

ENERGY

CHAPTER 204

HOUSE BILL NO. 1462

(Representatives Porter, Damschen, Keiser)
(Senators Lyson, Tollefson, Wardner)

ENERGY POLICY AND INITIATIVE

AN ACT to provide 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; to create and enact section 17-01-01 of the North Dakota Century Code, relating to a comprehensive energy policy for the state and the 25x'25 initiative; to amend and reenact section 54-35-18 of the North Dakota Century Code, relating to the electric industry competition committee; to authorize the legislative council to make certain statutory revisions; to provide for a department of commerce study; and to provide for a report to the legislative council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

1. Gross receipts from sales of tangible personal property used in compressing, processing, gathering, or refining of gas recovered from a gas well in this state or used to expand or build a gas-processing facility 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. All of the provisions of chapter 57-39.2 and 57-40.2 apply to the exemption under this section.

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.

¹²² **SECTION 4. AMENDMENT.** Section 54-35-18 of the North Dakota Century Code is amended and reenacted as follows:

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

¹²² Section 54-35-18 was also amended by section 1 of House Bill No. 1028, chapter 468.

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

SECTION 5. LEGISLATIVE COUNCIL TO REDESIGNATE SECTIONS. The legislative council shall redesignate sections 4-14.1-07.1, 4-14.1-07.2, 4-14.1-08, 4-14.1-09, 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, and chapter 49-24 as appropriate chapters and sections of title 17. The legislative council may insert appropriate references in the sections of law listed in this section, consistent with usages 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 policy commission 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 policy commission consists of the commissioner of commerce, a representative of the agriculture community appointed by the governor, 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, a member from the ethanol industry appointed by the governor, 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. The commissioner of commerce is chairman of the energy 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. The energy policy commission shall report to the legislative council during the 2007-08 interim on the progress of and results from the North Dakota energy independence initiative.

Approved April 27, 2007

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