

2009 SENATE AGRICULTURE

SB 2129

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2129

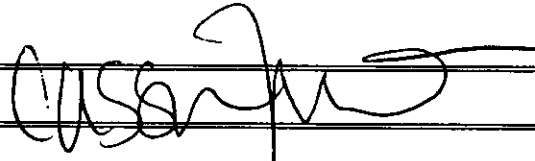
Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: January 16, 2009

Recorder Job Number: 7120

Committee Clerk Signature



Minutes:

**Sen. Flakoll** opened the hearing on SB 2129, a bill relating to the biomass incentive and research program. Members present (6), Absent (1)- **Sen. Taylor**.

**Karlene Fine**, Executive Director and Secretary for the ND Industrial Commission, testified in favor of the bill. See attached testimony, attachment #1.

**Sen. Flakoll**- you guys do not prioritize but what project has more priority then the other do you?

**Karlene Fine**- No, with the funding that we have available we would look at the quality projects first and then go from there.

**Sen. Miller**- you said that in the beginning farmer program that you could tap into some of those funds could you explain that a little?

**Karlene Fine**- what the legislature offers is a funding source for the 2 million dollars for biomass so that the industrial commission had the authority to transfer one million dollars from the beginning farmers fund and one million dollars from the biofuels case fund that could be used for the biomass research program.

Sen. Klein- so have you touched the beginning farmers fund?

**Karlene Fine**- no we have not.

**Sen. Behm-** what is the total budget?

**Karlene Fine-** for the current biennium there is spending authority for 20 million dollars for renewable with 17 million coming from the special funds we have not been able to identify any special funds that we could use, so right now I always talk in terms as though there is 3 million dollars in general fund dollars for renewable and 2 million for the biomass. The proposed budget says 5 million dollars all general fund.

**Sen. Klein-** what we are ready here is given the process, money that we put in there they would be able to leverage an additional 7 million for some projects, so it is kind of working?

**Karlene Fine-** Yes it is working.

**Jim Boyd,** ND Department of Commerce, testified in favor of the bill. See attached testimony, attachment #2.

**Sen. Heckaman-** when you said that you looked at those 5 applications and two of them did not pass the initial screening, is it because they didn't know the criteria or they were not prepared?

**Jim Boyd-** we try to stick with ones that more on base with the program.

**Sen. Heckaman-** so if we go on your website we would be able to actually be able to pull up the sheet to apply?

**Jim Boyd-** yes.

**Sen. Miller-** you say the work match but you are actually not required to have a match is that correct?

**Jim Boyd-** as far as this program is concerned they are very into matches.

**Sen. Flakoll-** have you changed any language on your application form as to such that it talks about the matching funds?

**Jim Boyd-** I believe our forms and the policies listed on the forms are specific about matching plans.

**Sherry Neas**, OMB State Procurement office, passed out a proposed amendment and went over it with the committee. See attachment #3.

No opposition to the bill.

**Sen. Flakoll** called Karlene Fine to the podium.

**Sen. Flakoll** had her look at a copy of SB 2014.

**Sen. Flakoll-** you have in front of you SB 2014 the industrial commissions budget is it your understanding that the bill that you are looking would relate to page 2 line 1?

**Karlene Fine-** that is correct.

**Sen. Flakoll** closed the hearing.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2129

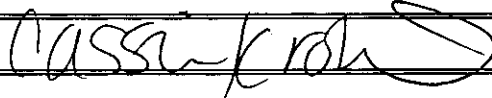
Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: January 16, 2009

Recorder Job Number: 7121

Committee Clerk Signature



Minutes:

**Sen. Flakoll** opened the discussion on SB 2129, members present (6), absent (1)- **Sen. Taylor.**

**Sen. Wanzek-** as I recall there was a subcommittee that worked on a bill that concerned something related to this last session.

**Sen. Heckaman-** it is disappointing to know that people apply and that they can't even make the first days criteria.

**Sen. Flakoll-** I think part of that might just be a little bit of a learning curve. Sometime some of these unkind things are really creative.

**Sen. Klein-** I think that even if our group could see those applications we could figure out who is legit and who is out there fishing for cash.

**Sen. Wanzek-** I think that it is important to know where the funding is coming from, but the appropriations committee is mostly going to work with this.

**Sen. Miller-** so what we are doing is taking the bio-fuel money, dumping it back in the general funds and dragging it into this one bill.

**Sen. Miller** proposed an amendment see attachment #1.

**Sen. Miller** motioned to adopt amendment and was seconded by **Sen. Wanzek**, vote 6 yeas, 0 nays, 1 absent and not voting- **Sen. Taylor**. **Sen. Wanzek** motioned to adopt amendments proposed by Sherry Ness, OMB, seconded by **Sen. Miller**. 5 yea, 1 nay, 1 absent and not voting. **Sen. Flakoll** closed the discussion.

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2129

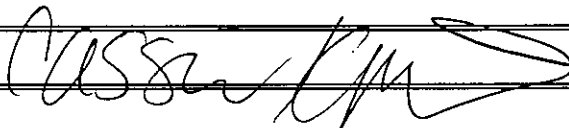
Senate Agriculture Committee

Check here for Conference Committee

Hearing Date: January 22, 2009

Recorder Job Number: 7535

Committee Clerk Signature



Minutes:

**Sen. Flakoll** opened discussion on SB 2129, members present (6), absent (1)- **Sen. Taylor**.

**Sen. Klein** motioned to pass the bill as amended and be rereferred to appropriations and was seconded by **Sen. Heckaman**. Roll call vote 6 yea, 0 nay, 1 absent and not voting. **Sen.**

**Flakoll** closed the discussion.

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/23/2008

Bill/Resolution No.: SB 2129

**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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**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 2129 combines the Renewable Energy Program and Biomass Incentive & Research Program into one program under the Renewable Energy Council/Industrial Commission. The Biomass Incentive & Research Fund is repealed. SB 2129 also includes amendments regarding the administration of the Program.

**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 2129 does not have any fiscal impact. The appropriation for the Renewable Energy Program/Biomass Program is in Senate Bill 2014.

**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>	Karlene Fine	<b>Agency:</b>	Industrial Commission
<b>Phone Number:</b>	3283722	<b>Date Prepared:</b>	01/06/2009



PROPOSED AMENDMENTS TO SENATE BILL 2129

Page 4, line 27, remove "efficiencies such as" and insert after the word increase " research and utilization of renewable energy" and after the word utilization insert " for livestock feed, human food products, and industrial use"

Thus it would read:

- d. Provide incentives to increase ~~efficiencies such as~~ research and utilization of renewable energy coproduct utilization for livestock feed, human food products and industrial use technologies.

Date: 1-14-09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2129

Senate Agriculture Committee

Check here for Conference Committee

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

Action Taken Adopt proposed amendments

Motion Made By Miller Seconded By wanzek

Senators	Yes	No	Senators	Yes	No
Tim Flakoll-Chairman	X		Arthur Behm	X	
Terry Wanzek-Vice Chairman	X		Joan Heckaman	X	
Jerry Klein	X		Ryan Taylor		
Joe Miller	X				

Total (Yes) 6 No 0

Absent 1 - Sen. Taylor

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

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

*FB*  
*1-16-09*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2129

Page 1, line 8, overstrike "through a contract or other instrument executed"

Page 1, line 9, after "commission" insert "for energy-related programs"

Page 4, line 27, overstrike "efficiencies such as" and insert immediately thereafter "research and utilization of renewable energy" and after "utilization" insert "for livestock feed, human food products, and industrial use"

Renumber accordingly

Date: 1-16-09  
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2129

Senate Agriculture Committee

Check here for Conference Committee

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

Action Taken Adopt proposed amendment

Motion Made By Wanzek Seconded By Miller

Senators	Yes	No	Senators	Yes	No
Tim Flakoll-Chairman	X		Arthur Behm	X	
Terry Wanzek-Vice Chairman	X		Joan Heckaman		X
Jerry Klein	X		Ryan Taylor		
Joe Miller	X				

Total (Yes) 5 No 1

Absent 1 - Sen. Taylor

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

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

Date: Jan 22, 09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2129

Senate Agriculture Committee

Check here for Conference Committee

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

Action Taken Do Pass as amended rerefer to Appropriations

Motion Made By Klein Seconded By Heckaman

Senators	Yes	No	Senators	Yes	No
Tim Flakoll-Chairman	X		Arthur Behm	X	
Terry Wanzek-Vice Chairman	X		Joan Heckaman	X	
Jerry Klein	X		Ryan Taylor		
Joe Miller	X				

Total (Yes) 6 No 0

Absent 1 - Sen. Taylor

Floor Assignment Sen. Miller

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

**REPORT OF STANDING COMMITTEE**

**SB 2129: Agriculture Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2129 was placed on the Sixth order on the calendar.

Page 1, line 8, overstrike "through a contract or other instrument executed"

Page 1, line 9, after "commission" insert "for energy-related programs"

Page 4, line 27, overstrike "efficiencies such as" and insert immediately thereafter "research and utilization of renewable energy" and after "utilization" insert "for livestock feed, human food products, and industrial use"

Renumber accordingly

2009 HOUSE AGRICULTURE

SB 2129

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2129

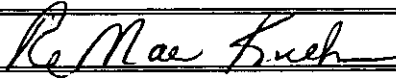
House Agriculture Committee

Check here for Conference Committee

Hearing Date: March 12, 2009

Recorder Job Number: 10801

Committee Clerk Signature



Minutes:

**Karlene Fine, Executive Director and Secretary, Industrial Commission of ND:**

**(Written testimony attached #1)**

**(Brochure attached #2)** Lists projects approved

**Representative Vig:** What kind of amendments did the Senate add?

**Karlene Fine:** There was some clarification language in Section 1. They also tweaked the language on page 4, lines 27-29.

**Chairman Johnson:** I have amendments also from Representative Brandenburg. We will work on this bill tomorrow.

**Representative Mueller:** What are we repealing?

**Karlene Fine:** What we are repealing is the biomass law. That section has been incorporated in this section so it is no longer needed.

**Sherry Neas, Office of Management and Budget:** We support this legislation.

On Section 1, the amendment was an improvement. It clarified that it is for energy-related programs.

**Al Christianson, Great River Energy:** I was appointed to the Renewable Energy Council by Governor Hoeven. We are here in support of this legislation.



**Bill Kalanek, Alliance for Renewable Energy:** We support the changes made on this bill.

**Harlan Fuglesten, ND Assn. of Rural Electric Cooperatives:** We are also a member of the Alliance for Renewable Energy and have been very supportive of the Renewable Energy Council.

**Opposing:** None

**Chairman Johnson:** Take a look at the amendments and we'll work on this tomorrow.

**Closed the hearing.**

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2129

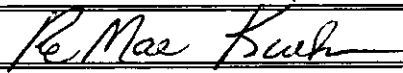
House Agriculture Committee

Check here for Conference Committee

Hearing Date: March 13, 2009 (**Committee Work**)

Recorder Job Number: 10931

Committee Clerk Signature



Minutes:

**Vice Chairman Brandenburg:** I have been approached by the Sugar Industry. They would like to have this language inserted with biofuel derived from sugar and starch.

I move the amendment LC# 98157.0201.

Representative Schatz: Seconded it.

**Voice vote taken. Passed.**

**Vice Chairman Brandenburg:** Moved Do Pass as amended.

**Representative Schatz:** Seconded.

A Roll Call vote was taken. Yes: 12, No: 0, Absent: 1, (Representative Froelich).

**Representative Wall will carry the bill.**

VR  
3/13/09

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2129

Page 1, line 1, after "to" insert "create and enact a new section to chapter 54-63 of the North Dakota Century Code, relating to definitions; to"

Page 3, after line 6, insert:

**"SECTION 3.** A new section to chapter 54-63 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** As used in this chapter, "advanced biofuel" means fuel derived from renewable biomass and includes:

1. Biofuel derived from cellulose, hemicellulose, or lignin;
2. Biofuel derived from sugar and starch other than ethanol derived from corn kernel starch;
3. Biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;
4. Diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat;
5. Biogas, including landfill gas and sewage waste treatment gas, produced through the conversion of organic matter from renewable biomass;
6. Butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and
7. Other fuel derived from cellulosic biomass."

Page 3, after line 23, insert:

"g. A member with a substantial interest in advanced biofuel and sugar-based biofuel, appointed by the governor."

Page 5, after line 16, insert:

"j. Provide incentives to support research and demonstration projects and obtain matching grants for projects involving advanced biofuels and sugar-based biofuels."

ReNUMBER accordingly

Date: 3/13/09

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

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2129**

House Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number 98 157. 0201

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair			Tracy Boe		
Mike Brandenburg, Vice Chair			Rod Froelich		
Wesley R. Belter			Richard Holman		
Joyce M. Kingsbury			Phillip Mueller		
David S. Rust			Benjamin A. Vig		
Mike Schatz					
Gerry Ugiem					
John D. Wall					

*Vote taken on amendment passed*

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

Absent \_\_\_\_\_

Bill Carrier \_\_\_\_\_

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

*Requested by sugar industry*

Date: 3/13/09  
 Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2129

House Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number 98157.0201

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Rep. Brandenburg Seconded By Rep. Schatz

Representatives	Yes	No	Representatives	Yes	No
Dennis Johnson, Chair	✓		Tracy Boe	✓	
Mike Brandenburg, Vice Chair	✓		Rod Froelich	AB	
Wesley R. Belter	✓		Richard Holman	✓	
Joyce M. Kingsbury	✓		Phillip Mueller	✓	
David S. Rust	✓		Benjamin A. Vig	✓	
Mike Schatz	✓				
Gerry Uglem	✓				
John D. Wall	✓				

Total (Yes) 12 No 0

Absent 1

Bill Carrier Rep. Wall

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

**REPORT OF STANDING COMMITTEE**

SB 2129, as engrossed: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2129 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 54-63 of the North Dakota Century Code, relating to definitions; to"

Page 3, after line 6, insert:

**"SECTION 3.** A new section to chapter 54-63 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** As used in this chapter, "advanced biofuel" means fuel derived from renewable biomass and includes:

1. Biofuel derived from cellulose, hemicellulose, or lignin;
2. Biofuel derived from sugar and starch other than ethanol derived from corn kernel starch;
3. Biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;
4. Diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat;
5. Biogas, including landfill gas and sewage waste treatment gas, produced through the conversion of organic matter from renewable biomass;
6. Butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and
7. Other fuel derived from cellulosic biomass."

Page 3, after line 23, insert:

"g. A member with a substantial interest in advanced biofuel and sugar-based biofuel, appointed by the governor."

Page 5, after line 16, insert:

"i. Provide incentives to support research and demonstration projects and obtain matching grants for projects involving advanced biofuels and sugar-based biofuels."

Renumber accordingly

2009 TESTIMONY

SB 2129



# INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven  
Governor

Wayne Stenehjem  
Attorney General

Roger Johnson  
Agriculture Commissioner

## Testimony on Senate Bill 2129

### Senate Agriculture Committee

**Karlene Fine, Executive Director and Secretary for the  
North Dakota Industrial Commission**

**Friday, January 16, 2009**

For the record, my name is Karlene Fine and I serve as Executive Director and Secretary for the North Dakota Industrial Commission. The Industrial Commission authorized the introduction of Senate Bill 2129 and my appearing in support of this legislation.

First some background information. The Renewable Energy Program (REP) and the Biomass Incentive and Research Program were authorized by the 2007 Legislative Assembly. Since the Programs were authorized the Commission has established policies for the programs and has held five REP grant rounds and three Biomass grant rounds. Since implementation 23 project applications have been received for both programs with the total funding requested of \$6,081,278. Fifteen of these applications were presented to the Renewable Energy Council with ten applications being forwarded to the Industrial Commission for consideration.

The Renewable Energy Program was structured similar to the Lignite Research, Development and Marketing Program and the Oil and Gas Research Program. There is a multi-tiered review and approval process before a project is funded. Here is how it works.

- Applications are received by the application deadlines and the initial review process is conducted at the staff level. As directed by the Legislature, the Department of Commerce provides technical assistance to the Industrial Commission and their staff completes the first review of the applications. They determine whether the application meets the Program criteria.
- If the application meets the criteria then it is forwarded to independent technical reviewers with expertise in the area of the application. For example if the application deals with biodiesel manufacturing, it will be reviewed by experts in the field of biodiesel operations. The technical reviewer comments are then given to the applicant so the applicant has an opportunity to respond to the comments. The reviews, applicants' responses and a recommendation from the Department of Commerce staff are then forwarded to the Renewable Energy Council along with the application and an opportunity is given to the applicant to make a presentation to the Council.



- If the application is approved by the Council it is then forwarded to the Industrial Commission for consideration.

The Commission has approved the funding of ten projects for both programs and one project is pending for Industrial Commission consideration. Two applications from Grant Round 5 are currently in the review process. The total amount of Renewable Energy Program funding committed to the nine approved projects as of December 31, 2008 is \$1,388,073. An additional \$800,000 has been approved under the Biomass Incentive Research Program for a total of \$2,188,073 for the two programs. Each of these projects has match funding which means that the Renewable Energy Program funding has been leveraged to result in projects totaling over \$7.7 million. Attached to my testimony is a brochure listing the projects that have received funding.

The two programs had slightly different provisions so thus the reason for our introduction of Senate Bill 2129. What we have done in this legislation is propose provisions that would allow the Renewable Energy Program to operate in the same manner as the other research programs under the Industrial Commission and to combine the Renewable Energy and the Biomass Incentive and Research Programs.

Sections 1 and 2 are provisions that the Commission currently has in place for its Research Programs—exemption from the procurement statute (Section 1) and an exemption from the business incentive reporting statute (Section 2). The majority of the funding provided by the Commission is done by way of the process outlined earlier. As we have found in our other programs there may be a need to retain an entity to conduct a specific type of research which would generally have a very narrow focus. In regards to Section 2 the funding of these research projects doesn't fit with the intent of the business incentive statute.

In Section 3 we have some clean-up language in regards to the terms of the Renewable Energy Council membership. We also have moved the reference to match funding from the "Membership" section of the law and are proposing a provision in the "Powers" section of the law.

On lines 12 and 13 in Section 4 we have restated the purpose of the funding. Currently it is under the Council "Membership" section and not in the "Powers" section where generally you would look for that authority.

On lines 18 - 23 we are proposing language regarding the match provision. The Biomass Incentive and Research Program law was silent on a match requirement and the Renewable Energy Program had a dollar for dollar requirement. This language gives flexibility to the Commission regarding the match requirements. The Industrial Commission generally recommends a match for the funding of projects. The Commission believes that having a partner in the research leads to projects being completed that will be useful and that it isn't research for research sake. As the policies are now written for the Renewable Energy Program and the Commission's other Research Programs a match is required and a

Senate Bill 2129

Page 3

January 16, 2009

higher priority is given to funding a project if there is a higher amount of match. The numbers presented earlier demonstrate that the Renewable Energy funds have been successfully leveraged.

On lines 11 – 16 on Page 5 we included those provisions of the Biomass Incentive and Research Program that were passed last session that have not yet been funded and that we believe to still be relevant.

Section 5 is a repeal of the Biomass Incentive and Research Fund law.

On behalf of the Industrial Commission I would request favorable consideration of Senate Bill 2129.

DEPARTMENT OF COMMERCE TESTIMONY ON SB 2129  
JANUARY 16, 2009, 9:00 A.M.  
SENATE AGRICULTURE COMMITTEE  
ROOSEVELT PARK ROOM  
SENATOR TIM FLAKOLL, CHAIRMAN

**JIM BOYD – MANAGER OF GOVERNMENTAL SERVICES AND INTERIM MANAGER OF OFFICE OF RENEWABLE ENERGY AND ENERGY EFFICIENCY, ND DEPARTMENT OF COMMERCE**

Chairman Flakoll and members of the Senate Agriculture Committee:

I am here testifying in support of SB 2129 representing Shane Goettle, Commissioner for the Dept. of Commerce who serves as the legislatively designated chairman of the Renewable Energy Council.

The Office of Renewable Energy & Energy Efficiency within the Dept of Commerce provides staff support to the Renewable Energy Council by managing the technical review process for applications submitted to the council for funding. We have worked very closely with the Industrial Commission staff to implement a program which not only fosters the development of the Renewable Energy and Biomass Industries here in North Dakota but one which assures that only the most promising proposals are granted funding.

As an example of how well our review process is working, I would like to describe the most recent grant round. We received five applications; two of the applications did not pass the initial staff screening phase. After a peer review and thorough questioning by the Renewable Energy Council members, only one of the remaining three received a grant award.

While the Council has made a point of giving preference to proposals with industry involvement, and higher matching investment, it is important to have the flexibility of assisting projects of great merit that lack an equal cash investment, should such a proposal come along.

The administration of the Renewable Energy Development Fund has been set up to mirror that of the Oil and Gas Research Program and Lignite Research Program. The provisions suggested in SB 2129 would allow the combined Renewable Energy Program and Biomass Incentive Research Program to operate similarly to the other Industrial Commission research programs.

Examples of work that is being done through the Renewable Energy Development Program include:

- Two wind technician training programs.
- A feasibility study of a biomass supply for an industrial park.
- An E85 Blending Facility.
- Development of economically sustainable distributed power from biomass gasification.
- Developing a biomaterials industry in North Dakota.
- Renewable Electrolytic Nitrogen Fertilizer Production.

This is only a sample of the innovative ideas North Dakotans have to advance Renewable Energy in our state. We have found there is no shortage of ideas which make their way to us as proposals. During the remainder of this Biennium we will have a special application funding round in addition to the regular application round in May.

The Department of Commerce is proud of the aggressively proactive way in which our state is tackling the issue of promoting the renewable energy and biomass energy industries that will lead to greater energy independence and greater economic diversity within our state. Commerce supports the program and endorses the changes contained in Senate Bill 2129.

# Attachment #3

Proposed Amendment  
SB 2129

Section 1, Line 8-9

5. Procurements ~~through a contract or other instrument executed~~ by the industrial  
Commission for energy related programs under chapters 17-02, 54-17.5, 54-17.6, ~~and~~ 54-17.7, and 54-63 and

OMB State Procurement Office  
Sherry Neas, Director  
328-1726  
sneas@nd.gov

- Develop baseline information that will lead to other projects, processes, ideas, and activities.

The following activities or uses are ineligible for funding under this Program:

- a. Business startup capital.
- b. Business working capital.
- c. Business advertising or promotional expenses pertaining to a specific company or entity.

### **REC – 3 MAXIMUM GRANT AMOUNT AND MATCHING FUND REQUIREMENT**

REC – 3.01 Maximum Grant Amount

REC – 3.02 Matching Funds

**REC – 3.01 Maximum grant amount.** Grants may be of any amount up to a maximum of \$500,000.

**REC – 3.02 Matching funds.** A grant may not exceed fifty percent of the total project cost. Documentation demonstrating the matching funds, including letters of commitment from other funding sources, must be submitted to the Commission within sixty days of the approval of an application by the Commission, or within any additional time granted by the Commission. The Commission's approval is contingent upon receiving this documentation. If it is not received, the approval lapses and no grant may be made. Any grants, loans, or other financial assistance must be matched on a dollar-for-dollar basis. A higher priority will be given to those applications having private industry investment equal to at least 50% or more of total cost.

### **REC – 4 APPLICATION REQUIREMENTS**

REC – 4.01 Application Format

REC – 4.02 Application Deadline

REC – 4.03 Application Contribution

**REC – 4.01 Application format.** An application must be direct, concise, and informative. It must be accompanied with the application contribution of \$100. It must be typed and double spaced on eight and one-half-inch by eleven-inch paper. Each page shall be numbered and the application shall not exceed 15 pages in length (including the transmittal letter). A copy of the application should be submitted electronically to [kfine@nd.gov](mailto:kfine@nd.gov) and two paper copies of the application are to be submitted to the following address.

North Dakota Industrial Commission  
ATTN: Renewable Energy Development Program  
State Capitol – Fourteenth Floor  
600 East Boulevard  
Bismarck, North Dakota 58505

The application must contain the following:

1. Transmittal letter. A transmittal letter setting forth a binding commitment on behalf of the applicant to complete the project as described in the application if the Commission makes the grant requested. The letter must be signed by someone authorized to contract on behalf of the applicant.



Karlene Fine

#1

3/12/09  
2129

# INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven  
Governor

Wayne Stenehjem  
Attorney General

Roger Johnson  
Agriculture Commissioner

## Testimony on Engrossed Senate Bill 2129

### Senate Appropriations Committee

Karlene Fine, Executive Director and Secretary for the  
North Dakota Industrial Commission

Wednesday, January 28, 2009

For the record, my name is Karlene Fine and I serve as Executive Director and Secretary for the North Dakota Industrial Commission. The Industrial Commission authorized the introduction of Senate Bill 2129 and my appearing in support of this legislation.

First some background information. The Renewable Energy Program (REP) and the Biomass Incentive and Research Program were authorized by the 2007 Legislative Assembly. Since the Programs were authorized the Commission has established policies for the programs and has held five REP grant rounds and three Biomass grant rounds. Since implementation 26 project applications have been received for both programs with the total funding requested of \$6,856,278. Eighteen of these applications were or will be presented to the Renewable Energy Council with eleven applications being forwarded to the Industrial Commission for consideration. Two applications are currently pending action by the Renewable Energy Council.

The Renewable Energy Program was structured similar to the Lignite Research, Development and Marketing Program and the Oil and Gas Research Program. There is a multi-tiered review and approval process before a project is funded. Here is how it works.

- Applications are received by the application deadlines and the initial review process is conducted at the staff level. As directed by the Legislature, the Department of Commerce provides technical assistance to the Industrial Commission and their staff completes the first review of the applications. They determine whether the application meets the Program criteria.
- If the application meets the criteria then it is forwarded to independent technical reviewers with expertise in the area of the application. For example if the application deals with biodiesel processing, it will be reviewed by experts in the field of biodiesel operations. The technical reviewer comments are then given to the applicant so the applicant has an opportunity to respond to the comments. The reviews, applicants' responses and a recommendation from the Department of Commerce staff are then forwarded to the Renewable Energy Council along with the application and an opportunity is given to the applicant to make a presentation to the Council.

- If the application is approved by the Council it is then forwarded to the Industrial Commission for consideration.

The Commission has approved the funding of eleven projects for both programs and two projects are pending Renewable Energy Council and Industrial Commission consideration. The total amount of Renewable Energy Program funding committed to the ten approved projects as of January 26, 2009 is \$1,888,073. An additional \$800,000 has been approved under the Biomass Incentive Research Program for a total of \$2,688,073 for the two programs. Each of these projects has match funding which means that the Renewable Energy Program funding has been leveraged to result in projects totaling over \$8.7 million. Attached to my testimony is a brochure listing the projects that have received funding.

The two programs had slightly different provisions so thus the reason for our introduction of Senate Bill 2129. What we have done in this legislation is propose provisions that would allow the Renewable Energy Program to operate in the same manner as the other research programs under the Industrial Commission and to combine the Renewable Energy and the Biomass Incentive and Research Programs.

Sections 1 and 2 are provisions that the Commission currently has in place for its Research Programs—exemption from the procurement statute (Section 1) and an exemption from the business incentive reporting statute (Section 2). The majority of the funding provided by the Commission is done by way of the process outlined earlier. As we have found in our other programs there may be a need to retain an entity to conduct a specific type of research which would generally have a very narrow focus. In regards to Section 2 the funding of these research projects doesn't fit with the intent of the business incentive statute.

In Section 3 we have some clean-up language in regards to the terms of the Renewable Energy Council membership. We also have moved the reference to match funding from the "Membership" section of the law and are proposing a provision in the "Powers" section of the law.

In Section 4 we have restated the purpose of the funding. Currently it is under the Council "Membership" section and not in the "Powers" section where generally you would look for that authority.

On Page 4, lines 18 – 23 we are also proposing language regarding the match provision. The Biomass Incentive and Research Program law was silent on a match requirement and the Renewable Energy Program had a dollar for dollar requirement. This language gives flexibility to the Commission regarding the match requirements. The Industrial Commission generally recommends a match for the funding of projects. The Commission believes that having a partner in the research leads to projects being completed that will be useful and that isn't research for research sake. As the policies are now written for the Renewable Energy Program and the Commission's other Research Programs a match is required



Senate Bill 2129

Page 3

January 28, 2009

and a higher priority is given to those projects having private industry investment. The numbers presented earlier demonstrate that the Renewable Energy funds have been successfully leveraged.

On Page 5 we included those provisions of the Biomass Incentive and Research Program that were passed last session that have not yet been funded and that we believe to still be relevant.

Section 5 is a repeal of the Biomass Incentive and Research Fund law.

On behalf of the Industrial Commission I would request favorable consideration of Engrossed Senate Bill 2129.

### Energy & Environmental Research Center (EERC)

This project will prepare pilot-scale testing equipment and perform testing in the areas of Fischer-Tropsch (FT) liquid production, catalyst development, catalyst testing, product upgrade, and process simulation. Biomass-derived syngases will be used for the testing. The FT pilot system will be combined with existing EERC gasifiers to provide the capabilities to allow testing of current and newly developed catalysts with syngas from various fuels and at conditions of varied temperature, pressure, and gas composition. The catalyst development and production work will supply catalyst options for varied end use applications, including use in smaller-scale, distributed fuel production systems. The development of FT technologies to produce liquid transportation fuels from biomass, waste and coal will provide a new industry for North Dakota as well as helping to provide energy security not only for the state but for the entire country.

The grant award of \$189,034 consisted of approximately 21% of the total project cost. A final report is due September 30, 2009.

### Energy & Environmental Research Center (EERC)

This project will provide a complete, ready-for-bid design of a pilot-scale renewable oil refinery capable of producing diesel fuel, jet fuel, and naphtha. By utilizing crumbe, it can provide a sustainable market for crops suited for areas of North Dakota with a shorter growing season, and conditions, and suboptimal soil.

The grant award of \$500,000 consisted of 50% of the total project cost.

### Biomass Program

North Dakota's Biomass and Incentive Research Program (BIRP) was established by the Legislature in 2007. The law provides that the Industrial Commission may implement this Program and may transfer up to \$2,000,000 from other Industrial Commission agricultural programs. The Industrial Commission is to consult with the Renewable Energy Council (REC). The Dept. of Commerce provides technical assistance on the management of this program.

The mission of the Biomass Incentive and Research Program is to promote the growth of North Dakota's biomass industry efforts through research and development.

### Developing North Dakota's Industry (IND)

North Agricultural Experiment Station, North Dakota State University

This project will complete a front end engineering and design (FEED) study for a pilot scale plant to demonstrate the commercial potential of technology to produce materials and fuel from biomass feedstock. Initial efforts will be focused on technical and economic requirements for commercializing technology to produce bio-based cellulose nanowhiskers.

The grant award of \$800,000 consisted of approximately 45% of the total cost of the project. The remaining funds were derived from other

sources. The final report is due June 30, 2009.

Since it's inception in 2007, the Renewable Energy

### Renewable Energy Program

Program and Biomass Program combined have received requests for \$6,081,278. Of those requests, \$2,188,073 have been successful. For ease of administration, the Renewable Energy Council would like to combine the two programs into one.

For More Information

Call the Industrial Commission at 701-328-3722 or visit us on the web.

[www.nd.gov/ndic/renew-infopage.htm](http://www.nd.gov/ndic/renew-infopage.htm)

2129  
3/12/09

Brochure # 2  
Kandem Fire

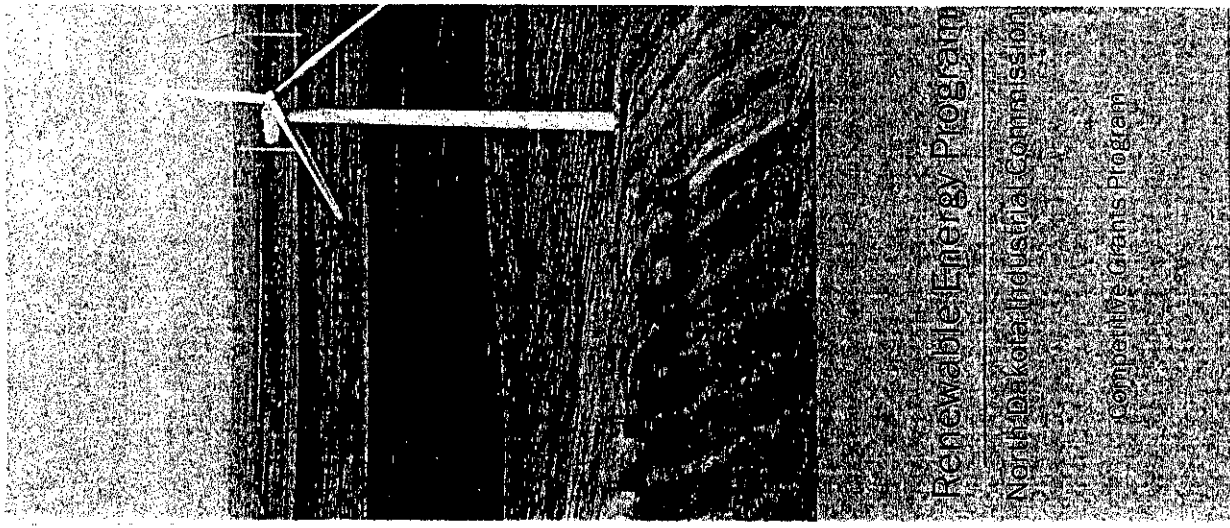
Developed by the North Dakota Department of Commerce

Printed January 27, 2009

### Renewable Energy Program

North Dakota Industrial Commission

Competitive Grants Program



## Renewable Energy Program

The North Dakota's Renewable Energy Program (REP) was established by the Legislature in 2007. The law provides that the Industrial Commission shall consult with the Renewable Energy Council (REC). The REC is made up of six individuals including the Commerce Commissioner, who serves as chairman, and representatives from the following five industries—agriculture, biomass, biodiesel, wind and ethanol. The Department of Commerce provides technical assistance on the management of this program.

The mission of the Renewable Energy Council (REC) is to promote the growth of North Dakota's renewable energy industries through research, development, marketing, and education.

### Blue Flint Ethanol, E85 Blending Facility

Blue Flint Ethanol, LLC (BFE)

BFE will install facilities that allow for in-line blending of E85 at their facility. BFE will market E85 to retail fuel stations in the state. It is believed that the consistent availability of an E85 product that is blended into the truck as opposed to splash or tank blended will grow retail market use of this product.

The grant award of \$50,000 consisted of approximately 43% of the total cost of the project. The final report has been received with a final low-up report.

### Feasibility Study of a Biomass Supply for the Spiritwood Industrial Park

Great River Energy (GRE) along with: Great Plains Institute, North Dakota Association of Rural Electric Cooperatives, North Dakota Department of Agriculture, North Dakota Farmers Union, North Dakota Natural Resources Trust.

This project will perform a detailed technical evaluation of the prospects for integrating a biomass supply into Spiritwood Station, part of the new Spiritwood Industrial Park in Jamestown, North Dakota. GRE proposes to co-fire up to 10% biomass in Spiritwood Station.

If successful, this project could demonstrate a new model of renewable energy production, provide added value to agricultural producers and rural communities, and offer a replicable example for other coal-fired power plants in North Dakota.

The grant award of \$109,000 consisted of approximately 23% of the total project cost. A final report is due June 30, 2009.

### CompPAKER

CompPAKco, LLC

This project will develop a mechanical device which would increase the density of biomass in order to transport and utilize it efficiently. The unique design and use of supplemental binder material in the proposed CompPAKER will result in less power requirements and a lower cost than pellet making machines currently available. The produced biomass "PAK" is uniform in size and shape and can be handled and transported much more efficiently than the raw biomass and further will allow the "PAK" to be easily integrated into both conventional combustion and biomass gasification systems.

The grant award of \$72,275 consisted of 50% of the total project cost. A final report is due June 30, 2010 with a final follow-up report due June 30, 2011.

### Small Wind Turbine Training Center

Energy & Environmental Research Center (EERC)

The small wind turbine training center will consist of two small wind turbines less than 20 kW in size. Once constructed, the facility will provide educational opportunities to a wide range of participants including grade school through college-level students and the general public. Qualified staff will lead facilitated discussions for groups wishing to tour the site for at least two years following the commencement of turbine operation. The facility will allow the EERC to provide technical training workshops related to the installation, operation, and maintenance of small wind turbines. As part of the agreement, the EERC will provide at least 3 planned technical workshops or educational events during the contract period.

The grant award of \$50,000 consisted of 50% of the total project cost. A final report is due September 30, 2009.

### Renewable Electrolytic Nitrogen Fertilizer Production

Energy & Environmental Research Center (EERC)

This project will optimize processes for producing nitrogen fertilizers using biomass gasification-derived synthesis gas (biosyngas), nitrogen extracted from air and electricity. As the processes have been demonstrated to operate with low-cost biosyngas rather than high-cost hydrogen derived from natural gas, they offer the potential for lower-cost and smaller-scale fertilizer production. Commercialization of the processes would enable regionally produced fertilizer to compete economically with imports and simultaneously develop a new fertilizer production industry.

The grant award of \$200,000 consisted of approximately 49% of the total project cost. A final report is due August 31, 2009.

### Development of Economically Sustainable Distributed Power from Biomass Gasification for ND

Energy & Environmental Research Center (EERC)

The EERC will demonstrate biomass gasification in an effort to educate potential users. The project will use an existing 50-kW gasification system in Grand Forks and will demonstrate long-term operation of the system for heat and power at the existing facility and short-term testing of additional biomass fuels for interested parties. The project will make potential North Dakota gasification users aware of the environmental and economic benefits of installing and operating a gasification system to replace a portion or all their current energy consumption. The project will include long- and short-term demonstration tasks, development of educational materials, and reporting.

The grant award of \$50,000 consisted of 50% of the total project cost. A final report is due September 30, 2009.

### Abundant Energy A Proposal for Wind Power Development & Technical Education

Lake Region State College

This project will site and erect an operating 1.65 MW wind turbine and design and implement a wind turbine training technician program that will be authorized by the North Dakota State Board of Higher Education. Additionally, Lake Region proposes to utilize the wind turbine to provide most of the electricity required by the campus.

The grant award of \$500,000 consisted of approximately 12% of the total project cost. A final report is due December 31, 2011.