

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2141

2007 SENATE FINANCE AND TAXATION

SB 2141

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2141**

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 23, 2007

Recorder Job Number: # 1687

Committee Clerk Signature

Sharon Penfold

Minutes:

Sen. Urlacher: called the committee to order and opened the hearing on SB 2141.

Sen. Urlacher: prime sponsor of the bill stated that this bill to pertains to recycling of heat from pump stations and gave a handout. A number of sessions ago we exempted sales tax from manufacturing business of equipment, electric generating poll, wind energy and hydrogen generation and pollution control. At that time the technology didn't exist and regard to the recycling of heat. So that has not been recognized for an exemption. SD does exempt for that purpose and they have installed 3 units in SD and 1 in ND. We're going to be losing those facilities to SD here likely because of the tax effect. I think it's a very worth while project, its environmental friendly, has a great potential of generation for what we think is a lesser cost of a lot of other generations.

Rep. Brandenburg: co-sponsor of the bill appeared in support stating this bill deals would deal with the sales tax which has been used on many other kinds of construction across the state to encourage a development of energy type facilities. In McIntosh County this type of construction and waste heat could be built and do we want in ND or in SD? SD has the taxes in place that is attractive to go there and we need to be competitive.

Sen. O'Connell: Co-sponsor of the bill appeared in support with written testimony.

Curtis Jabs: Basin Electric Power Cooperative appeared in support with written testimony.

Sen. Cook: The \$100,000 and the \$29,000 that's on and above whets been generated already which is the compressor station there?

Answer: the \$100,000 will be with the property tax that will be paid by each sight closest to that district and then the \$29,000 is the gross receipts tax that Basin Electric pays gross receipts like in lieu of property tax.

Sen. Urlacher: so it would be recovering that \$100,000 through taxation?

Answer: that's correct, about \$129,000 a year in additional tax would be coming to ND.

Chris VandeVenter: of Basin Electric appeared to give information to the committee and answer questions.

Sen. Cook: \$100,000 assessed property tax, how is that distributed?

Curtis: that will go to that district

Sen. Cook: who collects it?

Don Boehm: Basin Electric – because that property is essentially assessed the State of ND essentially assesses it and then the values are distributed to the counties and the County Treasurer sends those tax payments out and it goes directly to the county of where each facility is located.

Sen. Cook: so they distribute it to the county and the school district?

Answer: that's correct.

Sen. Cook: this is what we would call an unattended consequence and also for many years an unnoticed consequence. But it is noticed now and I think it's compared that maybe we somehow see if we can't find a solution.

Answer: that is no different than any other new manufacturing business that goes into any city, county or township the property taxes are in fact assessed based upon the value of that

investment and it is distributed to the county and political subdivisions of which that is located. So this isn't really any different than the other ones would be. Although there are other mythologies that could be applied.

Sen. Cook: there is a difference. That other property you're talking about shows up behind the wealth of the school district, this particular property does not, and that's the difference.

Closed the hearing. Discussion

Sen. Triplett: Looks like they didn't take into consideration the potential up-side, can we ask them to redo the F.N.

Sen. Cook: the purpose of the fiscal note is its reflection on the state budget.

Sen. Oehlke: the fiscal note is only the, an impact if they are built or not, if they're not built at all, then the fiscal impact is actually worse. It's funny it doesn't fall under pollution control.

Sen. Anderson: Rep. Brandenburg said we don't have it now so there is really no fiscal effect on any budget that's out there now.

Closed discussion.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2141**

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 23, 2007

Recorder Job Number: # 1689

Committee Clerk Signature

Sharon Renslow

Minutes:

Sen. Urlacher: called the committee back to order for further discussion.

Miles Vosberg from the Tax Dept. Appeared to answer any questions the committee might have.

Sen. Anderson: just for clarification, the fiscal note shows a hit to the general fund and other funds but we really never had that money in the State of ND, this is if the tax exemption weren't given, this is what would go in, not what's coming out, right?

Miles: when we prepared the F.N. we have to look at the existing law and under that existing law assuming that these plants would be built it would generate that revenue and that revenue would be lost under this bill.

Sen. Urlacher: so now there's going to be taxation paid to the local subdivisions proposed \$100,000, that's not taken into consideration in the offset of the losses to the state?

Miles: that's correct, we didn't bill that in. Do you want us to do some work on that and look at that?

Sen. Urlacher: it would be nice to know what the offset effect would be.

Miles: no impact on the State.

Sen. Cook: If this bill passes it's going to show a reduction of \$600,000 in general funds for the next biennium, correct? That's correct.

Sen. Triplett: the reality is that it may never be built or used in this State.

Miles: we don't know that these plants would not be built without the exemption.

Sen. Urlacher: that's if they were all built within the biennium as well.

Miles: the information that we had on the research we did indicated that they would be built within the next 2 years.

Sen. Cook: made a Motion for DO PASS and Refer to Appropriations, seconded by Sen. Tollefson. 7-0-0 Sen. Horne will carry the bill.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2141**

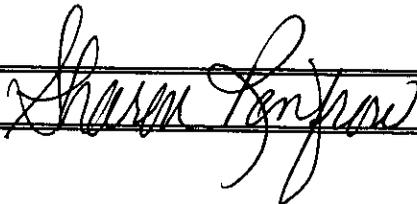
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: # 1826

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee to order for further discussion on SB 2141

Miles Vosberg of the Tax Dept. appeared to provide additional information on the revenue that would be generated from the 3 plants that we were aware of that would be used _____.

We don't have that in writing yet but the information that we had received would be there each one of the three facilities would generate \$29,000 in gross receipts tax which would primarily go to the Minot area and \$100,000 in property tax that would be distributed wherever those facilities are.

Sen. Cook: it would just be a narrative in the fiscal note and that gets entered into laws.

Miles Vosberg will get a narrative.

Adjourned the meeting.

FISCAL NOTE
 Requested by Legislative Council
 01/05/2007

Bill/Resolution No.: SB 2141

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			(\$552,000)	(\$48,000)		
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).*

SB 2141 grants a sales tax exemption for materials used in construction of a waste heat electric generating facility.

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.*

SB 2141 will exempt materials in up to three plants scheduled for construction in the 2007-09 biennium. The exemption will reduce state general fund and state aid distribution fund revenues by an estimated \$600,000 in the 2007-09 biennium.

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:	01/22/2007

Date: 1-23-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2141

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass & Refer to Approp.

Motion Made By Sen Cook Seconded By Sen Tollefson

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson	✓	
Sen. Tollefson	✓		Sen. Horne	✓	
Sen. Cook	✓		Sen. Triplett	✓	
Sen. Oehlke	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Horne

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

REPORT OF STANDING COMMITTEE (410)
January 23, 2007 11:52 a.m.

Module No: SR-15-1012
Carrier: Horne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2141: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was rereferred to the Appropriations Committee.

2007 SENATE APPROPRIATIONS

SB 2141

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2141

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02/02/07

Recorder Job Number: 2682

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2141.

Dale Niezwaap, Basin Electric, testified in support of SB 2141 identifying the purpose of the legislation and the fiscal note.

Senator David P. O'Connell, District 6, Lansford, presented written testimony (1) is a bill to provide a sales tax exemption on the construction of waste heat or recycled energy facilities for up to three plants.

Senator Bowman asked what materials and exactly what is exempt and what offsets that loss to the state. The response was that costs money for materials put into the plant and those materials would be exempt. He then responded as the amounts in the fiscal note. There would be a property tax per each annually and gross receipts sales tax.

Senator Lindaas asked if this brings up the question of transmission or is that already in place. The response was the transmission is already covered, this bill does not cover that.

Senator Chrsitmann asked to repeat about the gross receipts taxes.

Senator Mathern asked who the purchasers are in this and who are the retail purchasers.

The response was Basin Electric and the consumers of Basin Electric and cooperatives.

Senator Grindberg asked if this is a one-time legislation for a few projects, how long will the construction take and is there a problem with sunseting this. The response was the only spots being considered are the three plants.

Senator Christmann asked if this energy counts as green power. The response was it is the same as green energy.

Senator Grindberg asked if there are any type of tax credits these plants are eligible for. The response was no.

Senator Bowman asked if this would give the companies a competitive edge over someone who doesn't have this available. The response was this incentive is open to any company.

Todd Kranda, lobbyist, as was indicated this legislation would be open to anyone else who would be interested in applying. There are plants generating energy.

Senator Lindaas described his visit to the committee.

Senator Krauter asked about the general fund and state aid distribution fund.

Miles Vosberg, Director, Tax Administration, Tax Commissioners Office, discussed the sales tax law provision and formula for state aid distribution fund.

Senator Christmann indicated if we don't do this and the companies decide to put these plants in South Dakota how do we get the funds back that you say we will loose if we do this. The response was they have already done this in South Dakota. There was no other direct answer.

There were further questions and comments about the budget, the budget status summary, the return of tax money, the idea of a sunset statement, the budget status summary, and other energy projects.

Chairman Holmberg closed the hearing on SB 2141.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2141

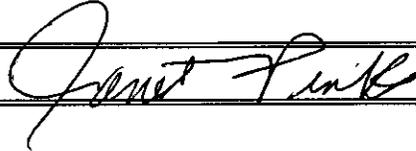
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-08-07

Recorder Job Number: 3099

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2141.

Senator Grindberg indicated that perhaps there should be a sunset on the bill. Discussion followed.

Senator Grindberg moved a **DO PASS** on the sunset amendment, **Senator Christmann** seconded. An oral vote was taken, the motion carried.

Senator Grindberg moved a **DO PASS AS AMENDED**, **Senator Tallackson** seconded. A roll call vote was taken resulting in 14 yes, 0 no, 0 absent. **Senator Christmann** will carry the amendment.

Chairman Holmberg closed the hearing on SB 2141.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2141

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-09-07

Recorder Job Number: 3333

Committee Clerk Signature

Alice DeLzer

Minutes:

Chairman Holmberg opened discussion regarding SB 2141. SB 2141 was passed by the body earlier today and reconsidered at the end of the day. What had happened in essence there was some confusion and the amendment that was added to the bill which dealt with a sunset clause in 4 years was not attached to the committee report. So we brought it back here, there will be a new committee report prepared with the amendment on it. Some of you had the amendment in your books and you have copies of it right now. So that's why that occurred. Discussion closed on SB 2141 at this time.

REPORT OF STANDING COMMITTEE (410)
February 8, 2007 1:17 p.m.

Module No: SR-27-2535
Carrier: Horne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2141: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was placed on the
Eleventh order on the calendar.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2141

Page 1, line 3, remove "and" and after "date" insert "; and to provide an expiration date"

Page 8, line 7, after "**DATE**" insert "**- EXPIRATION DATE**"

Page 8, line 8, after "2007" insert ", and before July 1, 2011, and is thereafter ineffective"

Renumber accordingly

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

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2141

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amend

Motion Made By Tallackson Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Horne Fin

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

Christmann
carry
amend

REPORT OF STANDING COMMITTEE

SB 2141: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "and" and after "date" insert "; and to provide an expiration date"

Page 8, line 7, after "**DATE**" insert "- **EXPIRATION DATE**"

Page 8, line 8, after "2007" insert ", and before July 1, 2011, and is thereafter ineffective"

Renumber accordingly

2007 HOUSE FINANCE AND TAXATION

SB 2141

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2141A

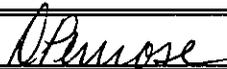
House Finance & Taxation Committee

Check here for Conference Committee

Hearing Date: 3/5/07

Recorder Job Number: 4304

Committee Clerk Signature



Minutes:

Rep. Belter: Clerk took the roll. We will open the hearing on SB 2141. Clerk read title. Sen. Urlacher called up and said he wouldn't be able to make it.

Rep. Mike Brandenburg: This bill is a sales tax exemption dealing with waste heat generation from natural gas pipelines projects that are being funded in the state of ND and this particular project is one of these generators that was in my district in McIntosh County. There was a problem in ND and SD, in looking at where they are going to place this waste heat placement. Part of the problem is ND and SD are trying to balance the tax incentives so this is why this bill has been brought forward. We are trying to get it placed in McIntosh County. I stand in favor.

Dale Niezwaag, Basin Electric Power Cooperative: (see attached testimony #1).

Rep. Belter: Are these sites, can they be placed anyplace or do they need to be at a certain distance.

Dale Niezwaag: Yes, wherever a compressor station is located. The pipeline, these compressor stations move the gas down the line, they use a portion of their natural gas to burn in these generators to create the compression. So wherever these compressor stations are located at, and the compressor stations, some of them operate part-time and other times

operate full time to keep the gas moving; where we put these sites so far, have been where they run roughly 90% of the time. So it's where you have good generation; the first four that we selected was the one in St. Anthony and three in SD. They had very short transmission requirements. That's why we ended up starting those for the four pilot projects. These potential ones that we are looking at here, the additional three are a little bit further on the transmission side, but it's wherever the pipeline places the compressor stations, is where we have the availability for this.

Rep. Belter: From an engineering aspect, they can be most anyplace.

Dale Niezwaag: Wherever there is a compressor station, you could put this technology in. The economics will determine whether they run long enough for you to create enough power to offset your cost of installation and transmission. No, engineering wise, you can put them where you are at. Both of these are smaller, life 5 megawatts. You pretty well sink the power to the local load.

Rep. Belter: So in other words, there's not really a geographic location, it doesn't really determine where they are located.

Dale Niezwaag: No, it's more of the economics, is there a lot of transmission...

Rep. Belter: It's who you get the best deal from.

Dale Niezwaag: I will tell you, we've been working with Northern Border because they have offered us the best deal with the waste heat, with the Alliance Pipeline, we have not been able to come to terms to make it feasible to put these systems on their pipeline at this point. It is an economic thing.

Rep. Headland: How much revenue does 5 megawatts produce.

Dale Niezwaag: For 5 megawatts of power, I don't know. I can get the figure to you.

Rep. Headland: I'm just curious, I don't see anything in here, what does it cost to Basin applying, putting this application into service.

Dale Niezwaag: Each site costs us \$8 million dollars per site; we estimate \$4 million dollars being equipment and \$4 million dollars being labor to construct.

Rep. Weiler: Okay, so this goes into the compressor, are the compressors already there. Is this system already there and you are just wanting to put in the heat exchanger.

Dale Niezwaag: That's correct. If you look at that last map that I handed out, these pipelines are already built, except for the Keystone line. The Keystone line is one that's projected. Right now, there's a debate whether they will put an electric or gas compressor stations in there. The ones that we are working on, the pipeline is there, the compressor station is there, we simply come in and add the heat exchanger to the exhaust pipe, for lack of a better word, and generate power. They're existing sites that are already there.

Rep. Weiler: What would happen if you don't put these in.

Dale Niezwaag: If we don't put these in, it's just another generation source that we will lose, we will have to replace with something else, either with a coal-fired plant, buying power off the market or some other form.

Rep. Weiler: And how many of these, you said they are about \$8 million each, how many do you plan on putting in.

Dale Niezwaag: We're looking at three additional sites right now, with the Northern Border Pipeline.

Rep. Weiler: Three additional sites, \$600,000 fiscal note, so it's about \$200,000 per site for the credit.

Dale Niezwaag: That's correct.

Rep. Weiler: So you're willing to spend \$24 million dollars for these heat exchangers, but are you not going to do it if you don't get the \$550,000 in tax credits.

Dale Niezwaag: What we've done now, and with our first agreement, and I can show you if you like, we have in there, a clause that says that if we don't receive this tax exemption, then that allows, it sets up a different pricing structure for the generation and at that point, either party has a chance to walk away. Will they be in or not, it will depend after the session is over, when we look at our costs of power and what other options we have, whether we will build them or not. I can't say whether we will or not. Whether we do have a different pricing structure that comes in and we have the option to walk away with our purchase agreement.

Rep. Pinkerton: So SD has already put this tax incentive in place?

Dale Niezwaag: That's correct. This qualifies as a new business structure and it qualifies for what they have as a sales and contract or excise tax exemption.

Rep. Pinkerton: And you're asking for a sales tax exemption.

Dale Niezwaag: That's correct.

Rep. Pinkerton: Because the pipeline flows through SD, you have the option to build it either in ND or SD.

Dale Niezwaag: We do as far as the sites are available. Again, it's where the compressor stations are that provide us the opportunity to put the generation in.

Rep. Pinkerton: In this particular situation, if built in SD, then this is strictly a sales tax, which is the principal amount of money that you're asking for the sales tax exemption.

Dale Niezwaag: The sales tax on a contract or excise tax and all proportions of both of those; but we don't have a contract or excise tax in ND.

Rep. Pinkerton: Without this bill, at least one of these plants will probably be built in SD, is that what you're saying.

Dale Niezwaag: Again, that depends. If we go down there, we'd have a different pricing structure than we have in ND, if we do not have this legislation. That's why we are able to process more per site to put these in, if we do it in ND.

Rep. Wrangham: In looking at the scope of these projects, I understand the generation that is coming from St. Anthony is pretty much constant, on-line all the time. Maybe so that we can get some idea of the scope, how many homes would that typically supply.

Dale Niezwaag: We figure out 1,000 homes per megawatts, so you could get about 4-5,000 homes.

Rep. Froseth: Do you have the electricity that's generated, do you have some stations or transmission lines here where you can tap into and move it, in close proximity to the three additional sites that you are going to build.

Dale Niezwaag: I don't know exactly how much transmission we have on these, I know on the first four the transmission requirements were less than the 8 mile bill on these. I am assuming that these are anywhere from 8-15 miles out billed. We will have to build transmission lines to hook these into the grid, yes.

Rep. Weiler: Is this a one-time, or an ongoing, because it is a sales for the construction.

Dale Niezwaag: That's correct, it's a one time just for the construction, not for our maintenance and upgrades.

Rep. Headland: Do you receive any type of credits for this being a green energy.

Dale Niezwaag: We do track this, we pay to have this tracked, and in the last legislative session we listed recycled energy under the renewable definition. We have some debates with the environmental community whether we consider them green energy, because they produce no emissions and use no additional resources. We do generate tags, we are in the process of trying to market the tags, but at this point we haven't been able to market them. When

someone wants to buy green tags or green energy, they look at what generated the power; be it wind, hydro, recycled energy. We do have the credits, we are attempting to market them, but we have not been able to do it as yet. But we consider them green, but not everyone else does.

Rep. Schmidt: Do these pipelines that are put in, do you know if they got any sales tax exemption from the state.

Dale Niezwaag: I do not know what they did with the pipeline.

Rep. Schmidt: Do you know how much money the pipeline paid the state of ND in property taxes.

Dale Niezwaag: I wouldn't know that. I do know that they are paying property taxes, but don't know what amount.

Rep. Schmidt: In that new section of the red line, (can't hear), I think Benson County received around \$47,000 in property taxes and in Towner County, \$96,000, and in Pierce County it was in the \$90,000's, so these places are paying an awful lot of property tax. I would think the state would figure (can't hear).

Dale Niezwaag: All I do know is that each site is paying an additional about \$100,000 of property taxes where we put these sites in.

Rep. Brandenburg: Just because the question is being asked, I would point out that we're giving up a \$200,000 tax incentives to put in the construction portion of it, but then they put in \$100,000 per year in property taxes for that site, so in a couple of years you recover that \$200,000. Also the \$29,000 gross receipt tax, the consumers are the real winners in this because you are giving them cheaper power by giving the sales tax exemption for the property.

Rep. Froseth: Why is the same language placed into two different sections in the Code.

Dale Niezwaag: This is a county thing with this section of Code, where the section of Code was put in last session or two sessions ago; they talk about if you put in environmental controls on power plants, the oil and gas people came in at the time and also received the same exemption for an environmental upgrade on their systems, but apparently there was a project already on-going so they didn't want to qualify. So the legislation would not kick in until June 2007, so it created two sections of code there, exactly the same, one falls away after this session. It was just the way it was set up. There was legislation passed last session that doesn't kick in until this session is over.

Rep. Belter: Thank you. Further testimony in support.

Sen. Dave O'Connell: (see attached testimony #3).

Rep. Belter: Thank you. Further testimony in support. Testimony in opposition or neutral.

Rep. Owens: They keep saying that this exemption will reduce state general funds, the state aid distribution fund revenue by \$600,000; that's assuming they're built. Right now, it's not going to reduce we don't have them, correct.

Myles Vosberg, State Tax Commissioner's Office: In response to your question, correct, we assumed the cost of these plants as it was explained earlier; three plants, \$8 million dollars a piece, 50% of that is materials and so that is a total of \$12 million dollars of potential material, at 5% tax which would be the \$600,000. So we made the assumption that under the existing law, if those plants were built, it would generate \$600,000 of revenue with the exemption.

Rep. Drovdal: At the 90% available, you would generate about 40 million kilowatt hours.

Rep. Headland: How many dollars does a kilowatt generate.

Dale Niezwaag: At Basin Electric, our wholesale rate is about 3.2 cents per kilowatt, so that would be about \$1.2 million dollars of generated revenue.

Rep. Froelich: It's good to know. It is getting pretty high.

Rep. Belter: Thank you. We will close the hearing

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2141B

House Finance & Taxation Committee

Check here for Conference Committee

Hearing Date: 3/6/07

Recorder Job Number: 4407

Committee Clerk Signature

D. Penrose

Minutes:

Rep. Belter: We will take a look at SB 2141. What are the committee's wishes in regard to SB 2141.

Rep. Pinkerton: I move a Do Pass and rerefer to Appropriations.

Rep. Brandenburg: Second.

Rep. Schmidt: Where did the other funds come from.

Rep. Froseth: The counties. I was impressed with this bill, even though the fiscal note shows a loss of revenue, there is no loss of revenue if it isn't built. If you look at the testimony here, the projects would be centrally assessed and pay approximately \$100,000 a year in local property taxes after they are built, and \$29,000 per year in gross receipt taxes. It's a pretty big payoff for the counties after they are built and operating. I think it is a pretty good investment.

Rep. Belter: Clerk will call the roll.

13 YES 1 NO 0 ABSENT

CARRIER: REP. BRANDENBURG

DO PASS AND REREFERRED TO APPROPRIATIONS

Date: 3-6-07
Roll Call Vote #: 2141

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

House _____ Finance & Tax _____ Committee

Check here for Conference Committee

Legislative Council Amendment
Number _____

Action Taken Do Pass & Rerefer to Appropriations

Motion Made By Rep. Pinkerton Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich	✓	
Vice Chairman Drovdal	✓		Rep. Kelsh	✓	
Rep. Brandenburg	✓		Rep. Pinkerton	✓	
Rep. Froseth	✓		Rep. Schmidt	✓	
Rep. Grande	✓		Rep. Vig	✓	
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler		✓			
Rep. Wrangham	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Brandenburg

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

REPORT OF STANDING COMMITTEE (410)
March 6, 2007 12:14 p.m.

Module No: HR-42-4521
Carrier: Brandenburg
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2141, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2141 was rereferred to the Appropriations Committee.

2007 HOUSE APPROPRIATIONS

SB 2141

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2141

House Appropriations Committee
Government Operations Division

Check here for Conference Committee

Hearing Date: 3/20/07

Recorder Job Number: 5341

Committee Clerk Signature



Minutes:

Chairman Carlson opened the hearing on SB 2141

Senator Urlacher explained the bill.

Representative Brandenburg spoke in support of the bill.

Chairman Carlson: I am assuming that it will be up to three plants?

Representative Brandenburg: That is my assumption.

Chairman Carlson: Where would those plants be at?

Representative Brandenburg: One would be in McIntosh County, and I believe there is a couple in the west.

Representative Skarphol: What is the timeline for payback?

Representative Brandenburg: I believe it was a property tax payback of about \$100,000 per year back to property tax.

Senator O'Connell spoke in support of the bill. See testimony 2141.3.20.07 A

Dale Niezwaag, Basin Electric, spoke in support of the bill. See testimony in 2141.30.20.07 B

Chairman Carlson: These are generating electricity then?

Dale Niezwaag: Yes, once the installations are complete.

Chairman Carlson: How many would be on the system that we are talking about?

Dale Niezwaag: Last year we put three on the Northern Border Pipeline. What we are proposing right now is that we put an additional three units and on the map they would be in Killdeer, Glen Ullin and Zealand.

Representative Skarphol: You are proposing three sites. What is the possibility for other sites on the other pipelines in the State?

Dale Niezwaag: I don't know. So far the only pipeline we have worked with is Northern Border. We have been working with Alliance Pipeline but we have not been able to come up with an agreement.

Chairman Carlson: All of your plants are centrally assessed?

Dale Niezwaag: Yes

Chairman Carlson: So the only tax break you will get is this, correct?

Dale Niezwaag: Yes

Representative Skarphol: The fiscal note is for three of these, in the event that others decide they can utilize this particular tax break, the fiscal note could be higher, is that a correct assumption?

Dale Niezwaag: That would be correct. In 2141 there is a sunset clause that ends in 2011.

Chairman Carlson: It does not limit the number of plants nor the dollars.

Dale Niezwaag: Correct, with these plants what we will do is you are going to generate about \$100,000 per year in property taxes with that and you will also generate about \$30,000 per year in ____.

Representative Glasheim: Will this provide jobs after the construction?

Dale Niezwaag: It is sort of self containing after construction. We will have one to two positions to do maintenance.

Myles Vosberg, Tax Commissioners office, spoke in support of the bill

Chairman Carlson: Your understanding is that it is open for anybody else if there were more to come along there could be more.

Myles Vosberg: That is correct.

Chairman Carlson: You are assuming that it is about \$180,000 per plant or how are you doing that?

Myles Vosberg: The information that we have was approx. \$200,000 per site.

Representative Glassheim: If we put language in limiting it to three places would that produce a problem?

Dale Niezwaag: Not for us but this is a clean energy source.

Todd Kranda, on behalf of Alliance Pipeline, spoke in support of the bill.

Chairman Carlson: Is Alliance currently using this service?

Todd Kranda: As I understand we have jet engines sitting on mounts and they are operating off of the natural gas running through the line 24/7.

Chairman Carlson: You are going to have to partner up with some kind of electricity supplier anyway?

Todd Kranda: That is correct.

Chairman Carlson: I am assuming it takes a certain amount of time to get one of these plants up and running. Our concern is that if this is going to be \$1.2million instead of \$600,000 then we might do it a little differently than the way the bill is written right now.

Todd Kranda: That's correct. I think that it is a unique fiscal impact you are looking at if they build it then it will effect the state negatively if we don't build it you would still deduct that? If we

don't come are you then deducting because we don't generate \$130,000 per year on the other aspect the fiscal note is getting into a strange area when we are talking about incentives.

Chairman Carlson: We always weight incentives out; would the business do this on its own if it is a good smart business investment would they do this on their own without some kind of a tax break? The answer to that we are trying to sort out as we are listening to your testimony. If it is that great of a thing then maybe we don't need to give them the break but on the other hand if it spurs more of it then we can view it as a positive tax break. Because what we are doing is giving away potential tax dollars that we fund our services with.

Todd Kranda: Alliance has been around for six to eight years already and we have not done it but this might be an opportunity to push us into that investing \$8million into three different sites for what the tax break might generate.

Hearing Closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2141

House Appropriations Committee
Government Operations Division

Check here for Conference Committee

Hearing Date: 3/21/07

Recorder Job Number: 5412

Committee Clerk Signature *Amiya Voeger*

Minutes:

Chairman Carlson opened discussion on Senate Bill 2141.

Chairman Carlson: I spoke with Mr. Niezwaag from Basin Electric and he believes that this bill will be a duplication of Senate Bill 2298.

A motion was made by Representative Skarphol, seconded by Representative Kempenich for a DO NOT PASS recommendation to the full committee. The committee vote was 8 Yeas, 0 Nays and 0 Absent and Not Voting. The bill will be carried by Representative Kempenich.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 2141

House Appropriations Committee

Check here for Conference Committee

Hearing Date: 3-22-07

Recorder Job Number: 5430

Committee Clerk Signature



Minutes:

Chairman Svedjan opened the hearing HB 2141. This comes from Gov't Operations.

Dale Niezwaag, Basin Electric Power Cooperative: (testimony attached)

Rep Kempenich: The testimony of Dale Niezwaag relates to what this bill was doing in 2298.

There are two bills of the same nature. We decided to go with the more comprehensive bill.

We put a do not pass on the other one and it also had \$600,000 in it.

Explained bill: This bill is about gas compression stations that use turbines. They capture the waste heat to generate electricity. They could generate about 5mg of electricity out of each one of these. They are trying to get some reductions on the sales tax. It would be about \$100,000 property tax to the county. It would probably be a positive to the county, it wouldn't be to the state. This is a one time spending on it. That's why we didn't pass the bill. It's addressed in other legislation.

Rep Kempenich made a Do Not Pass motion

Rep Carlson seconded the motion

Rep Kerzman: Did you act on the other bill?

Page 2

House Appropriations Committee

Bill/Resolution No. HB 2141

Hearing Date: 3-22-07

Rep Kempenich: No. We're going to work on that one here today and get it passed out.

Chairman Svedjan: It looks like the other bill will come out with the stated amount of money in it and there might be some minor changes with regard to sources, but the intent of the bill will come out relatively unchanged.

(yes) 20 (no) 4 (absent) 0

Carrier: Rep Kempenich

Date: 3/22/07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2141

House Appropriations Full Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Kempenich Seconded By Carlson

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold		✓
Representative Monson	✓		Representative Gullekson		✓
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom		✓
Representative Bellew	✓		Representative Kerzman		✓
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 20 No 4

Absent 0

Floor Assignment Kempenich

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

REPORT OF STANDING COMMITTEE (410)
March 22, 2007 4:03 p.m.

Module No: HR-54-5981
Carrier: Kempenich
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2141, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends **DO NOT PASS** (20 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2141 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2141

Waste/Recycled Heat Generation Incentive Legislation

1. ND offers incentives for electric generation equipment using wind or coal but not waste heat.
 2. SD offers incentives for waste/recycled heat and ND does not.
- Basin Electric and ORMAT Technologies has successfully installed 4 waste/recycled heat generating systems on the Northern Border Pipeline system, 3 in SD, 1 in ND.
 - As the first four systems were installed it became apparent that there was a difference in the taxation systems of ND and SD as they related to these types of systems.
 - South Dakota
 - Recognizes small electrical generating plants as a new business facility and they qualify for sales and contractor excise tax exemptions.
 - Currently offers a 4% Sales tax exemption for all materials and a 2% Contractors Excise Tax exemption on the entire project for these types of power generation projects.
 - Tax incentives are based on a sliding scale.
 - 0% under \$10 million up to 90% over \$600 million
 - North Dakota offers sales tax exemptions for
 - new manufacturing businesses (for which electric generation does not qualify)
 - electricity generation from coal
 - electricity generation from wind
 - hydrogen generation
 - pollution control equipment
 - Waste/Recycled Heat electricity generation does not qualify for a sales tax exemption.
 - The potential exists to add three more of these waste/recycled heat generating systems to the Northern Border Pipeline system in ND.
 - If these three projects were built in SD they would qualify for incentives of approximately \$160,000 per site.
 - If these projects received a ND sales tax exemption, the incentive would be approximately \$200,000 per site. (The original site at St. Anthony has received no tax incentives)
 - Without a sales tax incentive the additional four projects will not be built or they will be priced at a higher rate.
 - We would like to see legislation passed in ND that would offer a sales tax exemption for these types of systems similar to coal, wind, and SD.

SB 2141 Summery

Senator David P. O'Connell

Amends current North Dakota Century Code, relating to a sales and use tax exemption for materials used to construct a waste heat electric generation facility and to provide an effective date.

- Page 3, line item 23 and page 7, line item 6 provides an additional definition to the term "power plant".
- A power plant may also be defined as an "Electrical generating facility, and all additions to the facility which ***provides electrical power through recycled energy sources*** and has at least one single electrical energy generation unit ***with a nameplate capacity of one thousand kilowatts or more***, and which is placed in service after June 1, 2007.

**Curis Jabs - Basin Electric Power Cooperative
North Dakota Senate Bill No. 2141
Senate Finance and Taxation Committee
January 23, 2007**

*Same given by
Dale Niezway
to House
Finance &
Tax
3-5-07*

Mr. Chairman and members of the committee, my name is Curtis Jabs and I am here representing Basin Electric Power Cooperative. Basin Electric supports the passage of SB 2141.

The reason for this legislation is two-fold

1. To provide similar incentives for waste heat generation as are available for electric generation equipment using wind or coal.
2. To place generation built in North Dakota on the same footing as generation built in South Dakota.

In 2006 Basin Electric and ORMAT Technologies successfully installed four waste/recycled heat generating systems on the Northern Border Pipeline system; three of those systems were located in South Dakota and one in North Dakota near St. Anthony.

These projects involve placing heat exchangers into the exhaust systems of the 35,000 to 40,000 horsepower compressors that are used to move natural gas through the Northern Border pipeline system. These types of projects produce approximately 5.0 MW of power at each site at a cost of approximately \$8 million each. The exhaust heat that is used to power these systems is normally just vented into the atmosphere.

Environmentally, the projects have virtually no environmental impact or emissions. Each project is located within the existing compressor station yard, so no "Greenfield" construction will be required. The projects use no additional resources and produce no additional emissions.

The potential exists to add three more of these waste/recycled heat generating systems to the Northern Border Pipeline system in North Dakota, as well as other natural gas pipelines in North Dakota.

South Dakota recognizes small electrical generating plants as a new business facility and qualifies them for sales and contractor excise tax exemptions.

North Dakota offers sales tax exemptions for

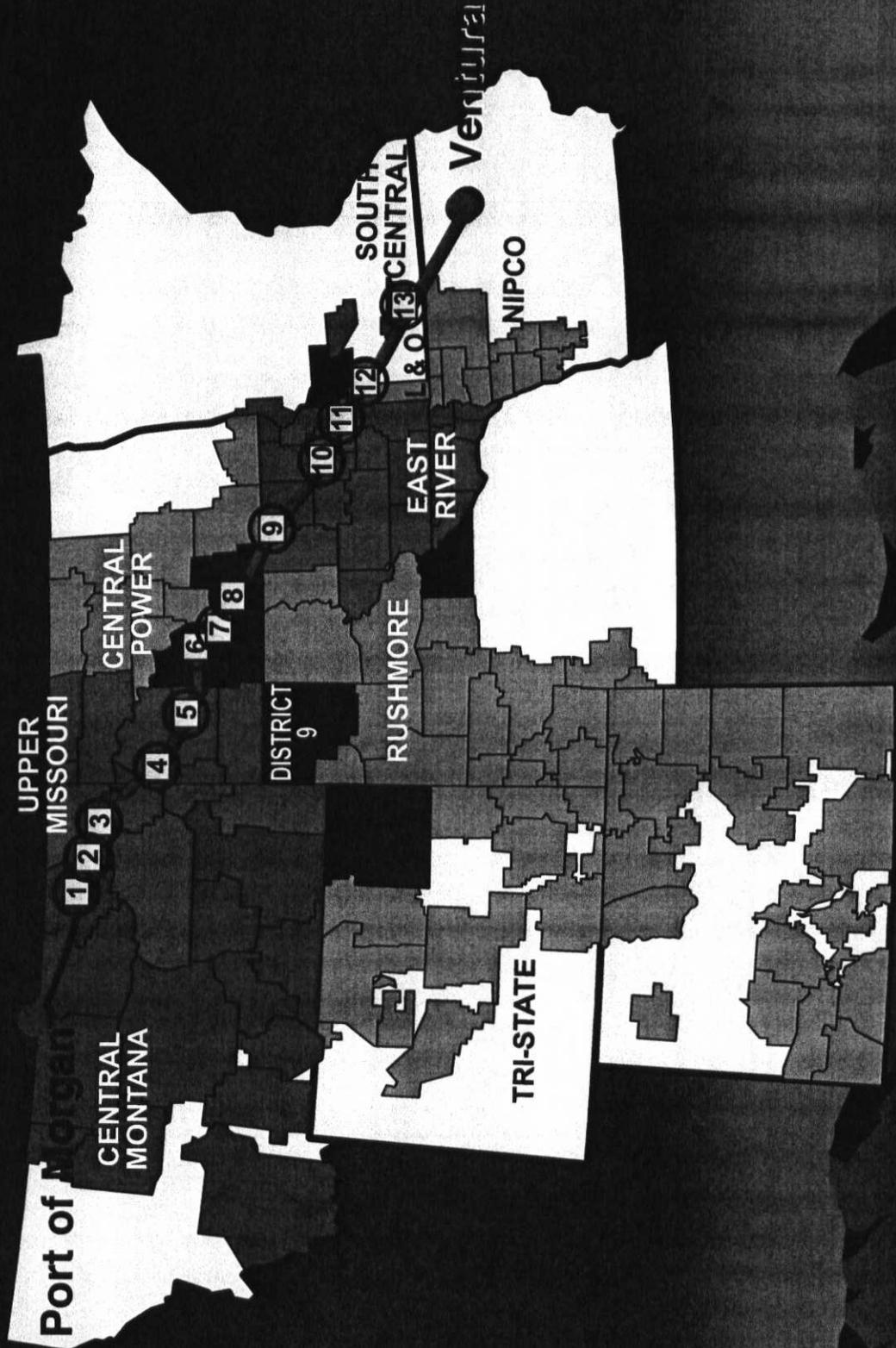
- o new manufacturing businesses (electric generation does not qualify)
- o electricity generation from coal
- o electricity generation from wind
- o hydrogen generation
- o pollution control equipment

If these three projects were built in South Dakota they would qualify for incentives of approximately \$160,000 per site. With the proposed tax exemption the incentive for these projects would be approximately \$200,000 per site. (The original site at St. Anthony has received no tax incentives)

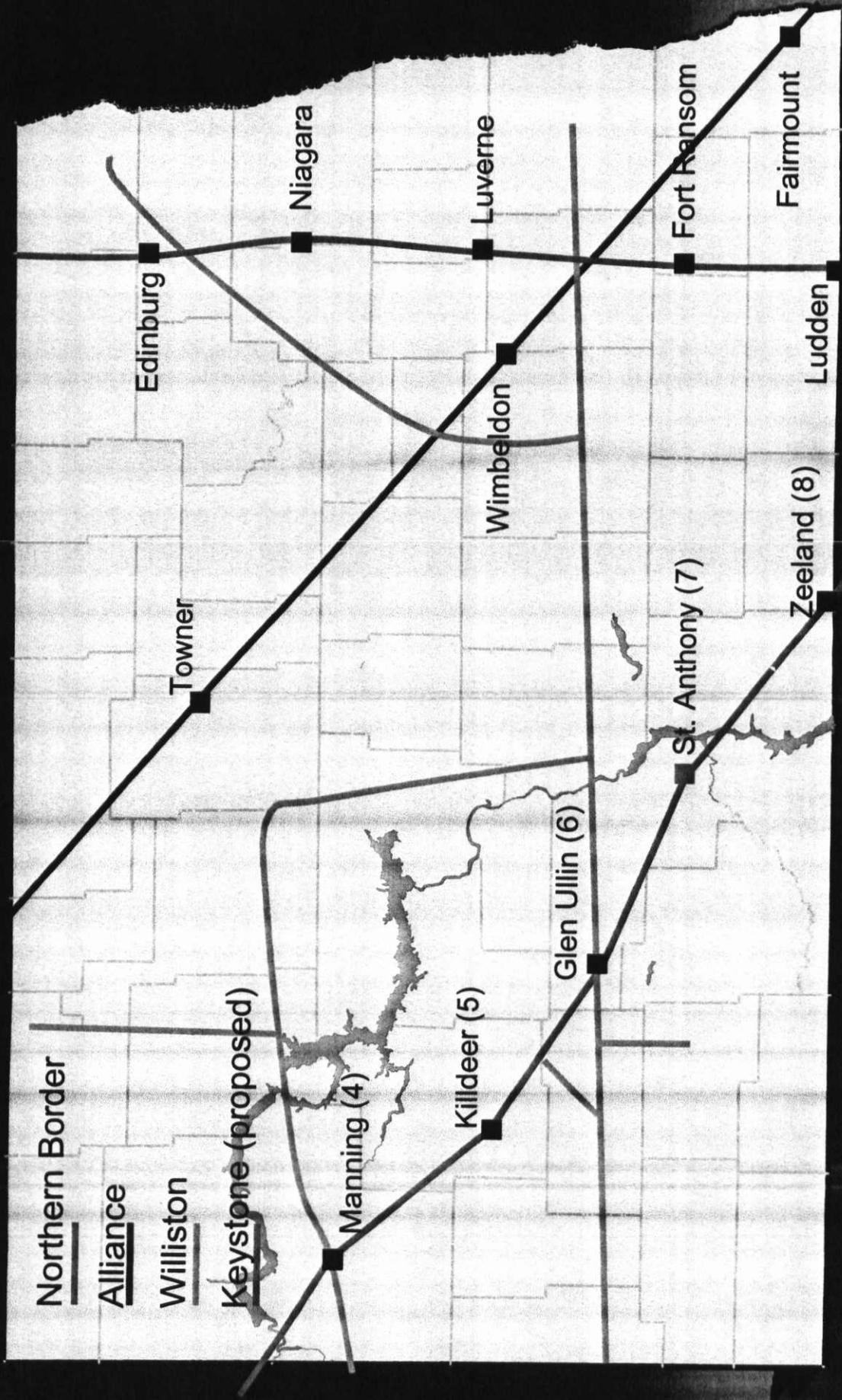
These projects would be centrally assessed and pay approximately \$100,000 per year in local property taxes and generate approximately \$29,000 per year in gross receipt taxes.

Again Basin Electric is supporting this bill and would encourage a "Do Pass" recommendation by the committee. This concludes my testimony and I would be happy to try to answer any questions.

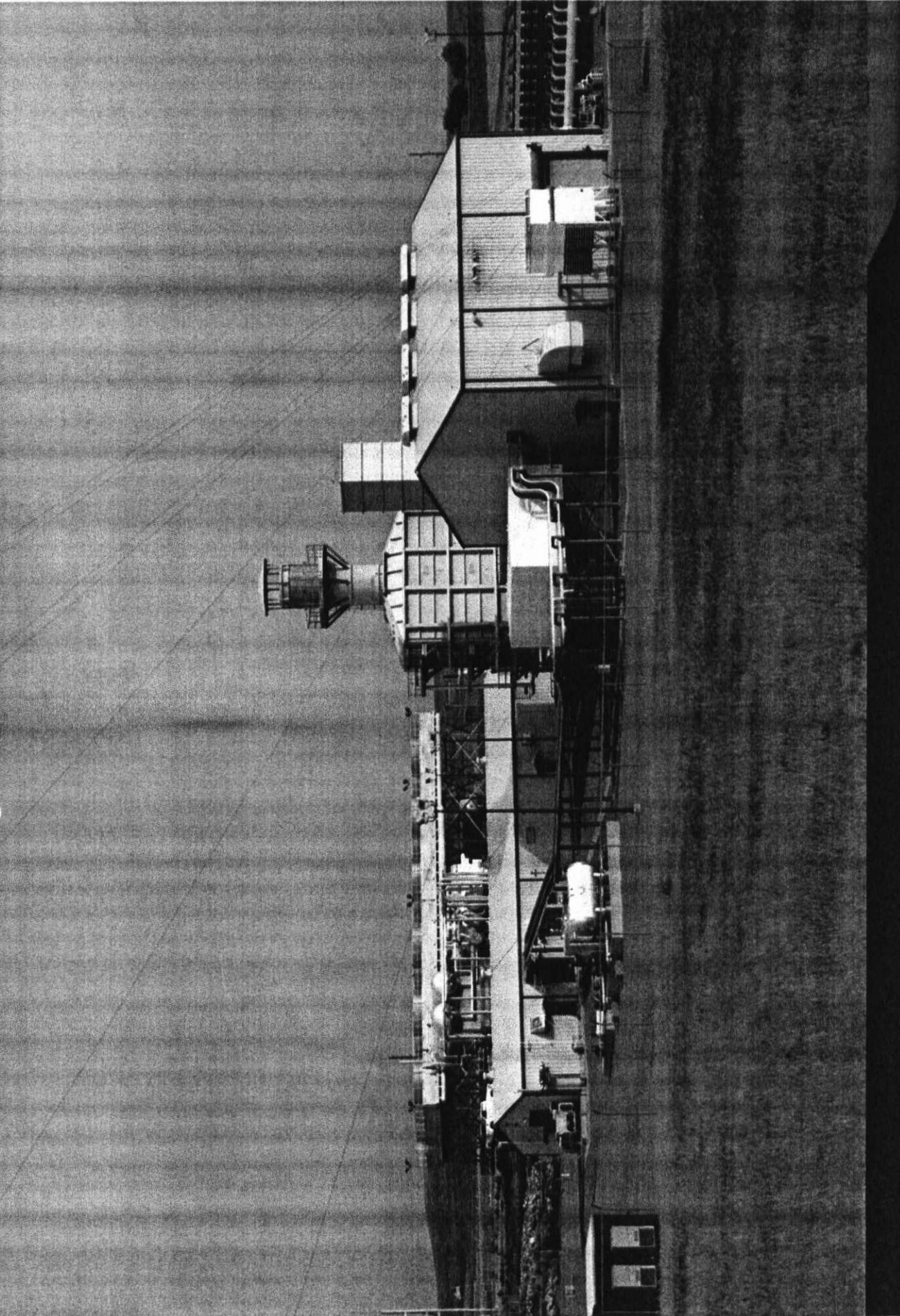
Northern Border Pipeline



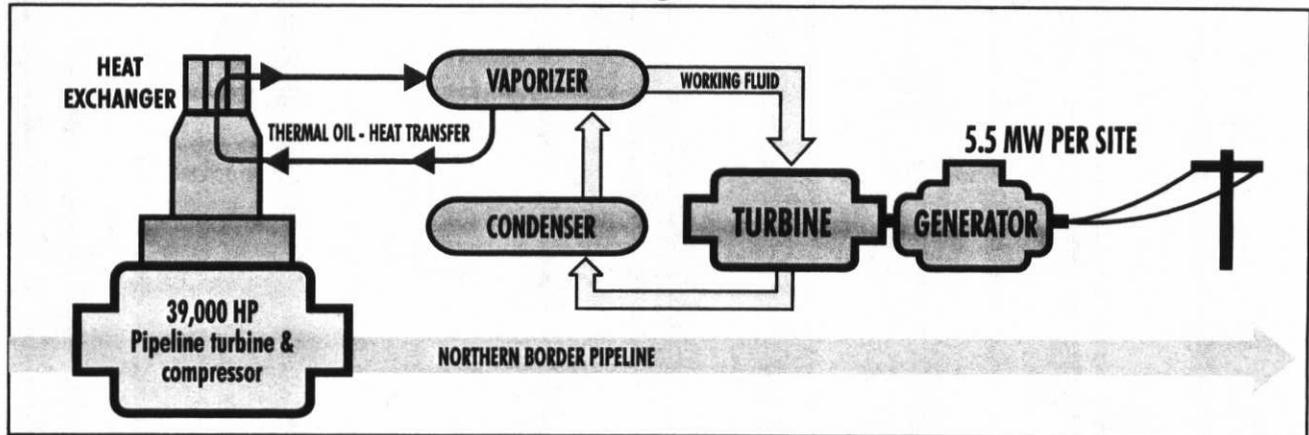
Compressor Station Locations in North Dakota



St. Anthony Heat Recovery Site



Heat Recovery Generation



BASIN ELECTRIC HEAT RECOVERY GENERATION PROJECTS

This project involves the addition of heat recovery equipment on four Northern Border Pipeline natural gas compressor stations for the purpose of generating electricity.

Each of the compressor stations consists of a gas turbine, which drives a compressor that compresses the natural gas at periodic intervals along the pipeline. The exhaust temperature of the gas turbine, currently released to the atmosphere, is 900 degrees Fahrenheit.

The heat in the exhaust is recovered using a heat exchanger in the exhaust stack. The recovered heat is used to heat a working fluid such as propane or pentane in a second heat exchanger or "vaporizer." In this concept, the role of the working fluid is similar to the water to steam process in a conventional power plant. As in a conventional steam plant, the vaporization of the working fluid results in a large expansion in volume. The large increase in volume is used to drive a turbine directly connected to a generator to produce the electricity. After the vaporized working fluid has passed through the turbine, fans blow ambient air across a sealed condenser to cool and condense the working fluid from a vapor back to a liquid.

These types of projects will produce approximately 5.5 megawatts (MW) of power at each site. The voltage of electricity from the generator will be transformed onsite to 69-kilovolt (kV) and interconnected to the grid system via the construction of 69 kV distribution lines to local substations. The length of transmission lines required for each project will vary from two to seven miles.

The projects have virtually no emissions or environmental impact. Each project will be located within the existing compressor station yard. Overall, the generation should be considered a zero emission process, since the capture of waste heat is the primary source of energy or "fuel" to drive the process. In fact, the reduction of exhausted heat to the atmosphere might even be considered a reduction in environmental impact.



Photo from Gold Creek, Alberta Canada

SB 2141 Summary

Senator David P. O'Connell

Amends current North Dakota Century Code, relating to a sales and use tax exemption for materials used to construct a waste heat electric generation facility and to provide an effective date.

SB 2141 grants a sales tax exemption for materials used in construction of a waste heat electrical generating facility.

The bill will exempt materials in up to three plants scheduled for construction in the 2007-09 biennium.

The exemption will reduce state general fund and state aid distribution fund revenues by an estimated \$600,000 in the 2007-09 biennium.

- Page 3, line item 23 and page 7, line item 6 provides an additional definition to the term "power plant".
- A power plant may also be defined as an "Electrical generating facility, and all additions to the facility which ***provides electrical power through recycled energy sources*** and has at least one single electrical energy generation unit ***with a nameplate capacity of one thousand kilowatts or more***, and which is placed in service after June 1, 2007.

SB 2141 Summary

Senator David P. O'Connell

SB 2141 grants a sales tax exemption for materials used in construction of a waste heat electric generating facility.

SB 2141 will exempt materials in up to three plants scheduled for construction in the 2007-09 biennium. The exemption will reduce state general fund and state aid distribution fund revenues by an estimated \$600,000 in the 2007-09 biennium.

Bill adds new definition to "power plant" on page 3, line items 24 – 28, and page 7, line items 8 – 12.

A power plant is further defined as:

An electrical generating facility, and all additions to the facility, which provides electrical power through recycled energy sources, as defined under section 49-02-25, and which has at least one single electrical energy generation unit with a nameplate capacity of one thousand kilowatts or more, and which is placed in service after June 1, 2007.

SB 2141 A

#3 3-5-07 AM

SB 2141 Summary

Senator David P. O'Connell

Amends current North Dakota Century Code, relating to a sales and use tax exemption for materials used to construct a waste heat electric generation facility and to provide an effective date.

SB 2141 will exempt materials in up to three plants scheduled for construction in the 2007-09 biennium.

Bill adds new definition to "power plant" on page 3, line items 24 – 27, and page 7, line items 8 – 12.

A power plant is further defined as:

An electrical generating facility, and all additions to the facility, which provides electrical power through recycled energy sources, as defined under section 49-02-25, and which has at least one single electrical energy generation unit with a nameplate capacity of one thousand kilowatts or more, and which is placed in service after June 1, 2007.

The exemption will reduce state general fund and state aid distribution fund revenues by an estimated \$600,000 in the 2007-09 biennium.