards in 2025.

**Senator Pomeroy** asked if there was a time line.

**Representative Porter** answered no structure just by 2025. The goal is set and gage is the commission's work and report to the legislature.

**Roger Johnson** North Dakota State Agriculture Commissioner and member of the Industrial Commission testified in support of HB 1462 (see attachment #2).

**Senator Heitkamp** stated his fear of other states around us being further along with this process and how does this bill make sure we are competing with the other states.

**Roger Johnson** answered that the bill does not go into that detail and compared to surrounding states we are far behind. We do not have mandates, standards or objectives but we have goals although maybe we should be mirroring those other states.

**Senator Lyson** commented that by next legislative session the study will have been completed and there will specific goals established to understand where the state is headed.

**Senator Triplett** questioned if North Dakota needs to agree with the Minnesota renewable standards as we sell or energy to them.

**Roger Johnson** agreed that we will benefit significantly if we have the right kind of policies to be insinc with them.

**Senator Heitkamp** asked if the bus hasn't already left town due to the Federal energy bill and we are too late.

**Roger Johnson** answered he thinks the excitement about ethanol corn plants might be waning and cannot get to the goals of 25X25 with there it. We need to get moving with research and development for other sources of renewable energy.

**Sandy Tabor**, representing the Lignite Energy Council testified in support of HB 1462 stating they are also in support of the amendments proposed and the national 25X25 imitative. The committee will come back next session with a plan or goals for North Dakota's part in the renewable energy concept.

**Senator Heitkamp** asked if others understand coal is a great partner with the renewables.

**Sand Tabor**, answered yes and that others now know that coal needs to be involved in reaching the 25X25 goals.

**Curtis Jabs** representing Basin Electric Power Cooperative testified in support of HB 1462 (See attachment #3).

**Justin Dever** representing the North Dakota Department of Commerce testified in support of HB 1462 stating as a department they stand ready to perform the duties as specified in section 6 of the bill.

**Senator Triplett** asked if the Commerce Department has been involved in the conversation as to whom the membership should be.

**Justin Dever** answered they have had some discussion although they have not seen a copy of the amendments.

**Senator Triplett** asked if he could approve the membership.

**Justin Dever** responded he would need to get back to the committee.

**Ron Ness** representing the North Dakota Petroleum Council testified in support of HB 1462 stating they support the concept.

Senator Lyson asked for opposing testimony of HB 1462 and hearing none asked for neutral testimony.

**Senator Triplett** presented to the committee copies of testimony of **Dave Fisher**, a geologist from Grand Forks (see attachment # 4).

**Senator Lyson** closed the hearing on HB 1462.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1462

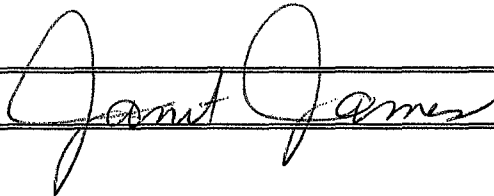
Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: March 9, 2007

Recorder Job Number: # 4757

Committee Clerk Signature



Minutes:

**Senator Stanley Lyson**, Chairman of the Senate Natural Resources Committee opened committee work on HB 1462 provides a sales and use tax exemption for materials used in the compression, processing, gathering, and refining of gas and materials used in the construction or expansion of a refinery.

All members of the committee were present except Senator Jim Pomeroy.

**Senator Lyson** reminded the committee of those who supported the bill, that no one testified in opposition and amendments had been proposed (.0303)

**Senator Joel Heitkamp** made a motion to adopt the amendment.

**Senator Ben Tollefson** second the motion.

Roll call vote #1 was taken by voice vote for adoption of the amendments were and indicated 6 Yeas, 0 Nays and 1 absent.

**Senator Ben Tollefson** made a motion for a Do Pass as Amended of HB 1462.

**Senator Joel Heitkamp** second the motion.

Roll call vote #2 was taken for a Do Pass as Amended of HB 1462 indicating 6 Yeas, 0 Nays and 1 absent.

**Senator Ben Tollefson** will carry HB 1462

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1462

Page 4, line 11, replace "independence council" with "policy commission"

Page 5, line 15, replace "independence council" with "policy commission" and replace  
"member" with "representative of the agriculture community appointed by the governor"

Page 5, line 16, remove "appointed by the agriculture commissioner"

Page 5, line 20, remove "and"

Page 5, line 21, after "governor" insert ", a representative recommended by the North Dakota petroleum marketers association and appointed by the governor, a member from the North Dakota investor-owned electric utility industry and appointed by the governor, a member from the generation and transmission electric cooperative industry and appointed by the governor, a member from the lignite coal-producing industry and appointed by the governor, and a member from the refining or gas-processing industry appointed by the governor"

Page 5, line 22, replace "independence council" with "policy commission. The commission shall meet at least six times or as often as the members deem necessary to complete the development of the comprehensive energy policy. The commission shall hold at least two public hearings before June 1, 2008, at which time interested parties may present testimony regarding issues pertinent to the development of the policy" and replace the second "independence council" with "policy commission"

Renumber accordingly

**Roll Call Vote #:** \_\_\_\_\_

**BILL/RESOLUTION NO.** 1462

☐ Check here for Conference Committee

Action Taken Amendment, 0303

Motion Made By        Seconded By       

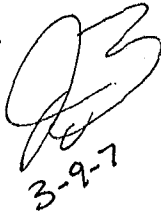
[illegible]

**Total (Yes) \_\_\_\_\_ No \_\_\_\_\_**

**Absent**

### Floor Assignment

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



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1462

Page 4, line 11, replace "independence council" with "policy commission"

Page 5, line 15, replace "independence council" with "policy commission" and replace  
"member" with "representative of the agriculture community appointed by the governor"

Page 5, line 16, remove "appointed by the agriculture commissioner"

Page 5, line 20, remove "and"

Page 5, line 21, after "governor" insert ", a representative recommended by the North Dakota petroleum marketers association and appointed by the governor, a member from the North Dakota investor-owned electric utility industry and appointed by the governor, a member from the generation and transmission electric cooperative industry and appointed by the governor, a member from the lignite coal-producing industry and appointed by the governor, and a member from the refining or gas-processing industry appointed by the governor"

Page 5, line 22, replace the first "independence council" with "policy commission. The commission shall meet at least six times or as often as the members deem necessary to complete the development of the comprehensive energy policy. The commission shall hold at least two public hearings before June 1, 2008, at which time interested parties may present testimony regarding issues pertinent to the development of the policy" and replace the second "independence council" with "policy commission"

Renumber accordingly

Date: 3-9-07

Roll Call Vote #: 2

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO.** 1462

Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Tollefson Seconded By Heit

Senators	Yes	No	Senators	Yes	No
Sen. Stanley Lyson, Chairman	✓		Sen. Joel Heitkamp	✓	
Sen. Ben Tollefson, ViceChairman	✓		Sen. Jim Pomeroy		
Sen. Layton Freborg	✓		Sen. Constance Triplett	✓	
Sen. Herbert Urlacher	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Tollefson

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

**REPORT OF STANDING COMMITTEE**

**HB 1462, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1462 was placed on the Sixth order on the calendar.

Page 4, line 11, replace "independence council" with "policy commission"

Page 5, line 15, replace "independence council" with "policy commission" and replace "member" with "representative of the agriculture community appointed by the governor"

Page 5, line 16, remove "appointed by the agriculture commissioner"

Page 5, line 20, remove "and"

Page 5, line 21, after "governor" insert ", a representative recommended by the North Dakota petroleum marketers association and appointed by the governor, a member from the North Dakota investor-owned electric utility industry and appointed by the governor, a member from the generation and transmission electric cooperative industry and appointed by the governor, a member from the lignite coal-producing industry and appointed by the governor, and a member from the refining or gas-processing industry appointed by the governor"

Page 5, line 22, replace the first "independence council" with "policy commission. The commission shall meet at least six times or as often as the members deem necessary to complete the development of the comprehensive energy policy. The commission shall hold at least two public hearings before June 1, 2008, at which time interested parties may present testimony regarding issues pertinent to the development of the policy" and replace the second "independence council" with "policy commission"

Renumber accordingly

2007 TESTIMONY

HB 1462

*Item #1*

**December 19, 2006**

**News from the 25x'25 Renewable Energy Initiative**

Welcome to 25x'25 *e-News*, reporting every two weeks on news from the 25x'25 Initiative and related-renewable energy happenings. For more information, be sure to check out our website at [www.25x25.org](http://www.25x25.org).

**IN THIS ISSUE:**

**25x'25 in 2006: A Retrospect**

**25x'25 Key in Minnesota Governor's Energy Initiative**

**Tax Credits Extended for Renewable Energy**

**Update on 25x'25 Endorsements**

**Policy Conference Promotes 25x'25**

**New Wind Energy Guide to Aid County Commissioners**

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**25x'25 in 2006: A Retrospect**

With a very busy and productive year for 25x'25 coming to a close, this last issue of 25x'25 *e-news* for 2006 features a look back at the many accomplishments of the initiative over the past twelve months.

In 2006 the topic of renewable energy entered the broad public consciousness in a big way. Skyrocketing natural gas and electricity costs, mounting concerns about the impacts that the burning of fossil fuels are having on air quality and greenhouse gas emissions, and realization about the nation's ever-growing dependence upon foreign sources of gas and oil prompted intense interest in and far-ranging national debate on energy solutions that carried through the year. President Bush's assertion during his State of the Union speech on January 31 that we are a nation "addicted to oil" riveted attention on the nation's energy dilemma. Suddenly, it seemed, discussion about renewable energy was everywhere.

Solutions abounded, as well. During his address to the nation, the President unveiled his Advanced Energy Initiative, which focuses on the development of alternative sources of energy as a way to lessen America's dependence on foreign oil. Lawmakers on Capitol Hill followed with plans and proposed legislation of their own intended to address energy concerns. States also stepped up legislative action to promote renewable energy through a host of locally-focused initiatives and jockeyed for recognition as providing the nation's most progressive energy leadership. Corporate America responded by investing heavily in renewables. BP's joint venture with DuPont to produce the next generation of biofuels—bio-butanol—is one example of entrepreneurial endeavors taken by both long-standing and newly-formed businesses. Demand for ethanol and biodiesel production increased dramatically. And driving much of this activity was the change in public attitude as it galvanized around the need to find new energy solutions for the nation. In a public opinion survey conducted early in 2006, a whopping ninety-one percent of respondents said that the country needs more ambitious and creative thinking behind a new

energy policy for the future.

Against this backdrop, the 25x'25 initiative made a very public debut early in 2006 and gained prominence through the year as a credible and highly achievable approach to helping meet the nation's energy needs. Using the nation's farms, forests and ranches to provide new sources of energy, the country was informed, will create greater economic opportunity, strengthen rural communities, protect the environment and ensure a secure, prosperous and healthy future for all Americans. And most importantly, the 25x'25 vision offers a realistic, achievable, long term solution geared to forging consensus for a new energy future for the nation.

### **Raising the Profile**

2006 was bookmarked by two high profile initiatives—a national summit and the release of economic impact reports—and marked at the mid-point with a third significant activity—the introduction of a national goal resolution. Each demonstrated the power of the 25x'25 message and the initiative's entree onto the national energy stage.

The 25x'25 initiative stepped into the national spotlight in early March with the Second National Ag and Forestry Renewable Energy Summit held in Washington, DC. Backed by a number of prominent, bipartisan legislative, administration and renewable energy leaders, 25x'25 leaders announced their national vision, demonstrated its achievability and outlined a strategy for building an Implementation Plan to create a 25x'25 energy future.

U.S. Department of Agriculture Secretary Mike Johanns, Governors Ed Rendell from Pennsylvania and Mitch Daniels from Indiana, former CIA director R. James Woolsey former Democratic Majority Leader in the U.S. Senate Tom Daschle, and former Republican Speaker of the U.S. House of Representatives Newt Gingrich, were among those on hand to lend support for the 25x'25 initiative and to share their thoughts on how to make the vision a national success.

During the summit, Govs. Rendell and Daniels, along with Montana Gov. Brian Schweitzer, became the first three governors to announce their endorsement of the 25x'25 vision. Their enthusiastic support rippled to other states across the country. By year end twenty-two governors from all regions of the country have since lent their support for the vision.

Results of a public opinion survey released at the summit showed the American public firmly in support of new approaches to solving the nation's energy problems. An astounding ninety-eight percent of the people surveyed said they believe the 25x'25 goal is important for the country and ninety percent said that the 25x'25 vision is achievable.

Bolstered by the public poll results and the backing of state and national policymakers and renewable energy advocates, the momentum from the summit traveled on to Capitol Hill, where 25x'25 leaders and champions took the message to lawmakers to further raise the visibility of the 25x'25 initiative and to solicit additional congressional support for energy solutions from America's farms, forests and ranches.

Following the summit, work began in earnest to craft a resolution and identify congressional champions that would establish the 25x'25 vision as a national goal. On June 7, Republicans and Democrats from both chambers of Congress, rural and urban interests, and representatives from some of the 140 different farm, forestry and environmental organizations gathered in a hearing room on Capitol Hill to announce

their support for the 25x'25 initiative. Representative Bob Goodlatte (R-Va.), chair of the House Agriculture Committee, and Sen. Chuck Grassley (R-Iowa) announced their shared plans to secure Congressional endorsement of the 25x'25 goal. Later that day, concurrent resolutions H. Con. Res. 424 and S. Con. Res. 97 were introduced, formally proposing this bold new energy vision for America.

In all, 16 original Senate members and 16 original House members signed on as sponsors of the concurrent resolutions. They included:

Senate sponsors: Chuck Grassley (R-Iowa), Ken Salazar (D-Colo.), Dick Lugar (R-Ind.), Tom Harkin (D-Iowa), Mike DeWine (R-Ohio), Barack Obama (D-Ill.), Chuck Hagel (R-Neb.), Byron Dorgan (D-N.D.), Norm Coleman (R-Minn.), John Kerry (D-Mass.), Jim Talent (R-Mo.), Ben Nelson (D-Neb.), John Thune (R-S.D.), Maria Cantwell (D-Wash.), Herbert Kohl (D-Wis.), and Tim Johnson (D-S.D.).

House sponsors: Bob Goodlatte (R-Va.), Collin Peterson (D-Minn.), Marilyn Musgrave (R-Colo.), Mark Udall (D-Colo.), Frank Lucas (R-Okla.), Earl Pomeroy (D-N.D.), Tom Latham (R-Iowa), Peter Visclosky (D-Ind.), Ray LaHood (R-Ill.), Jay Inslee (D-Wash.), John Shimkus (R-Ill.), Rosa DeLauro (D-Conn.), Jerry Moran (R-Kan.), Stephanie Herseth (D-S.D.), Gil Gutknecht (R-Minn.), and Lee Terry (R-Neb.).

For the ensuing seven months, these congressional champions, along with the 25x'25 leadership and countless partners, have worked tirelessly to recruit additional sponsors of the legislation. Their efforts secured the support of 94 House and 28 Senate co-sponsors by the time the 109<sup>th</sup> Congress came to a close.

November brought the release of two economic studies documenting the benefits of a 25x'25 renewable energy future. The first, a RAND report commissioned by the Energy Future Coalition, details how the implementation of a 25x'25 strategy will impact the national economy. The second report, prepared by the University of Tennessee at the request of the 25x'25 Steering Committee, forecasts how a 25x'25 renewable energy strategy will specifically affect the agriculture sector. The University of Tennessee report was released during the National Agricultural Marketing Association meeting in Kansas City just prior to the National Association of Farm Broadcasters' Trade Talk Forum. The presentation generated considerable interest and was followed up by interviews with radio and print media representatives. Details about the University of Tennessee report can be found at [www.25x'25.org](http://www.25x'25.org) under "Resources". The RAND report is currently being updated. A revised report is expected to be released in early 2007.

### **Broadening the Partnership**

The national summit in March signaled the start of a concerted, year-long effort to grow the initiative beyond its core agriculture and forestry leadership to one that encompasses a broad cross section of stakeholders. Outreach efforts have targeted environmental, conservation, energy, religious, consumer and labor groups to support the 25x'25 vision. At the time of the summit, 70 ag and forestry entities had endorsed the 25x'25 vision. By the close of this year, the list has grown significantly in number and diversity, to over 350 endorsing entities. The American Farm Bureau Federation, General Motors, National Rural Electric Cooperative Association, Renewable Fuels Association, National Wildlife Federation, National Association of Counties and Sheet Metal Workers' International Association are examples of the broadening partnership. The complete list of endorsers can be viewed at [www.25x25.org](http://www.25x25.org) under "Endorsements".

Reflecting the expansion of the initiative to groups outside the agriculture and forestry core, the 25x'25 steering committee also broadened its membership during the course of the year. Thirteen new committee members were added to the leadership team, further strengthening this decision-making body. The full list of steering committee members is located at [www.25x25.org](http://www.25x25.org) under "About Us".

The 25x'25 leadership also has engaged partners in several key areas through the formation of specific work groups. The forestry, electric utility, animal agriculture and corporate work groups are helping to identify opportunities and challenges for these sectors and provide guidance on how to engage and work collaboratively with these important partners in creating a 25x'25 energy future. The work groups serve as a forum for ongoing dialogue and expertise in each designated area.

### **Building State Support**

Building state-level support for 25x'25 through the formation of state alliances has been a primary goal set for the initiative in 2006. The national state alliance team, with the help of the 25x'25 steering committee and key agricultural and forestry leaders, has worked throughout the year to assist targeted states with the establishment of state alliances.

To date, 25x'25 efforts are underway in 27 states, with 12 of these considered to be actively functioning alliances. These states include Kansas, Nebraska, Texas, Iowa, Montana, Indiana, Colorado, Pennsylvania, Ohio, Mississippi, California, Florida, Georgia, Idaho, Louisiana, Washington, Oregon, Maine, Virginia, Vermont, Minnesota, Alabama, Illinois, Nevada, Kentucky, Wyoming and Arkansas.

The alliances have wasted no time in identifying priorities, tackling renewable energy issues and engaging the local citizenry in their states. Notable activities included a renewable energy summit at Ohio State University, a renewable energy conference in Austin, Texas, the passage of 25x'25 resolutions in four state legislatures, state level 25x'25 forums in Iowa, Florida and Nebraska and numerous press events including some at local renewable energy production facilities. More information can be found at [www.25x25.org](http://www.25x25.org) under "In The States".

### **Developing a Plan**

A vision without a plan for how to achieve it will remain just that—a vision. And the success of a plan relies on the support and input of all stakeholders. The development of an implementation plan for getting to 25x'25 was identified as a top priority for 2006. So began a process during the second half of the year to bring 25x'25 partners together to forge consensus on what steps America must take in the real world to get to 25x'25, and identify which policies and measures will allow the nation to get there.

The implementation planning got underway in July with a meeting of the 25x'25 partners in Washington, DC. At this meeting, the endorsing organizations discussed and compiled a preliminary list of "whats" and "hows" to get to 25x'25. Working groups then developed these ideas into more complete recommendations for a second meeting that was held this September in Denver. There the partners achieved significant consensus on a path to achieving 25x'25 and discussed the next steps in the implementation planning process. The input from both meetings was synthesized into a draft report and made available for comment in December.

Partners will continue to work on drafts of the complete report through January 2007 with a goal of releasing a final plan to policymakers in early February. The plan can then be used as a resource at the federal and state levels in crafting policies for a new energy future. More information about the implementation planning process can be found at [www.25x25.org](http://www.25x25.org) under "Resources".

## Spreading the Word

25x'25 leaders worked throughout the year to share the 25x'25 vision with groups at the state, regional and national levels. Steering committee members traveled to nearly every state in the Union, speaking at numerous meetings, conferences and other events and exhibiting at expos. Florida's *Farm to Fuel* Summit; the administration's *Advancing Renewable Energy* Summit, Auburn University's Renewable Energy Summit, California's *Environmental Dialogue*, the FFA National Conference, and the National Conference of State Legislatures' *Agricultural Chairs* Summit, highlight some of the events 25x'25 participated in during 2006. Information about upcoming events that 25x'25 will be involved with can be found at [www.25x25.org](http://www.25x25.org) under "Events".

25x'25 also captured attention at a Capitol Hill event in September that brought the congressional co-sponsors of the national goal resolution together with the "Big Three" U.S. auto manufacturers – Ford Motor Co., DaimlerChrysler and General Motors Corp. – in a show of support for the 25x'25 initiative. The three automakers, who became endorsing partners in May, made the case for developing more biofuels and improving the delivery system across the U.S. so that more vehicles can purchase renewable fuels at the pump. More information on our progress with national policymakers can be found at [www.25x25.org](http://www.25x25.org) under "On The Hill".

From January through year's end, the 25x'25 initiative garnered considerable coverage from print, broadcast and online media at national, regional and state levels, through mainstream as well as agricultural outlets. The focus on renewable energy during the President's State of the Union address, the 25x'25 national summit and the release of the two economic study reports prompted print and broadcast interviews, editorials and articles on the renewable energy future presented by the 25x'25 initiative.

National coverage has included editorials in the *Washington Times*, *Denver Post* and *Omaha World-Herald*, articles published in the *New York Times*, *Wall Street Journal*, *Christian Science Monitor*, *Boston Globe*, *Reuters*, *Detroit Free Press*, *Environment News Service*, *Agriculture Online*, *Farm Progress* and *USAgNet*, and broadcasts on *CNN Money.com* and *Marketwatch*.

The editorial boards of several newspapers felt compelled to weigh in with their endorsements of 25x'25, including the *Denver Post*, the *Omaha World-Herald* and the *Muncie Free Press*. Numerous regional and local media also carried stories, and partners, such as the Renewable Fuels Association, National Corn Growers Association, American Soybean Association and the National Rural Electric Cooperative Association, helped further expand 25x'25 messages through their in-house publications and websites. These and other articles are available at [www.25x25.org](http://www.25x25.org) under "Newsroom".

## Next Steps: 2007

Much of the groundwork laid in 2006 will form the basis of efforts in 2007. Much of the groundwork

laid in 2006 will form the basis of efforts in 2007. Preliminary goals for the coming year include:

- Building support for the 25x'25 national goal and the policy to achieve it
- Expanding and engaging partners by further diversifying and growing the 25x'25 national alliance, engaging key partners in the campaign, and building a corporate component to 25x'25
- Expanding state activities and alliances, strengthening alliances in established states and securing additional gubernatorial endorsements
- Elevating the profile of 25x'25, especially in the media, through events and activities such as a third national summit, stepping up national and media outreach work with targeted writers and editorial boards, developing and issuing additional reports and scheduling 25x'25 presentations at national conferences

\* \* \* \* \*

### **25x'25 Key in Minnesota Governor's Energy Initiative**

Minnesota Governor Tim Pawlenty announced his proposal to move the state closer to the 25x'25 strategic goal as part of his Next Generation Energy Initiative unveiled last week at the Midwest Ag Energy Network Summit in St. Paul. The initiative will build on Minnesota's nation-leading per capita renewable fuel use, while increasing energy cost saving measures and developing a sound approach to emissions. Under the current Renewable Energy Objective (REO), Minnesota electric utilities are expected to generate at least 10 percent of the electricity they supply consumers to come from renewable resources by 2015. Gov. Pawlenty is proposing that the REO increase to 25 percent of the electricity Minnesotans use should come from renewable resources by 2025. In addition, a financial penalty for non-compliance would be imposed if the goal is not reached.

"The obligation should be firm enough to ensure we reach our goals, but flexible enough to allow utilities and regulators to respond to changing markets, consumer demand and regulatory conditions," Gov. Pawlenty said.

Gov. Pawlenty's announcement can be read at  
<http://www.governor.state.mn.us/mediacenter/pressreleases/PROD007863.html>.

\* \* \* \* \*

### **Tax Credits Extended for Renewable Energy**

Before the 109<sup>th</sup> Congress entered the pages of history, it passed the Tax Relief and Health Care Act of 2006, a package that extends through 2008 an array of tax breaks, including some that benefit renewable energy and energy efficiency efforts. Tax credits help boost growth and investments in renewable energy technologies; passage of this tax extender package is expected to spur forward a number of solar, wind, and bioenergy projects.

The extended tax breaks aimed at renewable energy include the production tax credit, and credits for biomass and geothermal facilities that were otherwise set to expire at the end of 2007. The bill also extends for one year the 30 percent tax credit for the purchase of residential solar water heating, solar electric equipment and fuel cell property, as well as the 30 percent business tax credit for the purchase of fuel cell power plants and solar equipment. The 54-cent-per-gallon tariff on imported ethanol is also

extended until January 2009, and contains a provision regarding exploration of the Outer Continental Shelf.

Following are additional relevant provisions:

- Extension of credit to holders of clean renewable energy bonds.
- Modification of the clean coal gasification tax credit.
- Extension of deduction for energy efficient commercial buildings.
- Extension of credit for new energy efficient homes.
- Extension of credit for residential energy efficient property.
- Extension of reduced excise tax rate for qualified methanol or ethanol fuel produced from coal.
- New special depreciation allowance for cellulosic biomass ethanol plant property.
- Modification of the coke and coke gas production tax credit.

For more information, please see the text of the Bill at <http://thomas.loc.gov/cgi-bin/query/z?c109:hr.6408>; and the Renewable Energy Access summary at <http://www.renewableenergyaccess.com/rea/news/story?id=46789>.

\* \* \* \* \*

### **Update on 25x'25 Endorsements**

This list of 25x'25 partners continues to grow. The following are the most recent organizations to endorse the 25x'25 goal:

*National:* E3 Biofuels

*Regional:* Maine Rural Partners; Online Community News (PA); BioFlorida, Inc. (FL); KenGro Corporation (MS); Triangle Energy Group (MN); Southern Forest Research Partnership (GA)

In addition, Cascade County, Montana, has officially endorsed the 25x'25 vision. Cascade County is the home of 25x'25 steering committee member Peggy Beltrone, who also serves as its commissioner.

Please visit [www.25x25.org](http://www.25x25.org) and select "Endorsements" to view the complete list of endorsers.

\* \* \* \* \*

### **Policy Conference Promotes 25x'25**

The 25x'25 initiative was held up as an example of effective coalition building in support of a new energy future at the American Council on Renewable Energy's (ACORE) 5<sup>th</sup> annual national policy conference, "Phase II of Renewable Energy in America: Market Forecasts and Policy Requirements." The meeting, held in Washington, DC, on November 29-30, focused on the next step in policy implementation and forecast renewable energy contributions to U.S. energy supplies through the coming years. Conference organizers called on energy stakeholders to get behind the 25x'25 campaign and use it as a primary organizing vehicle going forward.

A prominent lineup of speakers who participated in the discussion included Thomas Friedman of the

*New York Times*, Vivienne Cox, Chief Executive of Alternative Energy for BP and Alan Waxman, Managing Director for Alternative Energy Investing at Goldman Sachs.

ACORE is a 25x'25 partner. More on the conference can be viewed at <http://www.acore.org/programs/06policy.php>.

\* \* \* \* \*

### **New Wind Energy Guide to Aid County Commissioners**

The National Association of Counties—a 25x'25 partner—and the Department of Energy's National Renewable Energy Lab have recently published a guide for county commissioners about wind energy. The guide, called "Wind Energy Guide for County Commissioners," is designed to provide county commissioners, planners, and other local county government officials with a practical overview of information required to successfully implement commercial wind energy projects in their county. The guidebook covers economic development benefits, siting issues, property tax incentives, and public outreach and other topics. 25x'25 steering committee member Peggy Beltrone, a county commissioner in Cascade County, Montana, helped develop the guide.

A PDF version of the guide is available at: [http://www.naco.org/Template.cfm?Section=New\\_Technical\\_Assistance&template=/ContentManagement/ContentDisplay.cfm&ContentID=](http://www.naco.org/Template.cfm?Section=New_Technical_Assistance&template=/ContentManagement/ContentDisplay.cfm&ContentID=)

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If you do not already subscribe to this newsletter, you can do so by visiting the "Join Us" box at [www.25x25.org](http://www.25x25.org). To unsubscribe, please send an email to [info@25x25.org](mailto:info@25x25.org) with "unsubscribe" in the subject line.

Item #2

WILMINGTON, Del. — President Bush, trying to add urgency to his shrinking domestic agenda, said Wednesday that America will be held hostage by oil if it doesn't change its habits.

"Dependence on oil provides an economic and national security risk, a problem that this country better start dealing with in a serious fashion — now," Bush said in a speech to employees of DuPont Co., a chemical giant and leading researcher of energy alternatives.

The president used a quick trip to Delaware to promote biofuels such as cellulosic ethanol, which can be made from wood chips, switchgrass and corn-plant parts such as stalks and leaves.

Ramping up production of alternative fuels is one way Bush says the nation can cut consumption of gasoline by up to 20 percent over 10 years. The other key element of Bush's plan, as outlined in his State of the Union speech Tuesday, is higher fuel-economy standards for cars.

Bush cast the energy debate in terms of terrorism, depicting scenarios in which oil-rich enemies could disrupt the United States by targeting its reliance on gas-powered vehicles.

"If a terrorist were able to destroy infrastructure somewhere else in the world, it's going to affect what you pay for at the gasoline pump," Bush said at the Hotel DuPont.

Bush signed an executive order that calls on the federal government to use



President Bush tours a DuPont experimental station in Wilmington, Del., on Wednesday. DuPont microbiologist Armando Byrne, left, and Energy Secretary Samuel Bodman, right, flank the president.

AP

more alternative fuels and less petroleum — a way for the administration to set an example with its agencies.

Some lawmakers appeared receptive to Bush's energy ideas, although environmentalists and other critics described the president's approach as belated and limited.

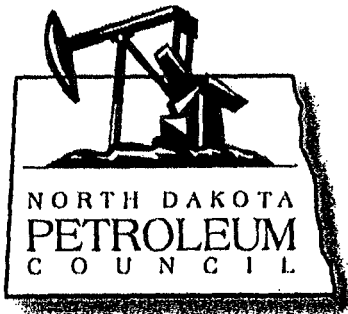
He is also up against several forces in the final quarter of his presidency: a vastly unpopular war, a Democratic Congress and low approval ratings.

In a political irony, Bush was in the

hometown of Sen. Joseph Biden even as the Delaware Democrat led the Senate Foreign Relations Committee in condemning Bush's troop increase in Iraq.

The administration on Wednesday proposed to spend \$1.6 billion on ethanol as part of Bush's goal to sharply reduce gasoline usage over the next decade.

The funding will help develop new sources of ethanol, which now comes mostly from corn.



Ron Ness  
President  
Marsha Reimnitz  
Office Manager

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Phone: 701-223-6380 • Fax: 701-222-0006 • Email: ndpc@ndoil.org

*Item #3*

**House Bill 1462**  
**House Natural Resources Committee**  
**January 25, 2007**

Chairman Porter and Members of the Committee. My name is Ron Ness, President of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents 130 companies involved in all aspects of the oil and gas industry including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain Region. Petroleum Council members produced 80% of the nearly 36 million barrels of oil produced in North Dakota in 2006. I appear before you today in support of House Bill 1462.

**OIL INDUSTRY FACTS:**

- North Dakota ranks 9th among the nation's oil producing states
- North Dakota produces 113,000 barrels of oil per day
- There are currently 42 rigs drilling new wells
- Industry produced 36 million barrels of oil last year
- Currently, there are more than 3,600 producing oil wells in the state
- Average production per well is about 30 barrels per day
- 160 oil companies own and operate wells in North Dakota
- Industry has added an estimated 2,500 jobs in the past 30 months

**OIL AND GAS INDUSTRY TAX REVENUES:**

- \$152 million in 2005 in oil and gas production taxes
- A 63% increase in oil tax revenues from 2004
- 3rd largest source of revenue to the general fund behind sales and income taxes
- \$102 million to Permanent Oil Tax Trust Fund through 12/31/2006
- \$167 million in oil tax collection in fiscal year 2006

The question is, **“What can be done to not only maintain this incredible economic growth, but expand our state’s oil production to 150,000 or 200,000 barrels of oil per day?”**

The impact of that type of growth in North Dakota’s oil industry would drive the state’s economy for decades. There are a number of challenges facing industry today that hold back that type of growth. Commodities prices and economics drive investment in this business. High prices have made it possible to invest in new technology which makes developing a resource like the Bakken and other horizontal plays possible. New technology and positive economics will continue to be important; however, other solutions, like having a trained workforce, a fair tax and regulatory climate in the state, and expanding infrastructure to produce, transport, and refine our oil and gas resources are critical.

Natural gas is an attractive fuel because it is clean-burning and efficient. The importance of natural gas as an energy source for the United States has grown since mid-1990. Currently, several of our members are drilling oil wells and having to flare natural gas because the gas plants are at or near capacity and there is no place to process the natural gas, or the economics do not justify laying the pipe to tie them into a processing plant. The Governor highlighted this concern in his “State of the State” address. This is not only a waste of a natural resource, but it is costing oil and gas companies, royalty owners, and the state a tremendous amount of lost revenue each day. In addition, this resource, that is produced with oil, can help positively impact the economics of the Bakken and other horizontal plays, which is critical to their success. Development costs of horizontal wells, such as the Bakken, are extremely high. Any negative economics related to the Bakken and other horizontal development will only cause more problems and uncertainty for operators as they invest millions trying to research and develop the completion techniques that it will take to make horizontal drilling one of our state’s greatest economic drivers for the next decade.

HB 1462, with the proposed amendment, provides an incentive for not only shallow gas developers in new areas of the state, but also provides an economic incentive to build new gas processing and gathering facilities in the state. Our gas processing plants are nearing capacity and we need to expand or build new gas processing facilities and gathering systems. Currently, all other manufacturing and agricultural processing plants do not pay sales tax for building or expanding a facility. This bill extends that sales tax exemption to natural gas processing plants. There has also been discussion that the state should provide some type of economic investment to encourage the building or expansion of oil refineries. We support an amendment to provide a sales tax exemption for any expansion or building of a refinery that has at least a nameplate capacity of processing 10,000 barrels of oil per day.

We urge a Do Pass on HB 1462. Thank you for your consideration on this bill. I would be happy to answer any questions.

Proposed Amendments to House Bill No 1462

Page 1, line 2, remove the word "distributing" and insert instead the word "gathering" and remove the word "shallow"

Page 1 line 22 , remove the word "distributing" and insert instead the word "gathering" and remove the word "shallow" and insert after the word gas "used to expand or build a gas processing facility in this state"

Page 2 line 2 remove the word "distributing" and insert instead the word "gathering" and remove the word "shallow"

Page 2 line 3 after the word "state" insert "used to expand or build a gas processing facility in this state"

Remove lines 11 and 12.

Renumber Accordingly

# Oil & Gas TIDBITS

**We Keep North Dakota Going Strong**



## GREETINGS

Greetings from North Dakota's oil and gas industry! This is our second issue of "Oil & Gas Tidbits." This publication will be distributed quarterly to North Dakota policy makers and interested parties in the oil and gas industry to keep you updated on issues that may be of interest in guiding our state's economy.

In future editions, we will focus on Energy Education, New Technology in the Oil and Gas Industry, Oil and Gas Research Council, Refining, the Economic Impact of North Dakota's Oil and Gas Industry and Workforce Needs Study Results.



Drilling rig in North Dakota Badlands

## North Dakota Bakken – Geology at its Best and Worst!

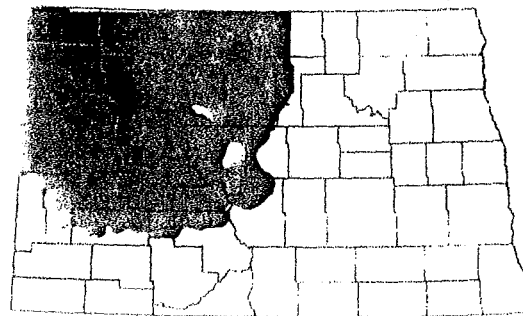
Right now, the North Dakota Bakken Formation is the focus of much attention within the oil and gas industry as well as in the general media. Why all the excitement and why now? There are many answers, but the most important is it has great potential!

Oil industry leaders, as well as new operators, are beginning to find success in the North Dakota portion of the Bakken Formation over a widespread area. The Bakken is once again creating excitement in the state's oil and gas industry.

365 million years ago North Dakota was covered by an ocean or sea which deposited various amounts of sand, silt, and shale. For this reason the Bakken Formation has been split into upper, middle, and lower members. The upper Bakken in North Dakota is comprised of black, oil-bearing shale. This rock is the source of Bakken oil.

The Bakken Formation is geology at its best because of the tremendous oil reserves (see Facts below), however, the Bakken Formation is also

geology at its worst because sustainable oil production has proven to be elusive because of the character of the reservoir rock. ►



Extent of the Middle Bakken Formation in North Dakota

## FACTS


- The **Wilson M. Laird Core and Sample Library** in Grand Forks, North Dakota contains **6,119 feet of Bakken cores** from oil and gas wells.
- Reserve studies estimate **250 billion barrels of oil in the North Dakota Bakken**. However, current technology allows that we **could only produce about 1% of those reserves**.
- In 2006, there were **46 new horizontal Bakken wells drilled**.
- It cost nearly **\$6 million to complete a Bakken well in 2006 compared to \$1.3 million in 2004**.
- **All Bakken wells in North Dakota since October of 2005 have been horizontal wells**. Statewide horizontal drilling accounted for **72% of all new wells drilled and 55% of the state's total oil production in 2005**.
- The typical North Dakota Bakken well is **10,000 feet deep** and has one to three horizontal legs extending out as far as **9,000 feet** across two sections of minerals.

# ND Bakken - Future Depends on Technology

Historically, the problem with drilling horizontally in this shale member, as was discovered during the previous Bakken plays of the 1980s and 1990s, is that the shale is impermeable, meaning it does not allow the oil to move

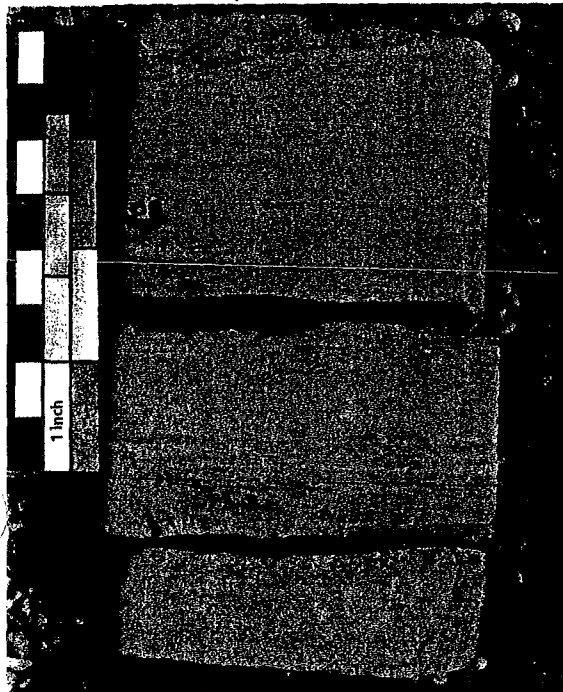
freely. Unless a fracture system is encountered, the oil stays in place and the production declines rapidly. The formation needs natural conduits to enable oil to be produced. Recent technological advancements in horizontal drilling

and well completion techniques including fracture stimulation has enabled the Bakken to be explored in a new way. This has resulted in the Williston Basin Bakken becoming one of the largest on-shore oil plays in the lower 48 states.

Geologic study, continued drilling, and refinement of completion practices, will hopefully improve the success of this North Dakota Bakken play. Geology of the Bakken is very complex and this new technology is very expensive (see Facts section). As the Play develops scientists will continue to work together to unlock the mysteries of these ancient rocks. 

*Article submitted by Kathy Neset, owner of Neset Consulting in Tioga, ND. Kathy is a geologist and her business employs 22 people who provide well-site geological services for oil and gas companies in the Williston Basin. Kathy is a former school teacher. Neset Consulting is a member of the ND Petroleum Council.*

A core sample from the Middle Bakken Formation



Please note: If you do not wish to receive further mailings from us, please email [ndpc@ndoil.org](mailto:ndpc@ndoil.org) and you will be automatically removed from our mailing list.

## North Dakota Petroleum Council

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[www.ndoil.org](http://www.ndoil.org)

Ron Ness, President

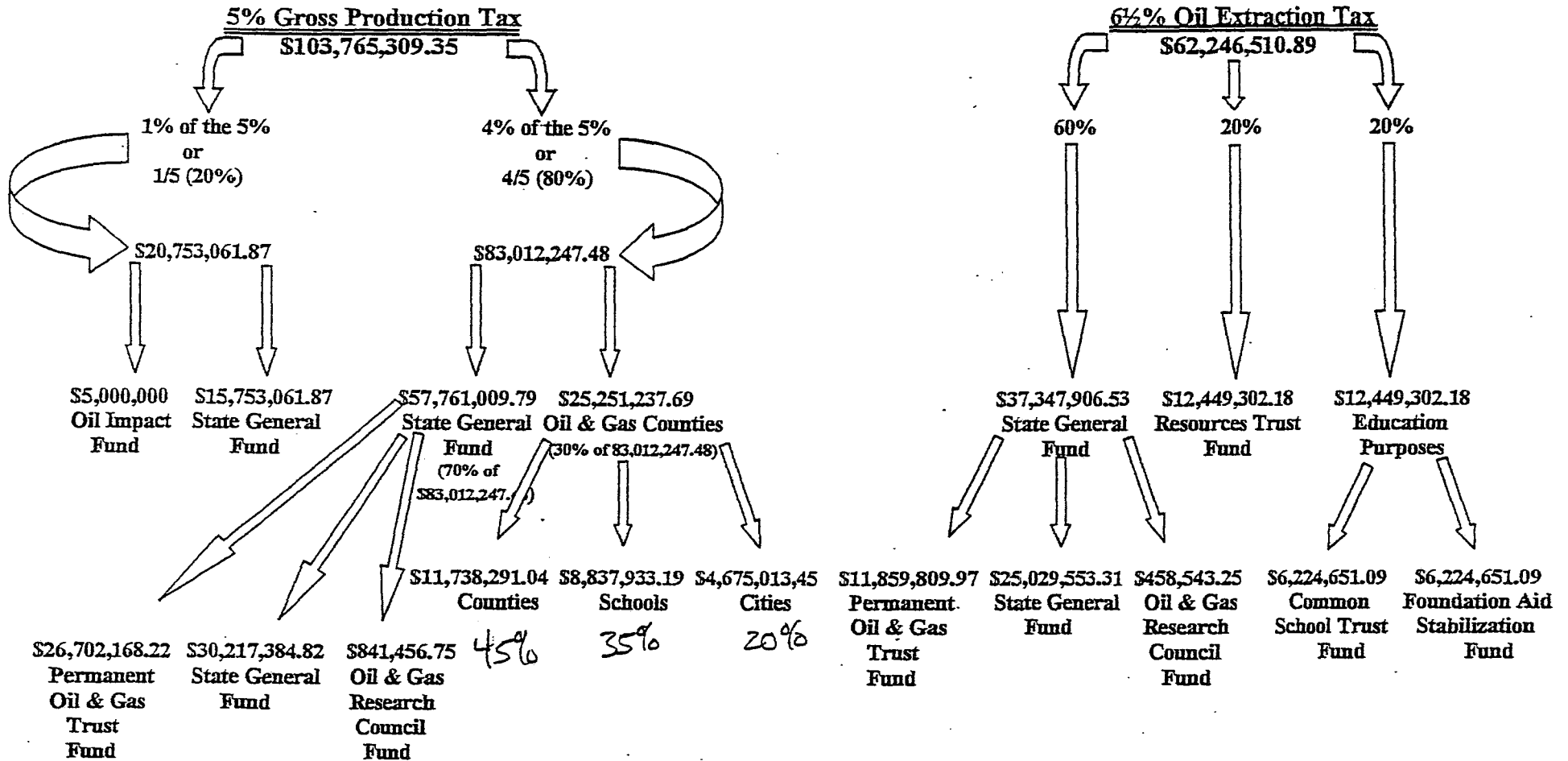
North Dakota Petroleum Council  
PO Box 1395  
Bismarck, ND 58502-1395

Scenario #2

# Current Oil Distribution

(Fiscal Year 2005- 2006 [July 1, 2005 thru June 30, 2006] Revenue Totals & Distribution)

\$166,011,820.24 Received



## Summary:

$$\$103,765,309.35 + \$62,246,510.89 = \$166,011,820.24$$

Oil Impact	State General	Resources Trust	Counties	Schools	Cities	Permanent Oil & Gas Trust	Oil & Gas Research Council	Common School Trust	Found. Aid Stab.
\$5,000,000.00	\$15,753,061.87	\$12,449,302.18	\$11,738,291.04	\$8,837,933.19	\$4,675,013.45	\$11,859,809.97	\$458,543.25	\$6,224,651.09	\$6,224,651.09
(3%)	\$25,029,553.31	(7%)	(7%)	(5%)	(3%)	\$26,702,168.22	\$841,456.75	(4%)	(4%)
	\$30,217,384.82					\$38,561,978.19	\$1,300,000.00		
	\$71,000,000.00					(23%)	(1%)		
	(43%)								

*Item # 4*

**FISCHER OIL and GAS, INC.**  
5749 83rd Street South  
Grand Forks, North Dakota 58201-9120

**House Bill ~~1279~~ 1462**  
**House Natural Resources Committee**  
**January 25, 2007**

Chairman Porter and Members of the Committee. My name is David Fischer, I am an exploration geologist based in Grand Forks. I am here today to testify in support House Bill 1462.

In my opinion there is potential for shallow gas production to be expanded in the State. Currently shallow gas is produced from a single geological formation from one field in southwestern Bowman County. Not only is that formation present throughout much of the State, but other rock intervals that produce elsewhere in other Rocky Mountain areas are also present in the State. In addition, the conditions or variations in the conditions that control shallow gas production elsewhere appear to be present in the State. Those conditions are found not only in the traditional oil producing regions of the State but extend well eastward. In order to evaluate the potential for shallow gas production in those areas, additional wells and additional data will need to be collected.

With your permission I would also like to address the differences between shallow gas resource development and the development of an oil pool. Those differences include:

- Wells drilled to collect data outside the normal area of oil production will be very expensive and represent a logistical nightmare.
- The economics of wells in a play of this type are very sensitive and are statistical in nature.
- A large number of wells will need to be drilled to prove the economic viability of the resource.
- The amount of time necessary to test individual wells may actually exceed the period of confidentiality for those wells.
- A large volume of gas is required for the building of infrastructure and required prior to sale to an interstate pipeline.
- The area that is potentially productive may be very large, and individual fields may extend for miles.

Any relief that can help focus interest in attempting to test and develop the potential of this resource will be helpful. I recommend a Do Pass on HB 1462. Thank you for your consideration on this bill. I would be happy to answer any questions

\_\_\_\_\_ 701-746-8509 phone 701-746-0870 fax  
fischerd@gfwireless.com

Roger Johnson  
Agriculture Commissioner  
www.agdepartment.com

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Attachment #2  
Phone (701) 328-2231  
Toll Free (800) 242-7535  
Fax (701) 328-4567

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600 E Boulevard Ave., Dept. 602  
Bismarck, ND 58505-0020

**Testimony of Roger Johnson  
Agriculture Commissioner**

**HB 1462**

**Senate Natural Resources Committee  
Fort Lincoln Room  
March 8, 2007**

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Chairman Lyson and members of the Senate Natural Resources Committee, I am Agriculture Commissioner Roger Johnson. I'm here today to offer testimony in favor of HB 1462, which adopts "25x25" goal for the US, provides a tax exemption for shallow gas, directs the Legislative Council to appoint an energy development and transmission interim committee in each interim through 2011, directs Legislative Council to condense energy-related statutes into Chapter 17 of the ND Century Code and directs the Department of Commerce to convene an Energy Independence Council to develop a comprehensive energy policy.

North Dakota is well positioned to be an all-around energy leader. We have vast traditional and renewable resources that can be used to produce a clean and affordable energy supply for this state and for the country.

North Dakotans agree that renewable energy development needs to be a priority for North Dakota. The North Dakota Renewable Energy Partnership, in cooperation with the Office of Renewable Energy & Energy Efficiency, commissioned the University of North Dakota Bureau of Governmental Affairs to conduct a public opinion survey on renewable energy issues in North Dakota. 600 North Dakotans, equally split male and female, were surveyed from June 13<sup>th</sup> to July 12<sup>th</sup> of 2006.

The survey showed that overwhelmingly, North Dakotans support renewables. Of those surveyed:

- 93 percent believe that renewable energy should be a priority in our state legislature.
- 96 percent believe that we should reduce our dependence on foreign sources of oil by promotion renewable sources of energy and energy conservation.

The production and use of renewable energy sources is of paramount importance not only to our state, but as part of our country's national energy security strategy. Retired Air Force General Charles "Chuck Wald – a North Dakota native – addressed the attendees of Marketplace for Entrepreneurs in Fargo in January. General Wald described a sobering picture of US and world energy production and consumption. Wald said that the United States currently spends approximately \$50 billion annually to ensure the free flow of oil throughout the world. When amortized to the price of gasoline, Wald estimated that US citizens are currently paying approximately \$6.50 per gallon of gasoline consumed.

President Bush in his State of the Union address also spoke about our energy situation, saying, "...it's in our vital interest to diversify America's energy supply...we need to...expand the use of...biodiesel fuel...we must continue investing in new methods of producing ethanol...using everything from wood chips to grasses to agricultural wastes...let us build on the work we've done and reduce gasoline usage in the United States by 20 percent in the next ten years."

I will direct my testimony today to Sections 1 and 6 of HB 1462.

Section 1 of this bill calls for the adoption of the national "25x25" goal – deriving twenty-five percent of our nation's energy from "agricultural, forestry, and working lands" by 2025.

I officially endorsed the national 25x25 effort in February of last year. As I stated in my endorsement letter (copy attached), this vision is an achievable objective if our country is willing to invest significant resources into the development of new and better technologies and if we make a serious commitment to utilize and consume these renewable energies. A similar endorsement of this goal is contained in HCR 3020.

While adopting the non-binding 25x25 goal is a positive step, I also strongly support renewable fuel and renewable electricity objectives for the state of North Dakota that require use of these resources.

Section 6 calls for the development of an "energy independence council" for the purpose of "developing a comprehensive energy policy for the state." I support this effort; however, I would urge you to clarify the name and purpose of the council as described in Section 6.

SB 2288 also establishes a research council for renewable energy – currently named the Energy Independence Research Council. The council in SB 2288 is meant to be a permanent, research-oriented body that administers grants other forms of assistance, in conjunction with the Industrial Commission, to further develop the renewable energy sector in the state. The council is modeled after the Lignite Research Council and the Oil & Gas Council.

It is my understanding that the council set forth in HB 1462 is a policy council whose charge is to develop an energy policy for the state and is to be led by the Department of Commerce. The life of this council is intended to be limited. I support the creation of both councils; however, I would like to emphasize that each serve a unique and individual purpose.

North Dakota clearly has a stake in our country's energy future and it is incumbent upon us to devise a policy and roadmap for that future. Therefore, Chairman Lyson and committee members, I would urge you to look favorably upon HB 1462. Thank you for this opportunity to offer testimony. I would be happy to answer any questions you may have.

Roger Johnson  
Agriculture Commissioner  
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600 E Boulevard Ave., Dept. 602  
Bismarck, ND 58505-0020

February 8, 2006

Ernest C. Shea, President  
Natural Resource Solutions, LLC  
208 Melancthon Avenue  
Lutherville, MD 21093

Dear Mr. Shea:

I am writing to express my support and endorsement for the 25 X '25 Ag Energy Work Group. I have attached a signed preamble.

I believe the development of renewable energy from agricultural sources provides tremendous opportunity for our agricultural community, provides environmental and economic benefits and will help reduce our country's increasing dependency on foreign sources of oil and energy.

Your vision statement - *"By 2025, America's working lands will provide 25 percent of the total energy consumed in the United States while continuing to produce abundant, safe and affordable food, feed, fiber and fuel"* - is an achievable objective if our country is willing to invest significant resources into the development of new and better technologies and if we make a serious commitment to utilize and consume these renewable energies.

Thank you for the opportunity to be a part of this effort. I look forward to working with you in building our renewable energy economy in the United States.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger Johnson", is written over a horizontal line.

Roger Johnson  
Agriculture Commissioner

RJ:pl

**Curtis Jabs - Basin Electric Power Cooperative  
In Support of HB 1462  
Senate Natural Resources Committee  
March 8, 2007**

I'm Curtis Jabs representing Basin Electric Power Cooperative in support of House Bill 1462. I will speak specifically towards section 1, 4 and 6

Basin Electric supports the 25'x25' Initiative as outlined in section 1 on the bill. The 25 x '25 Alliance has developed a national grassroots initiative committed to voluntary goals that will enhance renewable energy development. It includes expanding electricity production from renewable sources such as wind and hydro, and transportation fuels such as ethanol and bio-diesel. The initiative also promotes the development of other alternatives such as biomass, hydrogen, solar, anaerobic digesters and all other forms of renewable energy. At the February board meeting, our Basin Electric Boards of Directors passed a resolution supporting the 25 X 25 Initiative.

North Dakota is a leader in traditional energy resources (coal, oil, natural gas) and their importance to the nation's and North Dakota's energy future. Basin Electric is seeing increased load demand from the expanded oil and gas development and reliable, affordable, electricity generation will be necessary to meet these new demands.

Basin Electric support the development of an interim committee as outlined in section 4 to study the impacts of developing a comprehensive energy plan that cover all facets of energy policy. Section 6 is important for all segments involved in energy production to be included in a stakeholder's process under the guidance of the Commerce Department to develop a comprehensive energy plan for the state. An energy producer/state partnership working together will enhance the development of both renewable and traditional energy resources and we urge a Do Pass recommendation on this HB 1462.

**Triplett, Constance T.**

**From:** David Fischer [fischerd@gfwireless.com]  
**Sent:** Thursday, March 08, 2007 7:54 AM  
**To:** Triplett, Constance T.  
**Subject:** HB-1279 & HB-1462

Senator Triplett;

My name is Dave Fischer. I am a geologist in Grand Forks, actively involved the exploration for natural gas in the central and eastern portion of the State. I was planning to testify before your Committee today, but my schedule had to be changed. I strongly urge your support for the HB-1279 & HB-1462.

At present natural gas is only produced from a single formation, and only in southwestern Bowman county. In my opinion there is potential for shallow, natural gas production to be expanded in the State, including into parts of the State that currently do not have oil or gas production.

Rocks and the conditions that control shallow natural gas production elsewhere in the Rocky mountain region are present throughout much of North Dakota. There is also data to suggest that there is some natural gas in the system. Further study and exploration is necessary to determine whether the resource produceable with current technology and if the gas is economic to produce. This phase of exploration is very risky and very expensive. Numerous wells have to be drilled to test and modify technologies and identify the extent of the resource. Any support given by the State will be important to the exploration phase.

I would also like to point out some basic differences between shall gas resource development and the development of an oil pool. Those differences include:

- Wells drilled to collect data outside the normal area of oil production will be very expensive and represent a logistical nightmare.
- The economic sensitivity of wells, a play of this type is statistical in nature.
- The number of wells that will need to be drilled to prove the economic viability of the resource.
- The amount of time necessary to test individual wells (that time may actually exceed the period of confidentiality).
- There is a large volume of gas that is required for the building of infrastructure and required prior to sale to an interstate pipeline may require 100-200 producing wells.
- The area that is potentially productive is very large, individual fields may extend for miles.

Thank you for your time and consideration.

Dave Fischer [fischerd@gfwireless.com](mailto:fischerd@gfwireless.com)  
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3/8/2007