

**2015 SENATE ENERGY AND NATURAL RESOURCES**

**SB 2372**

# 2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources  
Fort Lincoln Room, State Capitol

SB 2372  
2/20/2015  
24209

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Katie Oliver*

## Explanation or reason for introduction of bill/resolution:

Relating to pollution analyses.

## Minutes:

1 Attachment

Chairman Schaible called the committee to order, Vice Chair Unruh was present to introduce the bill to the committee.

Vice Chair Unruh: District 33; represent Mercer, Oliver and part of Morton Counties. I represent 6 of the 8 power plants in the state of North Dakota and have 5 coal mines 4 of which are in my district. You have in front of you SB 2372, what I was hoping to accomplish was to stop the EPA from forcing utilities to use noncommercial technologies through the implementation of the Clean Air Act programs and, in doing that, protect the proactive research efforts of industry in this state and to amend the Century Code to give the health department leverage against the EPA as they continue to push over reaching regulations. The federal government is doing a lot of things against the coal industry and other industries related to coal and we are trying to push back in our state and looking for ways to do that. The Energy Policy Act of 2005 included a provision that would preclude the EPA from sighting technology that receives federal assistance, via the department of energy clean coal program, as adequately demonstrated for regulations under the Clean Air Act. In other words, the Clean Air Act requires that any technology the EPA might require for reducing emissions to be commercially available and Congress specified that technology be subsidized but cannot be considered commercially available. After the bill was introduced state agencies expressed concerns about the unintended consequences of the bill, it is not so much about what our state is doing but it is about what the EPA can force our state to do. With all of that in mind, and the unintended consequences that could happen because of the proposed legislation in front of you, I have drafted up language that convert it into a study that would take a look at the impact of the EPA's regulations on our electric generating unit and different impacts that it will have on the industry in our state. As soon as I get that new language from legislative council I will be sure to pass that out to committee members. My intent at this point is to have the committee adopt the amendment and turn the bill into a study the issue to see what the state's role in this matter.

Chairman Schaible: Go a little more in depth to what the study will say?

Vice Chair Unruh: I do have the language that I have propose and gave to legislative council this morning The impact that the EPA regulations could have on carbon dioxide emissions for new and existing electric generating units and that the study shall include regulations estimated compliance cost on the industry, estimated impacts on regional grid reliability, estimated economic impact to rate payers in North Dakota, the legality of the regulations, estimated benefits to the regulations to the state of North Dakota, and the feasibility of implementing such regulations, including a timeline on that, an update on technologies relating to reducing carbon dioxide emissions from generating units. It was my hope to include information from the lignite energy council, state department of health, Public Service Commission, Attorney General, and other federal agencies as needed. See attachment #1.

Senator Triplett: There is always validity to studies. Beyond the educational value to legislators what do you hope to get from the study?

Vice Chair Unruh: It is my hope that, if appropriate, we would be able to come up with some language for the Century Code that could to help direct the health department with an implementation program as the EPA will have outlined in their final rule or to see if there is any other role that is appropriate to our state to play while the Clean Air Act is being interpreted by the EPA.

Senator Triplett: The various state agencies have weighed in by filing comments on behalf of the state in this issue that is being discussed by the EPA. Other than keeping legislators generally abreast of the issue it seems like this issue will be past tense by the next legislative session.

Vice Chair Unruh: I think that we have seen historically that these types things can get drug out over time and I do not want us to be unprepared the next time around if there has not been some type of resolution by that point. There are other states that adopt language into their Century Code to provide some guidance to state agencies as they look at implementing their state implementation plan as opposed to the federal implementation plan which none of us would like to see. I think that there are things that legislators across the country have been doing and can do. It was not my intent to tie the hands of the health department, looking at the litigation that could be coming our way from the Clean Air Act I think it is relevant

Jason Borher: President of Lignite Energy Council. Support the bill. As the sponsor indicated, the EPA has multiple rules that are pending that would impact our industry and the state of North Dakota. As the EPA implements these rules they rely on technology to help them identify realistic emissions targets and one of the concerns is that the state of North Dakota engages in its own, robust successful R&D program. The EPA pursues them in good faith. We want to artfully integrate it into law; we support her revision in this and reporting our findings in the legislative branch. It retains your right to act in the future.

Dave Glatt: Chief of Environmental Health for the Health Department. I think that it is important to note that this is a big deal; it is about a discussion about how we, as a state, generate power and who should make those decisions. I think it is appropriate to take a

look at what this all means and what it means to the legislative body. As a state agency we are concerned about state rights.

Senator Triplett: What do you think about the study, anything you would add or delete?

Dave Glatt: It covers pretty much addresses everything.

Senator Triplett: Sometimes in the interim we do studies, is this one important enough that we should we ask the appropriations committee to attach an appropriation to it?

Dave Glatt: That will be a decision that you will have to make on that.

Jason Bhoer: Lignite Energy Council. We view this issue as important enough that we have talked about dedicating some of our funding to this kind of study that would inform this body.

There was no further discussion and Chairman Schaible closed the hearing on SB 2372. Senator Armstrong moved amendments with a second by Senator Triplett, roll was taken, and the amendment was adopted 6-0-1 vote. Senator Armstrong then made a motion for a do pass as amended with a second by Senator Murphy.

Senator Triplett: I still have fiscal concerns, we just heard that the Lignite Energy Council will put some resources in to present their perspective on it but the study also says that legislative management may consult with the state department of health, Public Service Commission, Attorney General and other state and federal agencies as needed. If we actually want the state agencies to dive in and study this then it seems like this needs some attention.

Chairman Schaible: I think that we have several opportunities to get that included with either legislative management or the House version.

There was no further discussion, role was taken and the motion passed on a 6-0-1 count with Vice Chair Unruh carrying the bill to the floor.

*alberta  
2/20/15*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2372

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of environmental protection agency regulations regarding carbon dioxide emissions for new and existing electric generation units."

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ENVIRONMENTAL PROTECTION AGENCY REGULATIONS ON CARBON DIOXIDE EMISSIONS.**  
During the 2015-16 interim, the legislative management shall consider studying the impacts and costs of environmental protection agency regulations on carbon dioxide emissions for new and existing electric generation units. The study must include the regulations' estimated compliance costs on the industry, estimated impacts on regional grid reliability, estimated economic impact to ratepayers in this state, and the feasibility of implementing the regulations, including the proposed timeline. The study must also include an update on the status of technologies related to reduction of carbon dioxide emissions. The legislative management may consult with the lignite energy council, state department of health, public service commission, attorney general, and other state and federal agencies as needed. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly





**REPORT OF STANDING COMMITTEE**

**SB 2372: Energy and Natural Resources Committee (Sen. Schaible, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2372 was placed on the Sixth order on the calendar.

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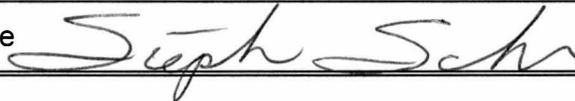
# 2015 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Pioneer Room, State Capitol

SB 2372  
3/12/2015  
Job # 24768

- Subcommittee  
 Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

To provide for a legislative management study of environmental protection agency regulations regarding carbon dioxide emissions for new and existing electric generation units.

### Minutes:

Attachments 0

**Chairman Porter** opens hearing. Explains that Senator Unruh is unavailable to explain bill that she requested to begin hearing with testimony in favor of the bill.

### **Jason Bohrer, President of Lignite Energy Council:**

We support senate bill 2372 in its current form and ask for its adoption. Currently the Environmental Protection Agency (EPA) has promulgated multiple rules that might impact our industry and the state of North Dakota. So as the EPA implements these rules that agency is going to rely on technology to help them identify realistic emissions reductions targets. One of our concerns stems from the fact that the state of North Dakota engages in its own robust and success research and development program. We're concerned that if the EPA sees some of the results of our energy technology but doesn't have the experience or background to necessary to understand it they may cause it to be inserted into a state implementation program where it will not achieve its intended purpose or in fact might even harm the industry. I believe that the EPA pursues these technology solutions in good faith for admirable reasons but if they or the federal government are not a partner over the ten year lifespan that it takes to develop some of these technologies they might not have all the information they need to integrate it into a sieve. That is where the original idea for this bill came from.

We weren't able to integrate that concern into our legislative language without causing unintended consequences so Senator Unruh has pursued the amended language that you have before you now. We believe that this continues to allow us to study the issue and retains that right of the legislative branch to have input into the 111D process.

**Rep. George Keiser:** I don't see how we have oversight.

**Boer:** You are right, oversight is the wrong term to use. It's more that it allows you to collect the information independently.

**Dave Glott, Section Chief, Environmental Health- ND Department of Health:**

We have primary responsibility for the implementation for the EPA regulations in the state, which include 111D. 111D is the new clean power plant that EPA is proposing to reduce greenhouse gases. It could be a game changer in many ways; it will dictate how energy is produced, how it is distributed, not only at the state level but potentially at the regional and national level. It looks at moving the overall energy policy to more of a renewable, low carbon future. I think overall that's a good goal, but there are some realistic limitations as we move forward. What this study does is look at the ramifications of what 111D is, looks at technologies, and impacts on people who use the electricity, and the cost. This is a broad based, big study. I think that it's something that is beneficial, something that the legislative body should take note of, be aware of, and be educated on. This is a big deal for North Dakota, especially as an energy producing state. We need to be fair about our approach to reducing emissions, where we can we should but we should also look at what the economic impacts are, how achievable the reductions are, and how implementable they are, and do it in a time line that we can achieve. I support this study.

**Rep. George Keiser:** I support the concept, it is always the legislature doing it. Your job is to be responsible for the health of our state. What has the Health Department done in coordinating this effort as it's described here, in terms of developing health policy for the state of North Dakota?

**Glott:** What we do is look at federal legislation; how implementable it is with in the state and we reach out to our stakeholders. Taking a look at what the current status of our industry is, what they can achieve technologically and get that input. We not only look at industry, we ask the private citizens and environmental groups what is achievable. With all of that input we come up with a rational plan. How we develop those plans is laid out in guidance, already. Our challenge has been getting all of that input and following the law. Our biggest challenge is getting EPA to do the same thing. That's where our law suits have prevailed, when EPA has not followed the law.

We have been able to retain viable industries and see reductions in emission and an improvement in the environment. I think that's the best of both worlds.

**OPPOSITION:** None.

**Chairman Porter** closes hearing.

**Chairman Porter** opens discussion for vote.

**Rep. George Keiser:** I move a Do Pass.

**Rep. Curt Hofstad:** Second.

**Vote:** yes 13, no 0, absent 0.

**Rep. Roger Brabandt:** Carrier.

**Chairman Porter** closes discussion.

Date: 3/12/15  
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 2372**

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar
- Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep Keiser    Seconded By Rep Hofstad

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hunskor	✓	
Vice Chairman Damschen	✓		Rep Mock	✓	
Rep D Anderson	✓		Rep Muscha	✓	
Rep Brabandt	✓				
Rep Devlin	✓				
Rep Froseth	✓				
Rep Hofstad	✓				
Rep Keiser	✓				
Rep Lefor	✓				
Rep Nathe	✓				

Total (Yes) 13    No 0

Absent 0

Floor Assignment Rep Brabandt

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

**REPORT OF STANDING COMMITTEE**

**SB 2372, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).** Engrossed SB 2372 was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**SB 2372**

February 20, 2015

Attachment 1

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