COMPREHENSIVE ENERGY POLICY STUDY - BACKGROUND MEMORANDUM

The Energy Development and Transmission Committee was created in 2007 by House Bill No. 1462 and was codified in North Dakota Century Code Section 54-35-18. The committee replaced the Electric Industry Competition Committee and has a broader scope of study. The committee must 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 resources 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. In 2011, Senate Bill No. 2186 removed the expiration date of August 1, 2011, and made the committee permanent. In addition, the bill removed the mention of the study of the taxation of shallow gas to reduce energy costs.

COMMITTEE HISTORY

Assigned Studies

2007-08 Interim

During the 2007-08 interim, this committee was assigned one study of the siting and decommissioning of commercial wind farms. The study included the identification of key issues of public and industry concerns; the solicitation of public input from local government officials, electric utilities, the wind industry, landowners, farm organizations, and other concerned interests; the review of the laws and policies of other jurisdictions; the recommendations concerning laws or policies needed in this state to address wind farm siting and reclamation of wind farm sites; and the decommissioning of wind farm sites. The committee did not make any recommendation as a result of this study.

2009-10 Interim

During the 2009-10 interim, this committee was assigned three studies. The committee studied wind resources and other natural resources in the same location. The study was required to include the review of laws relating to the siting and decommissioning of a wind energy conversion facility, the desirability of an environmental assessment as a condition of siting, and the desirability of regulation of wind energy conversion facilities to address the effects on water, soil, cultural resources, and future development of other natural resources. The committee did not make any recommendation as a result of this study.

Second, the committee studied wind easements and wind energy leases, including a consideration of confidentiality clauses, liability for damages and taxes, insurance, and other concerns of property owners and wind developers. The committee did not make any recommendation as a result of this study.

Third, the committee studied wind rights. In particular, the resolution suggested defining wind rights by connecting wind rights to the surface estate and protecting adjacent property rights through setbacks. The committee did not make any recommendation as a result of this study.

2011-12 Interim

During the 2011-12 interim, the committee was assigned one study of eminent domain laws as they relate to pipeline siting. In addition, the study included a review of bonding authority and liability issues for abandoned pipelines. The committee did not make any recommendation as a result of this study.

2013-14 Interim

During the 2013-14 interim, the committee was assigned three studies. Pursuant to Section 8 of House Bill No. 1198, the committee contracted with an independent consultant to study the likely changes to oil industry practices, production, impacts, and tax policy in the foreseeable future. The committee did not make any recommendations as a result of this study.

Pursuant to Section 41 of Senate Bill No. 2018, the committee studied the feasibility and desirability of the establishment of an energy corridor in the western portion of the state, including the conversion of United States Highway 85 to a four-lane highway corridor. The committee recommended House Bill No. 1031, which provided for an allocation of $75 million per biennium from the oil and gas production tax to the state highway fund for major improvements and construction of highway corridors impacted by energy development, with a priority of enhancement to United States Highway 85. House Bill No. 1031 was not approved by the 2015 Legislative Assembly.

The Chairman of Legislative Management directed the committee to study the permitting, regulation, and siting of oilfield waste landfills and the disposal of waste related to oil and gas development. The committee recommended House Bill No. 1032, which increased the allocation of oil and gas gross production tax to the abandoned oil and gas well plugging and site reclamation fund from an amount not exceeding $5 million to an amount not exceeding $10 million per year. In addition, the bill increased the cap for the fund from $75 million to $100 million. The bill was amended to provide for an allocation not exceeding $7.5 million per year and to make the provisions of the bill contingent upon the "large trigger" not being in effect for the first six months of the 2015-17 biennium. The 2015 Legislative Assembly approved House Bill No. 1032 as amended.

Comprehensive Energy Policy Study

2007-08 Interim

As a result of the 2007-08 interim study, the committee recommended nine bills:

- Senate Bill No. 2031, which was approved by the 2009 Legislative Assembly, extended the reduction in taxable value from 3 to 1.5 percent of assessed value for a centrally assessed wind turbine electric generation unit with a nameplate generation capacity of 100 kilowatts or more from January 1, 2011, to January 1, 2015.
- Senate Bill No. 2032, as introduced, made permanent the sales and use tax exemption from materials used in the construction or expansion of a wind-powered facility and, as passed, extended the exemption to 2015. The bill was amended by the Senate to extend the tax exemption until 2015, and the amended version was approved by the 2009 Legislative Assembly.
- Senate Bill No. 2033 extended the 15 percent income tax credit for the installation of geothermal, solar, wind, or biomass energy devices from an end date of January 1, 2011, to an end date of January 1, 2015, and generally, allowed a credit carryover of 10 years. The 2009 Legislative Assembly approved the bill.
- Senate Bill No. 2034, which was approved by the 2009 Legislative Assembly, extended the oil extraction tax exemption for tertiary recovery projects using carbon dioxide from 10 years from the date of incremental production to an unlimited duration.
- Senate Bill No. 2035, which was approved by the 2009 Legislative Assembly, included a powerplant that uses beneficiated coal within the sales and use tax exemption and included a severance tax exemption on coal purchased for coal beneficiation which is used in an agricultural commodity processing facility.
- Senate Bill No. 2036, which was approved by the 2009 Legislative Assembly, extended the coal conversion tax exemption for repowering to include an electrical generating unit that uses beneficiated coal. The bill limited the repowering extension to units that complete repowering. The previous exemption was applied to electrical generating plants.
- Senate Bill No. 2037 included within the sales and use tax exemption the construction or expansion of a system used to compress, process, gather, or refine gas from an oil well, rather than only a gas well. The 2009 Legislative Assembly approved the bill.
- House Bill No. 1032 excluded from the siting jurisdiction of the Public Service Commission construction conducted wholly within land for which a utility previously had obtained a certificate of site compatibility or a route permit from the commission and excluded actions conducted wholly within land on which is located an energy conversion facility or transmission facility that was constructed before April 9, 1975. In addition, the bill excluded from the siting jurisdiction of the Public Service Commission pipelines with an inside diameter of four inches or less or a length of one mile or less or gathering pipelines as defined by federal law. The 2009 Legislative Assembly approved the bill.
- House Bill No. 1033 would have reduced the time allowed for the Public Service Commission to designate the route for a transmission facility from six months to three months after receiving the application, but did not pass.

2009-10 Interim

During the 2009-10 interim, the committee recommended five bills relating to the comprehensive energy policy study:

- Senate Bill No. 2030 would have created a biodiesel plant production incentive, but did not pass.
- Senate Bill No. 2031 would have removed the sunset on the sales tax exemption for wind facilities, but did not pass.

- Senate Bill No. 2032, which was approved by the 2011 Legislative Assembly, allowed the Oil and Gas Research Council to promote innovation and safety, enhancement of environment, and an increase in education concerning the distribution of petroleum products and allowed the Industrial Commission, as manager of the Oil and Gas Research Council, to provide financial assistance for processing and activities directly related to the refining industry and the petroleum marketing industry.
- Senate Bill No. 2033 would have allowed oil and gas impact fund grants for long-term planning and engineering studies associated with road infrastructure, water, sewer, housing, local services, and other needs. The bill would have changed the administration of the funds by having the Board of University and School Lands make the grants instead of the Director of the Energy Development Impact Office. Although the bill did not pass, similar substance of the bill was adopted in House Bill No. 1013.
- Senate Bill No. 2034, which was approved by the 2011 Legislative Assembly, treated green diesel the same as biodiesel.

2011-12 Interim

During the 2011-12 interim, the committee recommended seven bills relating to the comprehensive energy policy study:

- Senate Bill No. 2027 would have taken 5 percent, up to $3 million per biennium, of the amount credited to the resources trust fund and place it in the renewable energy development fund and provided for a general fund appropriation of $300,000 for a study for value-added market opportunities for renewable energy resources, but the bill did not pass. The funding for the renewable energy development fund was moved to Section 29 of Senate Bill No. 2014. In addition, Section 12 of Senate Bill No. 2014 provided $500,000 for a study to evaluate value-added market opportunities for renewable energy and oil and gas.
- Senate Bill No. 2028 would have provided a general fund appropriation of $100,000 to Job Service North Dakota for the purposes of upgrading the collection and use of employment data to identify transportation employees and other employees who should be included in oil- and gas-related employment, but the bill did not pass. However, $120,000 was appropriated to Job Service North Dakota in House Bill No. 1358 for the same purposes.
- Senate Bill No. 2029 would have provided an additional $6 million per biennium to the oil and gas research fund with legislative intent that $5 million be used by the Industrial Commission for opportunities related to value-added processing of oil and gas and provided a general fund appropriation of $300,000 for a study of value-added market opportunities related to oil and gas, but the bill did not pass. However, Section 30 of Senate Bill No. 2014 provided the same increase with legislative intent that the Industrial Commission give emphasis to value-added procession of oil and gas projects.
- As introduced, House Bill No. 1029 increased the cap on the aggregate amount of tax credits for housing incentive fund contributions from $15 million to $20 million per biennium and cap the fund at $50 million. In addition, the bill allowed the Housing Finance Agency to enter public and private partnerships and reserve a share of the housing for the private partner's workforce and to charge administration fees to project developers, applicants, or grant recipients. As passed, the bill had two major changes--the $50 million cap was removed and the bill required the annual allocation plan established by the agency for distribution of the housing incentive fund must give first priority to housing for workers employed by a city, county, school district, medical or long-term care facility, the state, or others determined by the agency who fulfill an essential public service. The bill required the second priority of the annual allocation plan must be to provide housing for individuals and families of low or moderate income. The bill required the agency to maintain a register reflecting the number of housing units owned or master leased by cities, counties, school districts, or other employers of essential service workers and to report quarterly to the Budget Section on the progress being made to reduce the overall number of units owned, master leased, or subsidized by those entities.
- House Bill No. 1030, which was approved by the 2013 Legislative Assembly, accepted the present use and disposal of coal combustion residues.
- House Bill No. 1031 would have allowed the North Dakota Pipeline Authority to issue evidences of indebtedness for refineries, but the bill did not pass.
- House Bill No. 1032 would have provided an exemption from the oil extraction tax if the oil is sold to and refined by a refinery located in this state, but the bill did not pass.

2013-14 Interim

As a result of the 2013-14 interim study, the committee recommended six bills:

The committee recommended Senate Bill No. 2032 to create an oil and gas development strategic planning authority. The authority would be governed by the Industrial Commission and the authority would serve in an advisory capacity to the commission. The authority would develop a comprehensive strategic plan to address oil- and gas-affected communities' needs. The focus of the authority's attention would be on infrastructure needs. The authority's duties would be to collect information and create and update a plan by analyzing funding, programs, and incentives. The 2015 Legislative Assembly did not approve Senate Bill No. 2032.

The committee recommended Senate Bill No. 2033 to provide supplemental funding to political subdivisions if oil and gas tax revenues exceed legislative forecast. The bill provided a $200 million appropriation to the State Treasurer from the strategic investment and improvements fund for distributions to political subdivisions if oil tax revenues exceeded the forecast by 20 percent or more in the first six months of the biennium. The 2015 Legislative Assembly did not approve Senate Bill No. 2033.

The committee recommended Senate Bill No. 2034 to create a sales and use tax exemption for materials used for oil gathering pipelines, but the 2015 Legislative Assembly did not approve the bill.

The committee recommended Senate Bill No. 2035 to create a sales and use tax exemption for tangible personal property used for a fertilizer or chemical processing facility producing fertilizer from natural gas or crude oil components. The bill was amended to add the requirement that political subdivisions consult with the Department of Commerce before granting property tax exemptions for projects with an estimated cost of $1 billion or more. The 2015 Legislative Assembly approved Senate Bill No. 2035 as amended.

The committee recommended Senate Bill No. 2036 to provide for an exemption from the coal conversion facilities privilege tax for beneficiated coal used within a coal conversion facility and to remove the sunset on the sales and use tax exemptions for beneficiated coal and the severance tax exemption for coal used in certain plants. The bill was approved by the 2015 Legislative Assembly.

The committee recommended Senate Bill No. 2037 to increase the factor used to determine taxable valuation for property tax purposes for wind generation units commenced before January 1, 2015, and completed before January 1, 2017, from 1.5 to 3 percent; to provide a grace period for the income tax credit relating to those wind towers; to remove the sunset on the sales tax exemption for wind-powered electrical generation facilities; and to remove the $5 million cap on the sales and use tax exemption for new coal mines located in this state. The bill was amended to provide payments in lieu of property taxes for certain wind turbines; to provide an income tax credit equal to 3 percent of installation costs each year for five years for qualifying wind energy devices; and to provide a sales tax exemption for equipment used in coal mining, retroactive to January 1, 2011.

ENERGY POLICY LEGISLATION - NORTH DAKOTA CENTURY CODE TITLE 17

Title 17, relating to energy, establishes the Transmission Authority, the Ethanol Council, and the Energy Policy Commission and includes provisions for energy incentives relating to ethanol and biodiesel.

2007 Bills

In an effort to create a comprehensive energy policy, the Legislative Assembly passed 2007 House Bill No. 1462 creating Title 17. Title 17 was created in part by moving sections of the Century Code already in existence into Title 17. Title 17 includes what was formerly Sections 4-14.1-07.1, 4-14.1-07.2, 4-14.1-08, 4-14.1-09, and 4-14.1-10 relating to ethanol plant production incentives from the ethanol production incentive fund; Chapter 6-09.17 relating to the biodiesel partnership in assisting community expansion (PACE) fund being used for interest rate buydowns on loans to biodiesel production facilities; Section 9-01-22 relating to the termination of a wind option agreement; Sections 47-05-14 through 47-05-16 relating to the creation of wind easements and termination for lack of development; Section 47-16-42 relating to the termination of a wind energy lease for lack of development; and Chapter 49-24 relating to the North Dakota Transmission Authority.

In 2007 House Bill No. 1462 created the 25x'25 initiative for inclusion in Section 17-01-01. The goal of this initiative is to provide 25 percent of the total energy consumed in the United States from renewable resources on the agricultural, forestry, and working lands of the United States by January 1, 2025. The initiative defines renewable energy to include 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.

2009 Bills

In 2009 the Legislative Assembly made a number of changes to provisions in Title 17 and created new provisions in Title 17. Four bills created major new law in Title 17. These bills include Senate Bill Nos. 2350 and 2228 and House Bill Nos. 1509 and 1322.

Senate Bill No. 2350 created the North Dakota Ethanol Council consisting of members appointed by a facility located in this state which produces more than one million gallons of agriculturally derived denatured ethanol. The council is charged with expending money collected through an assessment at the rate of 31 hundredths of 1 percent per gallon imposed upon all ethanol produced and sold in this state for the purpose of funding research, education programs, promotion, and market development efforts, and state, regional, national, and international entities that promote ethanol utilization. In addition, the bill provided for a refund of the assessment, a continuing appropriation for the assessment, and a penalty of a Class B misdemeanor for a person violating calculation and submission provisions of the assessment.

Senate Bill No. 2228 required the Department of Commerce to administer the biofuel blender pump incentive fund. The fund is to be used to provide cost-share grants of up to $5,000 per pump for the installation of biofuel blender pumps to retailers who qualify and install pumps that dispense at retail a blend of gasoline and ethanol in a ratio selected by the purchaser and have at least four hoses that include a hose that dispenses E-10, a blend of at least E-20, and E-85 fuel.

House Bill No. 1509 required a wind easement and a wind energy lease to contain certain warnings; to allow time for the document to be reviewed and discussed with an attorney or other landowners; to prohibit a property owner from being liable for property taxes associated with a wind energy facility; to prohibit a property owner for being liable for damages caused by the wind energy facility; to prohibit making the property owner liable for a violation of law or regulation; to allow the property owner to terminate the agreement if the wind energy facility has not operated for a period of at least three years; to state circumstances that will allow the developer, owner, and operator of the wind energy facility to withhold payments; to require the owner of a wind energy facility to carry general liability insurance; and to allow for judicial relief.

The Energy Policy Commission, also known as the EmPower North Dakota Commission, was first created by 2007 House Bill No. 1462. The bill required the Department of Commerce to convene an Energy Policy Commission for developing a comprehensive energy policy as part of the North Dakota energy independence initiative. The purpose for this policy was to:

1. 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 to reduce the dependence on foreign energy sources.
2. Promote the development of new technologies to decrease dependence on foreign energy supplies.
3. Address the growth of fossil fuel and renewable energy industries to encourage the state's competitiveness.
4. Address research, development, and marketing of North Dakota-produced energy.
5. Address the expansion of existing energy resources and the diversification of this state's energy resource base.
6. Evaluate existing tax credits and incentives.
7. Modernize and expand this state's energy infrastructure.
8. Examine potential innovations to improve environmental conditions through new technologies and review energy industry workforce and training needs and develop a strategy to maximize the state's market opportunities.

The Energy Policy Commission was codified in Section 17-07-01 through 2009 House Bill No. 1322. Under this bill, the purpose of the commission is to develop a comprehensive energy policy, update that policy, and monitor progress in reaching the goals of the policy. The Energy Policy Commission consists of the Commissioner of Commerce as Chairman and members appointed by the Governor to represent the agricultural community, the Lignite Energy Council, the North Dakota Petroleum Council, the biodiesel industry, the biomass industry, the wind industry, the ethanol industry, the North Dakota Petroleum Marketers Association, the North Dakota investor-owned electric utility industry, the generation and transmission electric cooperative industry, the lignite coal-producing industry, the refining or gas-processing industry, and additional nonvoting members. In short, the Energy Policy Commission is studying a comprehensive energy policy, and the same issue is being studied by this committee.

2011 Bills

In 2011, the Legislative Assembly made changes and created provisions to Title 17. In 2011, three bills provided for major changes to Title 17--House Bill No. 1218 and Senate Bill Nos. 2034 and 2057.

House Bill No. 1218 made further changes to the law relating to the Energy Policy Commission. The bill clarified that the state comprehensive energy policy is made by the Legislative Assembly, and the Energy Policy Commission makes recommendations for changes in that policy.

Senate Bill No. 2034 treated green diesel, which is drop-in compatible with diesel fuel, at parity with biodiesel, which is vegetable oil. As stated earlier, this bill was introduced at the recommendation of this committee.

Senate Bill No. 2057 created a chapter in Title 17 on a biofuel blender pump incentive program to be administered by the Department of Commerce. The bill provided a cost-share grant of up to $34,000 per retail location. The bill provided that 5 percent of any appropriated money be used for administration and marketing. The bill continued the same program that was created under 2009 Senate Bill No. 2228 as mentioned before in this memorandum but expired under the provisions of that bill.

2013 Bills

In 2013 the Legislative Assembly made the following changes to Title 17:

- House Bill No. 1113 provided ethanol production incentives are available to an eligible facility that is defined as an ethanol production plant constructed after July 31, 2003.
- Senate Bill No. 2018 removed transfers from the amount retained from the refund of tax for fuel used for agricultural purposes to the ethanol production incentive fund.

2015 Bills

There was no 2015 legislation enacted which affected Title 17.

Resolutions

In addition to Title 17, the Legislative Assembly has adopted a number of concurrent resolutions relating to energy policy since 2007. In 2009, the Legislative Assembly adopted House Concurrent Resolution Nos. 3030 and 3039. House Concurrent Resolution No. 3030 urged Congress to use common sense principles for climate change legislation. These principles included federal action should not impede economic growth, new job creation, or lower the standard of living; should be fully transparent so consumers are aware of potential economic impacts; should provide encouragement for research and development; should allow cost recovery; should tie greenhouse gas reduction requirements to scientifically-based technology that is available, reliable, and economically feasible; should recognize and protect existing and past investment decisions for generation resources; should allow development of resources in the United States; and should recognize the worldwide scope of the issue. House Concurrent Resolution No. 3039 urged the President and Congress to develop energy resources on the Outer Continental Shelf, promote domestic energy production, and not impose additional taxes on America's energy producers.

In 2009, the Legislative Assembly adopted a constitutional measure. House Concurrent Resolution No. 3054 established a North Dakota legacy fund, provided for deposit of certain oil and gas revenues in the fund, and imposed limitations on use of money in the fund. In particular, 30 percent of revenue from taxes on oil and gas production or extraction is transferred into the legacy fund and the Legislative Assembly may deposit additional funds. The principal and earnings in the legacy fund may not be expended until the fiscal year beginning in 2017, and an expenditure from the principal would require a two-thirds vote of the members elected to each house of the Legislative Assembly. A total cap of 15 percent of the principal would be imposed on expenditures each biennium. Interest accruing after the 2016 fiscal year would be deposited in the general fund. This measure was submitted to the qualified electors at the general election in 2010 and was approved by the voters.

In 2013, the Legislative Assembly adopted House Concurrent Resolution No. 3026 which urged the federal Environmental Protection Agency to refrain from enacting regulations that place an unreasonable economic hardship on electric consumers living in the Northern Great Plains.

In 2015, the Legislative Assembly adopted House Concurrent Resolution No. 3008 which urged Congress to lift the prohibition on the export of crude oil. The 2015 Legislative Assembly adopted House Concurrent Resolution No. 3009 urging Congress to address concerns related to the federal Clean Water Act. The 2015 Legislative Assembly also adopted House Concurrent Resolution No. 3024 which urged the federal government to refrain from continuing to impose regulations on utilities using lignite-based electric generation.

OTHER 2015 ENERGY-RELATED LEGISLATION

There were numerous bills and resolutions introduced during the 2015 legislative session that relate to energy. The following bills are classified by the headings of taxation, governmental entity, and other regulatory bills. Some bills are classified in multiple categories and are noted with an asterisk.

Taxation

The taxation category includes income taxes, sales and use taxes, oil and gas taxes, and other taxes.

Income Taxes

House Bill No. 1228 extends the duration for claiming the unused portion of the credit earned for wind energy devices installed after September 30, 2008, and before January 1, 2012, from 20 to 30 years.

Sales and Use Taxes

Senate Bill No. 2318 provides that a carbon dioxide capture system located at a coal conversion facility and any equipment directly used for enhanced recovery of oil or natural gas is exempt from all ad valorem taxes, and exempt from the coal conversion facilities privilege tax. The bill also creates a sales and use tax exemption for materials used to construct or expand systems relating to the use of carbon dioxide for enhanced oil or gas recovery.

Oil and Gas Taxes

House Bill No. 1176* increases the county allocation of revenue over $5 million by 5 percent to provide 30 percent of all revenue over $5 million to the county. The bill changes the definition of a hub city resulting in increased allocations to hub cities and hub city school districts and provides an additional allocation to school districts in certain counties that received $5 million or more. The bill changes the maximum distribution to the oil and gas impact grant fund to provide $140 million for the 2015-17 biennium and $100 million in subsequent bienniums. The bill removes the requirement that 25 percent of any revenues received for deposit in the strategic investment and improvements fund in the subsequent month must be deposited instead into the legacy fund if the unobligated balance of the strategic investment and improvements fund exceeds $300 million at the end of any month.

House Bill No. 1377 removes the contingent transfers from the strategic investment and improvements fund to the legacy fund, renames the property tax relief fund the tax relief fund, and changes the allocation of the state's share of oil and gas tax revenue. The changes to the allocation of the state's share include decreasing the allocation to the tax relief fund from $342.79 million to $300 million and allocating the remaining revenue to the strategic investment and improvements fund (70 percent) and to the political subdivision allocation fund (30 percent). The State Treasurer allocates the money in the political subdivision allocation fund to political subdivisions proportional to the allocations to political subdivisions under the 4 percent of the 5 percent oil and gas gross production tax.

House Bill No. 1409* increases the allocation of oil and gas gross production tax to the North Dakota outdoor heritage fund from 4 percent limited to $15 million per fiscal year to 8 percent limited to $20 million per fiscal year.

House Bill No. 1476 changes the oil extraction tax rate from 6.5 to 5 percent effective January 1, 2016, removes the rate reductions and exemptions included in the provisions of the "large trigger", and provides a new oil extraction tax trigger allowing for a 6 percent oil extraction tax if, for three consecutive months, the price of West Texas Intermediate crude oil exceeds the trigger price of $90 as adjusted for inflation.

Senate Bill No. 2172 allows for oil and gas gross production tax and oil extraction tax revenue collected by the Tax Commissioner to be allocated by the State Treasurer according to the distribution and allocation formulas in place at the time the revenues are received by the Tax Commissioner rather than applying the distribution and allocation rules that were in place at the time the taxable production was produced.

Senate Bill No. 2226 requires legislative confirmation of agreements approved by the Governor and the governing bodies of the tribes involved if the agreement is a tax collection agreement. The bill requires that agreements between the Tax Commissioner and one or more tribes also receive confirmation by a majority of the members of the House of Representatives and the Senate. The bill provides that the agreement does not become effective until its legislative confirmation date, or its effective date, whichever is later, and must expire not more than 16 years after its effective date.

Other Taxes

House Bill No. 1020 eliminates the seven cents per gallon withheld from agricultural fuel tax refunds which had previously been deposited into the agricultural research fund and provides that $500,000 of taxes collected under Chapter 57-39.5, relating to farm machinery gross receipts tax, must be transferred annually to the State Treasurer for deposit into the agricultural research fund.

House Bill No. 1059 extends the 12 percent state-paid property tax relief credit to rural electric cooperatives, modifies the transmission line per mile tax rate, and allows certain transmission line tax payments to qualify for the state-paid property tax relief credit.

Senate Bill No. 2008 provides for a deposit of up to $275,000 per year from special fuels tax receipts in the rail safety fund rather than in the highway tax distribution fund for the period beginning July 1, 2015, and ending June 30, 2019.

Senate Bill No. 2377 distinguishes commercial leonardite from coal and provides that for purposes of taxation, commercial leonardite is treated in the same manner as coal.

Governmental Entity

The governmental entity category includes the Industrial Commission, Department of Commerce, Public Service Commission, State Water Commission, and Department of Transportation.

Industrial Commission

House Bill No. 1014 is the appropriation bill for the Industrial Commission and agencies under the management of the Industrial Commission. The bill provides that members of the Lignite Research Council appointed by the Governor are not subject to the citizenship and state residency requirements provided in Section 44-03-04 and provides one-time funding of $5 million for Lignite Research Council grants related to the Allam Cycle. The bill provides $1 million of carryover authority and appropriates $2.5 million for total funding of $3.5 million for the 2015-17 biennium for possible litigation related to oil and gas activity. The bill also provides $13.6 million for the expansion of the core library.

House Bill No. 1358 requires controls, inspections, and bonding for underground gathering pipelines; expands the use of the abandoned oil and gas well plugging and site reclamation fund to include reclamation of sites developed prior to August 1, 1983; and provides for studies related to pipelines and saltwater reclamation.

House Bill No. 1409* identifies projects that are not eligible for grants from the North Dakota outdoor heritage fund.

House Bill No. 1432 creates a Federal Environmental Law Impact Review Committee and a federal environmental law impact review fund for possible litigation costs and transfers $1.5 million from the general fund to the newly created fund.

Senate Bill No. 2190 allows funding from the abandoned oil and gas well plugging and site reclamation fund to be used to address environmental emergencies.

Senate Bill No. 2343 requires the Industrial Commission to provide a report to the Legislative Assembly or the Budget Section if the Legislative Assembly is not in session, on the fiscal effect of any order, regulation, or policy regarding the control of gas and oil resources estimated to have a fiscal effect in excess of $20 million in a biennium. The reporting requirements do not apply to spacing unit orders.

Department of Commerce

House Bill No. 1018 is the appropriation bill for the Department of Commerce. The bill provides one-time funding of $1 million for workforce enhancement grants. The department administers the ethanol production incentive fund, and the fund's estimated revenues are $4.7 million for the 2015-17 biennium.

Public Service Commission

Senate Bill No. 2008 is the appropriation bill for the Public Service Commission. The bill includes funding for a railroad safety pilot program and requires railroads to make training available to fire departments along routes traversed by unit oil trails.

Senate Bill No. 2123 requires the Public Service Commission to impose an application fee of up to $10,000 for a certificate of public convenience and necessity by a utility other than an electric utility and allows an additional amount with the approval of the Emergency Commission.

Senate Bill No. 2124 clarifies that the Public Service Commission issues notice of the filing of a service area agreement within 30 days after the filing.

State Water Commission

Senate Bill No. 2020 is the appropriation bill for the State Water Commission. The bill includes funding for various water projects including rural water supply. The bill provides for reports from independent water providers, the Western Area Water Supply Authority, and the Southwest Water Authority.

Department of Transportation

House Bill No. 1012 is the appropriation bill for the Department of Transportation, which includes funding for various road projects.

House Bill No. 1176 provides an appropriation of $112 million from the general fund for distributions to non-oil-producing counties for county road and bridge projects.

Senate Bill No. 2015 provides a one-time transfer from the general fund to the highway fund of $18 million for state highway improvements and appropriates the funding from the highway fund to the Department of Transportation. The bill also includes the following contingent appropriations:

- $20 million general fund transfer to the highway fund if 2013-15 general fund revenues exceed projections by at least $20 million.
- $25.85 million strategic investment and improvements fund transfer to the highway fund if 2015-17 general fund revenues exceed projections by at least $126 million.
- $46 million general fund transfer to the highway fund if 2015-17 general fund revenues exceed projections by at least $250 million.

Senate Bill No. 2103 provides an appropriation of $240 million from the strategic investment and improvements fund for distributions to oil-producing counties for county road and bridge projects, an appropriation of $112 million from the strategic investment and improvements fund for distributions to non-oil-producing counties for county road and bridge projects, and a transfer from the strategic investment and improvements fund to the highway fund of $450 million for state highway improvements and an appropriation of the funding from the highway fund to the Department of Transportation.

Other Regulatory Bills

The other regulatory bills category includes mineral rights, oil and gas regulations, and miscellaneous regulations.

Mineral Rights

House Bill No. 1221 changes the allocation to income and principal for receipts after July 31, 2015, from interests in minerals and other natural resources for trustees and allows a trustee to petition the court to permanently modify the manner used to allocate receipts.

Oil and Gas Regulations

House Bill No. 1113 revises the law relating to the licensing and regulatory radiation program, including changes to the procedures for radioactive materials licenses, the penalty for violation of the laws governing radioactive materials, and the requirement that certain records be kept confidential.

Miscellaneous Regulations

House Bill No. 1124 clarifies the filing of an updated 10-year plan by a utility is required every other year after the year of initial submission.

House Bill No. 1382 authorizes rural electric cooperatives to construct, own, and maintain electric transmission lines.

Senate Bill No. 2055 provides reporting requirements for an electric generation company to identify the location and rated capacity of wind generators and grid-connected generators within counties.

Senate Bill No. 2120 changes the application fees for energy conversion and transmission facility siting certificates and permits to increase the threshold to $10,000 and removes route adjustment before or during construction for gas or liquid transmission lines from the threshold requirement.

Senate Bill No. 2271 appropriates $400,000 to the Agriculture Commissioner for the establishment of a pilot program that provides technical assistance and support to surface owners and tenants regarding pipeline restoration and reclamation issues.

2015-16 INTERIM REPORTS AND STUDIES

Reports

The Legislative Management delegated to the Energy Development and Transmission Committee the responsibility to receive reports from a number of entities during the interim.

North Dakota Transmission Authority

Under Section 17-05-13, the North Dakota Transmission Authority is required to deliver a written report on its activities to the Legislative Council each biennium.

North Dakota Pipeline Authority

Under Section 54-17.7-13, the North Dakota Pipeline Authority is required to deliver a written report on its activities to the Legislative Council each biennium.

Energy Policy Commission

Under Section 17-07-01, the Energy Policy Commission is to make recommendations concerning a comprehensive energy policy. The Energy Policy Commission is required to report biennially to the Legislative Management.

Industrial Commission

As a part of Section 38-22-15, which establishes permit, fee, and title requirements for the geologic storage of carbon dioxide, the Industrial Commission is required to file a report beginning December 2014 and every four consecutive years on the amount of money in the carbon dioxide storage facility trust fund and if fees being paid into it are sufficient to satisfy the fund's objectives under Section 38-22-15. Under the same section, storage operators of carbon dioxide must pay a fee based on the expense associated with long-term monitoring and management of a closed storage facility. The fees are placed in a carbon dioxide storage facility trust fund.

Coal Conversion Facilities

As a result of 2009 Senate Bill No. 2221, and as codified under Section 57-60-02.1, a coal conversion facility that achieves a 20 percent capture of carbon dioxide emissions is entitled to a 20 percent reduction in the general fund share of the coal conversion tax. In addition, the facility may receive an additional reduction of 1 percent for each 2 percentage points of capture of carbon dioxide emissions up to 50 percent and for 10 years. A coal conversion facility that receives a credit is required to report to the Legislative Council. The report must include an overview of the project; a status report on past, current, and captured carbon dioxide; any changes to the carbon dioxide capture system; and the status of federal law and any federal benefits to the project. The only project in this state at this time is at the Antelope Valley Station near Beulah. The Antelope Valley Station is part of an energy complex that includes the Great Plains Synfuels Plant and the Freedom Mine.

Energy and Environmental Research Center

The Energy and Environmental Research Center is required to report by December 1, 2015, on recommendations related to existing regulations on construction and monitoring of crude oil and produced water pipelines, determine the feasibility and cost-effectiveness of requiring leak detection and monitoring technology on new and existing pipeline systems (2015 House Bill No. 1358).

Public Service Commission

The Public Service Commission is required to report at least once each year of the 2015-16 interim on the most current information available on the status of retail sales of electricity in the state meeting or exceeding the state renewable and recycled energy objective established in Section 49-02-28 and a comparison of the amount of renewable and recycled energy produced in the state with the amount sold at retail in the state (2015 Senate Bill No. 2037).

Assigned Studies

Oil and Gas Tax Revenue Allocations

House Bill No. 1176 provides for a study of the oil and gas tax revenue allocation formulas. The study must include consideration of current and historical allocations to political subdivisions and the appropriate level of oil and gas tax revenue allocations to political subdivisions based on infrastructure and other needs.

Environmental Protection Agency Regulations

Senate Bill No. 2372 provides for a study of the impacts and costs of the federal 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.

SUGGESTED STUDY APPROACH - COMPREHENSIVE ENERGY POLICY

Although the committee may study any particular area of energy, the area of study must relate comprehensively to the energy policy of this state. There are a number of entities in state government that carry out this state's energy policy, including the Public Service Commission, Department of Commerce, and Industrial Commission. The Department of Commerce is the umbrella organization for the Energy Policy Commission. The Industrial Commission is the umbrella agency for the North Dakota Transmission Authority, the North Dakota Pipeline Authority, and the Renewable Energy Council. However, the Renewable Energy Council is chaired by the Commissioner of Commerce. Because energy policy is being administered, and in some cases developed by other governmental entities, the committee may wish to receive testimony from these entities on energy policy before coordinating or changing the current policies.