

1 Chairman Curt Kreun & members of the committee, my name is Scott Skokos and I am  
2 testifying on behalf of Dakota Resource Council and our members. Thank you for allowing me  
3 to testify today. I stand here today in opposition to SB 2239.

4 From our reading, SB 2239 tries to tell the state how it should do its implementation  
5 process if it is required to implement a state plan for regulating the emission of greenhouse  
6 gases. Dakota Resource Council (DRC) is a non-partisan grassroots group of landowners,  
7 ranchers, farmers, and other citizens, who are focused on ensuring the sustainable use of ND's  
8 natural resources. Ensuring the sustainable use of our natural resources includes making sure that  
9 ND isn't undercutting federal regulations and requirements. SB 2239 is concerning for several  
10 reasons, but a big one is that it creates a complicated and unnecessary process for the department  
11 to follow when creating its state plan. SB 2239 is also vague and ambiguous in several areas, and  
12 that type of language is not recommended to be included in the century code.

13 SB 2239 requires the department to try to minimize the extent that a federally mandated  
14 state plan will impact certain industries which will essentially hamstring the department's ability  
15 to do its job efficiently. On page 1, lines 12- 19 state "the department shall minimize the extent  
16 to which any actions required by the plan may affect:

- 17 a. The utilization of the most economic sources of electricity generation within the  
18 state;
- 19 b. The economic viability of dispatchable sources of generation within the state;
- 20 c. The cost of electricity to consumers;
- 21 d. The ability of the utility sector to realize a reasonable return on investment; and
- 22 e. The reliability of the electricity system to provide continuous electricity service."

23 We feel that requiring the department to consider these factors when creating a state plan for  
24 regulating greenhouse gas emissions is burdensome and is not in alignment with the purposes of  
25 creating such a state plan. We understand that there is an undercurrent of desire to save carbon-  
26 intensive industries but attempting to undercut the federal government is not an appropriate  
27 method.

28 SB 2239 also seems to be an effort to reduce compliance with federal regulations while knowing  
29 that ND can not completely ignore them. On page 1, lines 22-23 states "Any control measures  
30 imposed as part of the state plan on stationary sources subject to permitting under this chapter:"  
31 Trying to control the "control measures" by forcing the department to comply with SB 2239  
32 permitting seems to be excessive. Control measures implemented by a state plan are going to  
33 have impacts, you cannot completely avoid that. The department is going to have difficulty  
34 trying to reduce the impacts of control measures without completely ignoring the intended  
35 purpose of reducing greenhouse gas emissions in the first place. It's counterproductive and  
36 contradictory.

37 In addition to being counter productive, we believe that those in favor of SB 2239 should  
38 acknowledge that it will come with a high price tag, as it is likely to be litigated. We don't think  
39 that during the post-pandemic recovery ND will want to be tangled up in possible lawsuits with  
40 the federal government. If the federal government elects for the states to create a plan, then they  
41 likely have good reason to do so.

42 On page 2, lines 15-17 it states, "Before submitting the state plan to the United States  
43 environmental protection agency, the department shall submit the state plan to the energy and  
44 natural resources committee of the North Dakota senate for review." This is again creating extra  
45 and unnecessary steps that undermine the ability of the department to do their job. The people  
46 working in the department of environmental quality are the experts on this subject and  
47 environmental law, whereas most lawmakers are not experts in these areas. Let the experts do  
48 their job without a cumbersome process that is an attempt to reduce compliance with federal  
49 regulations. The process outlined above could also cause ND to struggle to meet deadlines for  
50 the possible state plan. The attempt to regulate the department of environmental quality in SB  
51 2239 through legislation is an overstep.

52 SB 2239 is ambiguous and has high potential for litigation. It also sets up unnecessary and  
53 complicated process for the department to create and implement plans in accordance with federal  
54 mandates. Because of these reasons, I urge the committee to oppose SB 2239 and recommend a  
55 DO NOT PASS on SB 2239.

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