

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2282

2007 SENATE TRANSPORTATION

SB 2282

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2282

Senate Transportation Committee

☐ Check here for Conference Committee

Hearing Date: February 1, 2007

Recorder Job Number: 2543 & 2618

Committee Clerk Signature

Joan Hauge

Minutes:

Senator Gary Lee opened the hearing on SB 2282 relating to renewable energy research council renewable fuels grants, flexible fuel vehicle registration fees, motor vehicle fuel tax on ethanol-blended fuel, and corporate income tax credits to promote renewable energy sales and use; to provide an appropriation; to provide an effective date; and to provide an expiration date. There were five committee members present and one absent.

Senator Heitkamp introduced SB 2282. The bill is in front of you because there were a number of us last session that wanted to encourage the use of E-85. We wanted dealers to take risks and get out there and promote renewable fuels and many dealers did. We put a financial incentive to do that and it worked. Three dollar gas and an incentive on E-85 worked. Two dollar gas changed some of that and also when the incentives were gone the incentive was gone. SB 2282 was put out there to give some incentives to the marketers. The bill focuses on encouraging the retailers and others to use blender pumps. The bill establishes the renewable fuel goal of replacing twenty-five percent of all petroleum used in the formation of gasoline with biofuels by the year 2020. This bill provides a scalable tax credit for retailers on meeting the states renewable fuel standards. It provides a tax credit for the sale of biodiesel blended fuels and you will see some amendments in this area. It eliminates the tax

on the ethanol portion of each gallon of gas sold. It sets a goal for flex fuel vehicles in North Dakota while giving a ten dollar break on vehicle registration on flex fuel vehicles. It directs the Renewable Energy Council that was created in SB 2288 to provide a cost share to install or convert infrastructure to dispense ethanol at blends higher than ten percent and to store and dispense biodiesel.

Senator Heitkamp passed out some proposed amendments to SB 2282. (Attached see proposed amendments) Senator Heitkamp said he was happy the bill was in the Transportation Committee. This bill keeps the retailers in mind. It reward and gives incentives to retailers.

Senator Potter asked where we are now in terms of the percentage of petroleum used today or the number of flex fuel vehicles.

Senator Heitkamp answered that the Ag Department would be testifying in favor of SB 2282 and they should have these figures.

Senator Lee asked if the amendments affected the fiscal note.

Senator Heitkamp said he was going to let someone else answer that but he thought it would.

Senator Fiebiger asked about the corporate credits on page 3 and how they arrived at the 4.5 cents per gallon.

Senator Heitkamp said this bill has been worked through the Renewable Partnership and they looked for support from them and in the end with the corrections they were able to garner that support.

Senator Lee wondered how the word goal fits into the definition of policy making that we do here.

Senator Heitkamp said the word goal fits in good as long as it isn't used another day as a club. This is a group effort.

Senator Lee asked how he would see the consumer being affected at the pump with this bill.

Senator Heitkamp said that if you believe in the capitalist system, if the retailer saves or makes money hopefully he will pass it on. The retailers have some major cost of going to the blended pumps. This bill should help that.

Senator Potter said that there will be some that say great plan but don't take money away from the highway fund. Senator asked if money could be considered from other sources.

Senator Heitkamp said he would leave that up to the committee.

Representative Guleson testified in favor of SB 2282. She said that they had addressed the production side but this bill speaks to the use and the market side. This bill is patterned after an Iowa bill that was passed in their last session. She told what South Dakota and Minnesota are doing to address this also. This bill is a good positive blend of goals and incentives. She said right now we produce about 35 million gallons and with the proposed plants it will be closer to 320 million gallons. She said we have to address the use side. She believes this bill addresses that. What she likes most about the bill is that it has incremental increases in goals and that will match up with the increases in production as it comes on line.

Secretary Roger Johnson strongly supports this bill. His written testimony is attached #2.

Mike Clemen, Chairman of the ND Renewable Energy Partnership supports a do pass on SB 2282 (Attachment #3). He also stated that the ND Corn Growers Association urges a Do Pass on SB 2282.

Randy Schneider, President of the ND Ethanol Producers Association testified in support of SB 2282. He said that we have done a great job of producing and now we have to deal with the backside, the supply chain.

Senator Potter asked if Rep. Guleson had said that only 40% of ND consumers use ethanol.

Mr. Schneider said that is correct. Some numbers say that a little less than half the gas consumed in ND is either an E-10 or an E-85 blend.

Senator Lee called for opposing testimony.

Mike Rud, representing the North Dakota Petroleum Marketing Association testified in opposition to SB 2282. His testimony is attached along with additional information # 4.

Senator Potter said he was bewildered by his opposition to this bill. He doesn't see anything in the bill that has a penalty provision or that forces retailers to do anything.

Mr. Rudd said there is nothing but he stated if they were going to be competitive and everyone is going to be on the same playing field, it needs to be a free market system. Some marketers, even with the incentives will not be able to afford to be a part of this process. It will create an unfair playing field amongst our marketers.

Senator Lee said that to be eligible for these credits you would need to be able to sell 200,000 gallons per year. Is that a figure that most retailers would meet?

Mr. Rud said aren't we exempted if we sell under 200,000. Are average retail sight is 500,000 or more.

Paul Goulding a retailer from Devils Lake testified against SB 2282. He had four points he wanted to make:

1. As a marketer, I can't attain the goals after the first year.
2. The tax credit will not do me any good.
3. Better to give the incentives to consumers.
4. We want to be free to make our own decisions.

Matt Bjornson of Cavalier testified in opposition to SB 2282. The tax credit is useless to our family owned business. He said he needed more income not tax breaks. He also expressed concern for regulations and violations and high penalties that EPA has. When you have a

marketer and a consumer both subjected to fines, that is very serious. If they find a violation they will levee a fine. He said he felt the bill was well intentioned but this bill is not properly aimed at the right people.

Russ Hanson, Association of General Contractors of North Dakota said he was greatly concerned about the Highway Fund money. There is a considerable impact to the highway distribution fund. This is a concern because the gas tax continues to decrease. They are very supportive of looking at other methods besides the traditional method of funding.

Tom Balzer, managing director of the North Dakota Motor Carriers Association testified in opposition to SB 2282. Enclosed find the attached testimony and proposed Amendments.

Page 3, line 18: remove "of at least ten percent blend" after "fuel"

Page 3, line 19: add "D6751 and D975 at blended levels of at least two percent but no greater than five percent" after "testing materials"

Even with the amendments they ask for a do not pass of SB 2282.

Senator Lee closed the hearing on SB 2282.

February 1, 2007 Afternoon Committee Work

Senator Lee opened committee work on SB 2282.

Senator Potter said that the Motor Vehicles Carriers Association would support the bill if on page 3, line 18 the "ten" percent was changed to "two" percent and no more than five.

Senator Nething asked what that would do.

Senator Potter said it would lower the requirements for biodiesel fuel to a level that Tom Balzer of the Motor Carriers Association said is usable in their vehicles. Five percent is as high as they can go without problems of gelling.

Senator Nething said that this only relates to the corporate income tax exemption.

Senator Potter moved an amendment to replace the word "ten" to "two"

Motion was withdrawn.

Senator Nething said that he understands that the cost of the pump is sixty to seventy thousand dollar. He also is empathetic to those who are the distributor or owner of the station. These marketers don't want this bill. He asked why we should ignore there wishes.

Senator Potter said that was his question to them. He doesn't understand why they would be against something that is optional and allows them to take advantage of tax credit.

Senator Nething said that the Marketers said that their profit margin is not large enough to take advantage of the tax credit.

Senator Fiebiger said this bill has nothing in it that is mandatory for the marketers to follow so he can't understand why their association testified against the bill

Senator Lee said that the \$750,000. is unrelated to what most of the bill does. That money is for infrastructure, for changing pumps over to blended pumps or buying new ones.

Senator Lee is still questioning what they mean by infrastructure.

There was further discussion on the fiscal note and the 8 million dollars. Eliminating the motor fuel tax on the ethanol component of blended fuel will equate to reducing the highway funds by an estimated 8.058 Million dollars in the 2007-2009 biennium.

Senator Nething said maybe we should get some funding from the gas tax.

Senator Lee asked the Intern to look into this.

Senator Potter is supportive of the bill even if it is flawed.

Senator Potter moved the amendment 70799.0101 with the addition on page 3; line 18 changes "five" to "two".

Senator Fiebiger seconded the motion.

Senator Lee asked the clerk to take the roll on the amendments for SB 2282.

Do Pass 5-0-1

Senator Nething said that we should explore some options and see if there is any money in the gas tax fund before we take final action.

Senator Lee closed the committee work hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2282

Senate Transportation Committee

☐ Check here for Conference Committee

Hearing Date: February 2, 2007

Recorder Job Number: 2700

Committee Clerk Signature

John W. Lange

Minutes:

Senator Nothing moved a Do Not Pass.

Senator Lee opened the committee work on SB 2282 relating to renewable energy research council renewable fuels grants, flexible fuel vehicle registration fees, motor vehicle fuel tax on ethanol-blended fuel, and corporate income tax credits to promote renewable energy sales and use; to provide an appropriation; to provide an effective date; and to provide an expiration date.

Senator Lee said that there are at least a couple bills left that relate to the same issues and topics and if we didn't pass this we could still amend on to other bills that deal with these same topics.

Senator Bakke asked Senator Nothing if he could explain more the Do Not Pass motion.

Senator Nothing said his main concern is that we are taking money out of the road construction funds. There is already a shortage in the road construction fund and they are asking that we put in twenty million dollars from the general fund to road construction funds because of the shortage. Also the marketers did not support it. I do like the idea of promoting ethanol and biodiesel but I would like to find a better way to do it.

Senator Bakke said we talked about amending and putting a tax on the ethanol. Would that help?

Senator Lee said that the way the bill is written it will come out of the road fund. He said that we are the protectors of that road trust fund. We have to watch that the roads are cared for.

Senator Potter said he was also troubled by the fiscal note. But he believes that this is more a statement of goals. He thinks that we should let the Appropriations committee sort this out. We should keep this bill alive. Another option is to take out Section 8 and eliminate the exemptions than the fiscal note only becomes \$750,000. The goals would still be there. He said that he was going to be supportive of the bill the way it stands but if we take out some things it might be more acceptable to the whole Senate.

Senator Bakke stated that she was also worried about killing all the renewable fuel bills.

Senator Fiebiger also likes the goal aspects and will support it even if he has a concern about the 8 million.

Senator Lee said he has trouble legislating goals when we are the group that sets policy.

Senator Nothing withdrew his motion.

Senator Potter said there are three different things going on in this bill. First it establishes goals, second, the infrastructure incentives and the tax credit in 5 & 6; and third section 8, the corporate income tax for the E-85 even if they said they didn't want it.

Senator Bakke moved an amendment to strike section 8 of 70799.0102 where it says "Tax on ethanol is exempted. So the tax on ethanol will be zero.

Senator Potter seconded the motion.

Senator Bakke said her amendment is to strike section 8 and then renumber the remaining three sections.

Senator Lee said we want to take out sub section 2 of section 7.

Senator Bakke said her intent was to take out number 2 in section 7. That will eliminate the fiscal note for tax credits.

Senator Lee said then the motion will be to take out sub section 2 of section 7.

Senator Bakke moved that we amended the amended bill by removing sub section 2 on section 7 of amendment 70799.0102.

Senator Potter seconded the motion.

Senator Lee asked the clerk to call the roll. 5-0-1

Motion carried.

Senator Potter moved a Do Pass as amended.

Senator Fiebiger seconded.

Senator Lee asked the clerk to call the roll. 4-1-1

Senator Potter will carry the bill.

FISCAL NOTE
Requested by Legislative Council
02/05/2007

Amendment to: SB 2282

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$63,000)		
Expenditures						
Appropriations				\$750,000		

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			(\$23,000)	(\$14,000)				

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).*

Eng. SB 2282 establishes renewable fuels goals, reduces registration fees for flex fuel vehicles, and creates income tax credits for the sale of ethanol and biodiesel.

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.*

Section 3 provides a reduction in registration of \$10 for each flex fuel vehicle. Assuming there are 10,000 qualifying vehicles, this section would reduce highway distribution, county and city revenue by \$100,000 in the 2007-09 biennium.

Sections 5 and 6 create corporation income tax credits for the sale of ethanol and biodiesel. The reduction in state general fund revenues that would occur is unknown.

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.*

Sections 3 is expected to reduce highway funds by an estimated \$100,000 in the 2007-09 biennium.

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.*

Section 7 appropriates \$750,000 from the renewable energy development fund to the industrial commission.

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	02/12/2007

FISCAL NOTE
Requested by Legislative Council
01/17/2007

Bill/Resolution No.: SB 2282

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$5,140,000)		
Expenditures						
Appropriations				\$750,000		

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			(\$1,876,000)	(\$1,142,000)				

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 2282 establishes renewable fuels goals, reduces registration fees for flex fuel vehicles, creates income tax credits for the sale of ethanol and biodiesel, and eliminates the motor fuels tax on the ethanol component of blended fuel.

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.*

Section 3 provides a reduction in registration of \$10 for each flex fuel vehicle. Assuming there are 10,000 qualifying vehicles, this section would reduce highway distribution, county and city revenue by \$100,000 in the 2007-09 biennium.

Sections 5 and 6 create income tax credits for the sale of ethanol and biodiesel. The reduction in state general fund revenues that would occur is unknown.

Section 7 allows tax credits to be claimed on the individual income tax Form ND-1. However, it is unclear what tax credits are intended (section references appear to be incorrect).

Section 8 eliminates the motor fuels tax on the ethanol component of blended fuel. This is expected to reduce highway funds by an estimated \$8.058 million in the 2007-09 biennium.

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.*

Sections 3 and 8 are expected to reduce highway funds by an estimated \$8.158 million in the 2007-09 biennium.

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.

Section 9 appropriates \$750,000 from the renewable energy development fund to the industrial commission.

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/31/2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2282

Page 1, line 3, after the first comma insert "and" and remove ", a new subsection to section 57-38-30.3, and a"

Page 1, line 4, remove "new section to chapter 57-43.1"

Page 1, line 5, remove "motor vehicle fuel"

Page 1, line 6, remove "tax on ethanol-blended fuel,"

Page 1, line 7, after "use" insert "; to amend and reenact section 57-43.1-02 of the North Dakota Century Code, relating to exemption of ethanol from motor vehicle fuels taxes"

Page 2, line 26, replace "40,000" with "25,000"

Page 2, line 27, replace "80,000" with "38,500"

Page 2, line 28, replace "120,000" with "50,000"

Page 2, line 29, replace "160,000" with "65,000"

Page 3, line 1, replace "E10 fuel and E85" with "ethanol-blended"

Page 3, line 2, remove "based upon the following"

Page 3, line 3, remove "schedule in cents per gallon of the taxpayer's direct costs incurred after December 31, 2006,"

Page 3, line 4, after "the" insert "retail"

Page 3, line 17, remove "of the taxpayer's direct costs incurred after December 31, 2006,"

Page 3, line 18, replace "ten" with "five"

Page 3, replace lines 24 through 31 with:

"SECTION 7. AMENDMENT. Section 57-43.1-02 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-02. (Contingent expiration date - See note) Tax Imposed on motor vehicle fuels.

1. Except as otherwise provided in this section, a tax of twenty-three cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.
2. Sale of E85 fuel is exempt from the tax imposed under subsection 1 and is instead subject to a tax of one cent per gallon [3.79 liters] on all E85 fuel sold or used in this state. The tax imposed under this subsection is not

subject to refund under section 57-43.1-03 or 57-43.1-03.1. Within the scope of this section, the entire amount of this tax exemption must be available to consumers of E85.

3. A supplier or distributor shall remit the tax imposed by this section on motor vehicle fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and on direct sales of motor vehicle fuel to a consumer.
4. The tax imposed by this section does not apply on a sale by a supplier to another supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another distributor, on an export, or on a sale to an exempt consumer.
5. The person required to remit the tax imposed by this section shall pass the tax on to the retailer and to the consumer. A retailer who paid the tax to the supplier or distributor shall pass the tax on to the consumer.
6. The person required to remit the tax imposed by this section shall pay the tax to the commissioner by the twenty-fifth day of the calendar month after the month during which the motor vehicle fuel was sold or used by the person. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When payment is made by mail, the payment is timely if the envelope containing the payment is postmarked by the United States postal service or other postal carrier service before midnight of the due date.
7. The commissioner shall pay over all of the money received during each calendar month to the state treasurer.

(Contingent effective date - See note) Tax Imposed on motor vehicle fuels.

1. Except as otherwise provided in this section, a tax of twenty-three cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.
2. Sale of ethanol is exempt from the tax imposed under subsection 1 if it is blended with taxable motor vehicle fuel.
- ~~3.~~ 3. A supplier or distributor shall remit the tax imposed by this section on motor vehicle fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and on direct sales of motor vehicle fuel to a consumer.
- ~~3- 4.~~ 4. The tax imposed by this section does not apply on a sale by a supplier to another supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another distributor, on an export, or on a sale to an exempt consumer.
- ~~4- 5.~~ 5. The person required to remit the tax imposed by this section shall pass the tax on to the retailer and to the consumer. A retailer who paid the tax to the supplier or distributor shall pass the tax on to the consumer.
- ~~5- 6.~~ 6. The person required to remit the tax imposed by this section shall pay the tax to the commissioner by the twenty-fifth day of the calendar month after the month during which the motor vehicle fuel was sold or used by the person. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When payment is made by mail, the payment is timely if the envelope containing the payment is

postmarked by the United States postal service or other postal carrier service before midnight of the due date.

- ~~6-~~ 7. The commissioner shall pay over all of the money received during each calendar month to the state treasurer."

Page 4, line 6, replace "This" with "Sections 5 and 6 of this" and replace "is" with "are"

Page 4, line 7, after the period insert "Section 7 of this Act is effective for taxable events occurring after June 30, 2007."

Page 4, line 8, replace "through" with "for taxable years beginning before January 1, 2013"

Page 4, line 9, remove "December 31, 2012"

Renumber accordingly

5-0-1

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 70799.0101 plus change "ten" to "two"

Action Taken move to amend - do pass

Motion Made By Senator Potter Seconded By Senator Fiebiger

[illegible]

Total (Yes) 5 No 0

Absent 1

Floor Assignment

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

Date: 2-2-7
Roll Call Vote #: 5-0-1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2288

Senate Transportation

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Amendment

Action Taken do pass on

Motion Made By Senator Bohke Seconded By Senator Potter

[illegible]

Total (Yes) 5 No 0

Absent

Floor Assignment

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

Date: 2-2-02
Roll Call Vote #: 4-1-1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2282

Senate Transportation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 70799.0102

Action Taken As per as Amended

Motion Made By Senator Potter Seconded By Senator Fiebigler

[illegible]

Total (Yes) 4 No 1

Absent 1

Floor Assignment Senior Potter

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

REPORT OF STANDING COMMITTEE

SB 2282: Transportation Committee (Sen. G. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2282 was placed on the Sixth order on the calendar.

Page 1, line 3, after the first comma insert "and" and remove ", a new subsection to section 57-38-30.3, and a"

Page 1, line 4, remove "new section to chapter 57-43.1"

Page 1, line 5, remove "motor vehicle fuel"

Page 1, line 6, remove "tax on ethanol-blended fuel,"

Page 2, line 26, replace "40,000" with "25,000"

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Page 2, line 28, replace "120,000" with "50,000"

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Page 3, line 1, replace "E10 fuel and E85" with "ethanol-blended"

Page 3, line 2, remove "based upon the following"

Page 3, line 3, remove "schedule in cents per gallon of the taxpayer's direct costs incurred after December 31, 2006,"

Page 3, line 4, after "the" insert "retail"

Page 3, line 17, remove "of the taxpayer's direct costs incurred after December 31, 2006,"

Page 3, line 18, replace "ten" with "two"

Page 3, remove lines 24 through 31

Page 4, line 6, replace "This" with "Sections 5 and 6 of this" and replace "is" with "are"

Page 4, line 8, replace "through" with "for taxable years beginning before January 1, 2013"

Page 4, line 9, remove "December 31, 2012"

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2282

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2282

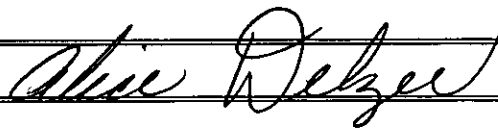
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-13-07

Recorder Job Number: 3463

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2282 on February 13, 2007 regarding renewable energy.

Senator Joel Heitkamp, District 26 gave oral testimony in support of SB 2282. Some of the highlights of his testimony included the fact this bill sets out goals, not mandates. He referred to renewable fuel, vehicle registration goals, E 85 and Blender pumps for the future, Energy Development Fund, He explained the sections of the bill to the committee.

Senator Holmberg asked how many wanted to testify in opposition to the bill and how many in support of the bill. He stated If anyone did not wish to testify but want to register either in favor of or against the bill to please sign the sheet that is being passed around.

Senator Bowman had questions regarding spending money listed in the fiscal note for goals.

Senator Fischer had questions regarding Ethanol. He was informed that retailers are here in the meeting and they will speak in opposition to the bill but I am sure one of them can address your questions.

Senator Bowman Do I understand you right that we will spend the amount on the fiscal note to set goals for other forms of energy?

Senator Heitkamp commented that you have 750 million dollars invested to move the product. Part of the problem is it is not so easy to take those E85 pumps and turn them into blender

pumps. He mentioned Cennex and Good Oil in LaMoure, ND and their involvement in this issue. He stated a lot of vehicles don't run E85, but some could with a 20% blend.

Mike Clemens, Chairman, North Dakota Renewable Energy Partnership and corn, soybean, sunflower producer from Wimbledon, ND and a Director on the ND Corn Growers Association presented written testimony (1) and oral testimony in support of SB 2282.

Chairman Holmberg had concerns of carrying the bill on the floor as a do pass and using the word "goal". He does not know how the Senators on the floor would respond to that.

Senator Bowman asked how many stations sell it now and how many will come on board. He was informed that 20 stations in the state sell 80-85% ethanol blend. He also had questions regarding gas mileage.

Senator Christmann had questions concerning the future of Ethanol plants, supporting a new fuel source, and emission issues.

Mike Rud, North Dakota Petroleum Marketers Association presented written testimony (2) and gave oral testimony in opposition to SB 2282. He has concerns about the tax credit, the goals/ objectives, ethanol blend, blender pumps and the Clean Air Act on the federal level.

Senator Krauter had questions regarding the receptacles on the vehicles and if they are equipped to have E85 pumped into them.

Mike Rud stated that if violations occur regarding the Clean Air Act both the consumer and the marketer can be fined.

There was no more discussion. The hearing was closed on SB 2282.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2282

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02/13/07

Recorder Job Number: 3476

Committee Clerk Signature

For info by Alice DeLeo (Signed by)

Minutes:

Chairman Holmberg opened the hearing on SB 2282.

Senator Mathern moved a DO PASS, Senator Krauter seconded. A roll call vote was taken resulting in 6 yes, 8 no, 0 absent. The motion failed.

Senator Christmann moved a DO NOT PASS, Senator Wardner seconded. A roll call vote was taken resulting in 8 yes 6 no 0 absent. The motion carried. Senator Wardner will carry the bill.

Chairman Holmberg closed the hearing on SB 2282.

Date: 2/13/07Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2282

Senate Appropriations

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DNPMotion Made By ChristmannSeconded By Wardner

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter		✓
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas		✓
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern		✓
Senator Randel Christmann	✓		Senator Larry J. Robinson		✓
Senator Tom Fischer	✓		Senator Tom Seymour		✓
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson		✓
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 8 No 6

Absent _____

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE (410)
February 14, 2007 8:56 a.m.

Module No: SR-31-3183
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2282, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2282 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

SB 2282



NORTH DAKOTA PETROLEUM MARKETERS ASSOCIATION

1025 N 3rd Street • PO Box 1956 • Bismarck, ND 58502
Telephone 701-223-3370 • www.ndpetroleum.org • Fax 701-223-5004

REPRESENTING:

Bulk Oil Jobbers
Convenience Stores
Service Stations
Truck Stops

Senator Lee and members of the committee:

For the record, my name is Mike Rud. I'm the President of the NDPMA.

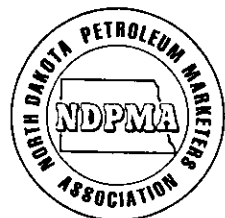
Our Association stands before you today, not because we are opposed to selling more alternative fuels, but because we believe there are better free market approaches to increasing the sales of these products.

We are puzzled by the legal intent of these goals and objectives. We believe goals and objectives belong on a wall in a board of director's office NOT IN THE CODE OF LAW!

I'm going to touch on several points. Much of this information you can find in your handouts.

First, the most powerful chart in the packet which shows the free market is working is the motor vehicles taxable gallons graph. The ND gas retailer has presented E-10 blended gasoline to the public and these numbers show the response. The free market system is working. Over 80% of the state's gas retailers currently sell ethanol blended gas.

Second, section 1 of this bill talks about cost sharing to provide marketers with an opportunity to dispense ethanol blends greater than 10 %. Under current EPA regulations, only FFV can burn this type of gasoline. Currently, out of the 850,000 vehicles licensed in ND, only 15,000 of these are FFV's, less than 2% of the state's total. Several issues arise here... First, the cost to a marketer to install a new blender



pump. Secondly, the economic sense of spending this amount of money when there would be so few customers. And perhaps more importantly, the fines associated with violating any EPA standards.

In addition if you look at the percentages proposed in section 2, when a marketer hits 10-11%, all of their gas sales will contain a blend of ethanol. Where does this leave the 50% of the population which at this time prefers to use unleaded gas? Are you going to tell your constituents what's best for them?

Also, where does this leave the marketer who can't compete because they don't have the infrastructure in place? ND has over 100 marketers that will need additional tanks and pumps should every gallon of gas be an ethanol blend. Where will this money come from to keep a fair playing field?

Most NDPMA members would like to see the state spend the money dedicated to this bill on marketing and consumer education. Product knowledge, price and availability will do far more good than an incentive to marketers.

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p. 1

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PAGE 02/03



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 28 2006

OFFICE OF
AIR AND RADIATION

Ms. Dawna Leitzke
Executive Director
South Dakota Petroleum and Propane Marketers Association/
South Dakota Association of Convenience Stores
P.O. Box 1058
Pierre, South Dakota 57501

Dear Ms. Leitzke:

Thank you for your October 31, 2006, letter concerning the legality of selling ethanol-gasoline blends to motorists at retail outlets.

As you note in your letter, it is legal to sell gasoline containing up to 10 percent ethanol (E10) for use in any gasoline-fueled vehicle in the United States. Gasoline containing more than 10 percent ethanol may only be sold for use in flexible-fueled vehicles (FFVs) that are certified to meet emission standards on E85 (85 percent ethanol and 15 percent gasoline), gasoline without ethanol (E0), and any intermediate combination of gasoline and ethanol. Most vehicles are certified to emission standards for gasoline only, and thus are limited to no more than E10.

You asked for our position on marketers selling ethanol blends other than E10 and E85 through blender pumps for use in FFVs. You also asked if there are any prohibitions under the Clean Air Act or other federal laws that would prohibit a fuel marketer from selling E20 or E30 to consumers for use in FFVs.

With respect to the sale of blends such as E20 and E30 for use in FFVs, such blends are covered under the emissions certification for an E85 FFV, and thus are not prohibited under the Clean Air Act. I am not aware of any federal law that prohibits sale of such blends for use in FFVs.

However, the use of such blends in gasoline-only vehicles is prohibited under the Clean Air Act. Use of gasoline containing ethanol amounts greater than E10 in a gasoline-only vehicle could cause emissions from the vehicle to increase. Section 203(a)(3)(A) of the Clean Air Act (the Act), 42 U.S.C. § 7522(a)(3)(A) prohibits any person from rendering inoperative emission control devices or elements of design. In addition, Section 203(a) prohibits any person from causing a violation of Section 203(a)(3)(A). Mis-fueling a motor vehicle in this manner may

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PAGE 03/03

violate this provision of the Act. The retailer who has variable ethanol percentage pumps may be liable for causing such violation, whether the mis-fueling occurs at self-serve or full-serve pumps.

Our understanding is that current industry practice is to dispense E85 from pumps that are separate from normal gasoline pumps and clearly marked as being appropriate for use only by ethanol FFVs. Variable ethanol percentage pumps that are installed in this manner, stand-alone and clearly marked as being available only for ethanol FFVs, may reduce the risk of such a violation.

Again, thank you for your letter. If you have further questions, please contact me or Jim Caldwell of my staff, at (202) 343-9303.

Sincerely,

Margo T. Oge
Margo T. Oge
Director

Office of Transportation and Air Quality

Mike Rud

From: John Maynes [john@pmcofiowa.com]
Sent: Thursday, December 21, 2006 8:39 AM
To: mike.ndrpma@midconetwork.com
Subject: EPA fines

Mike,

Dawn asked me to pass this on. The information below is spelled out in S. 205 of th
 Happy Holidays,

SEC. 205. CIVIL PENALTIES.

(a) Violations.- Any person who violates sections 203(a)(1), 203(a)(4), or 203(a)(5) or any manufacturer or dealer who violates section 203(a)(3)(A) shall be subject to a civil penalty of not more than \$25,000. Any person other than a manufacturer or dealer who violates section 203(a)(3)(A) or any person who violates section 203(a)(3)(B) shall be subject to a civil penalty of not more than \$2,500. Any such violation with respect to paragraph (1), (3)(A), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine. Any such violation with respect to section 203(a)(3)(B) shall constitute a separate offense with respect to each part or component. Any person who violates section 203(a)(2) shall be subject to a civil penalty of not more than \$25,000 per day of violation.

(b) Civil Actions.- The Administrator may commence a civil action to assess and recover any civil penalty under subsection (a) of this section, section 211(d), or section 213(d). Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has the Administrator's principal place of business, and the court shall have jurisdiction to assess a civil penalty. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

(c) Administrative Assessment of Certain Penalties.-

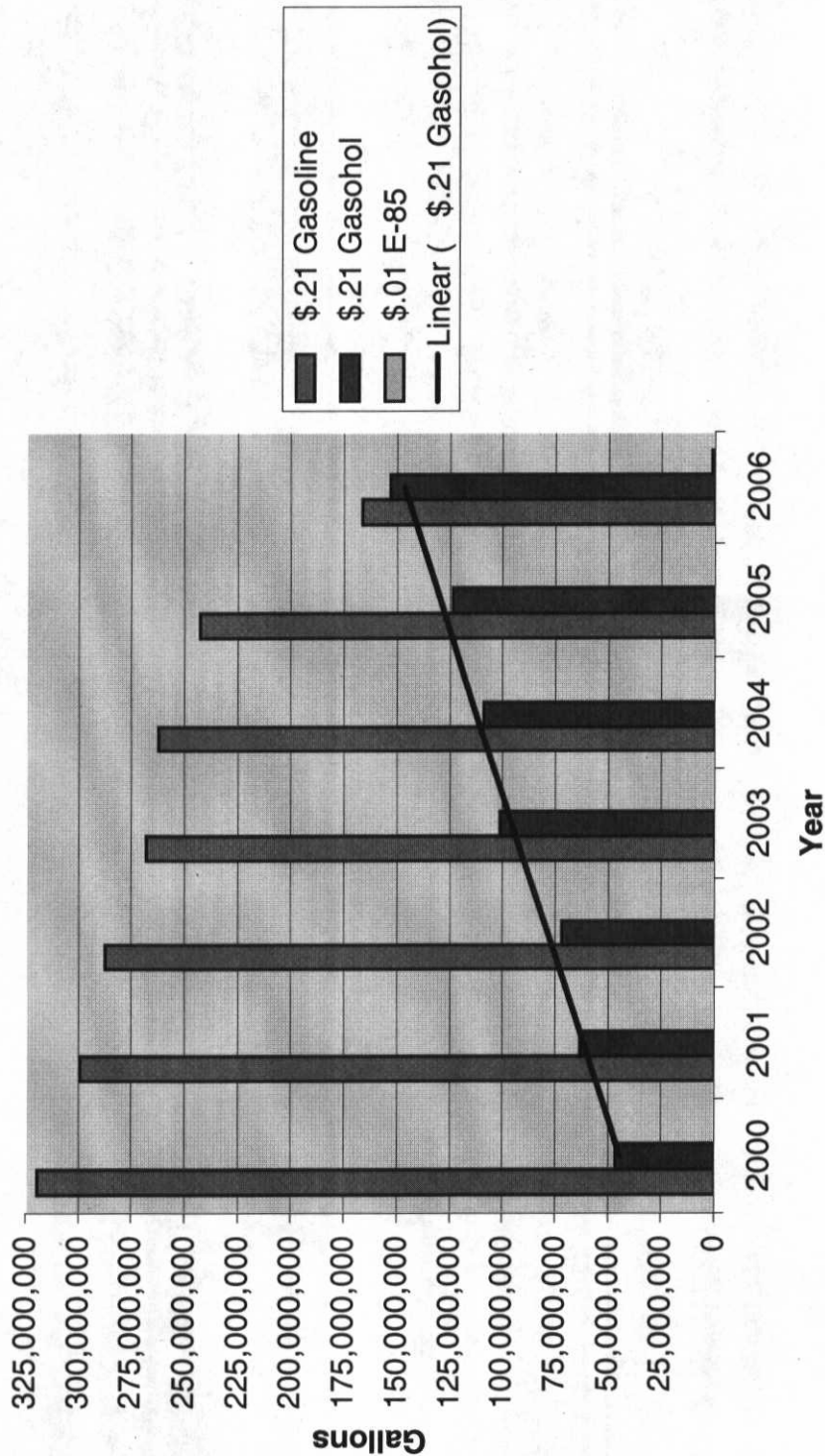
(1) Administrative penalty authority.- In lieu of commencing a civil action under subsection (b), the Administrator may assess any civil penalty prescribed in subsection (a) of this section, section 211(d), or section 213(d), except that the maximum amount of penalty sought against each violator in a penalty assessment proceeding shall not exceed \$200,000, unless the Administrator and

1/30/2007

Motor Vehicle Fuel Taxable Gallons

Year	2000	2001	2002	2003	2004	2005	2006
\$21 Gasoline	319,441,875	299,334,460	287,253,545	267,865,489	262,108,957	242,567,191	166,390,066
\$21 Gasohol	46,581,496	63,277,422	71,923,119	101,107,576	108,814,865	123,563,091	153,077,375
\$01 E-85							1,369,032
Total Taxable Gallons	366,023,371	362,611,882	359,176,664	368,973,065	370,923,822	366,130,282	320,836,473
Gasohol Sales Percentage	12.73%	17.45%	20.02%	27.40%	29.34%	33.75%	47.71%

Motor Vehicle Fuel Taxable Gallons





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636 91st STREET SE
P.O. BOX 1487
MINOT, ND 58702
(701) 852-3145
FAX: 852-8058

3418 HOWLAND AVENUE
P.O. BOX 688
SIOUX FALLS, SD 57101
(605) 338-5030
FAX: 338-6872

4801 LIGHTNING DRIVE
P.O. BOX 16248
DULUTH, MN 55815
(218) 729-0757
FAX: 729-0273

November 22, 2006

Mike Rud
Garrison, ND 58540

Dear Mike:

We are pleased to provide the following "estimate" for installing a E-85 fueling system.

- 1 - 10,000 gallon STI-P3 double-wall steel tank
- 1 - Tank cathodic protection monitor
- 1 - Gilbarco E500 Encore single-product dispenser w/crind
- 2 - Alternative fuels nozzle, hose, swivel, breakaway
- 1 - Steel dog-bone island form w/bumpers, dispenser sump
- 1 - Tank fill package w/overflow valve
- 1 - Tank vent package w/75' vent pipe
- 1 - APT tank sump package w/3/4 hp submersible pump
- 1 - APT dispenser terminating package w/75' product pipe
- 1 - Red jacket control box for submersible pump
- 1 - Incon line leak detector
- 1 - Tank monitor stub-in package
- 1 - Tank interstitial monitor well package
- 1 - Veeder Root TLS-300 console
- 1 - Veeder Root in-tank test software



Manufacturing Division:



O'DAY TANK & STEEL co
2403 1st AVENUE NORTH, FARGO, ND 58102



1 - Veeder Root CSLD software

1 - Veeder Root Mag 1 alternative fuels probe w/float

1 - Labor and expense to complete project (electrical, excavation, concrete)

*** Price does not include:**

- 1) Building permit
- 2) Equipment needed to set or unload tanks
- 3) Any environmental analysis of soil and/or water. Additionally, this proposal does not include expenses associated with site remediation or any construction delays due to site remediation work. Any additional costs associated with the above items will be invoiced as an additional cost on a time and material basis.

Price is guaranteed for 30 days. At our option, we may accept an order based on this proposal at a later date. A 15% down payment is required with order.

Total Price F.O.B. O'Day, Fargo, ND, tax included

\$69,585.00

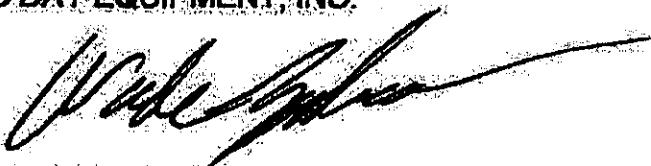
Drawings: If required, installation drawings will be prepared and submitted for State approval. Drawings will be furnished to the owner for local approval if requested.

Insurance: O'Day Equipment, Inc. is covered by Comprehensive General Liability Insurance, including Products and Completed Operations with Environmental Impairment Liability coverage. We also maintain Workers Compensation Insurance.

NOTE: Buyer or its agent will identify to Seller the location of all boundary lines concerned for the completion of this agreement. If Buyer or his agent is incorrect in identifying said boundary lines causing additional expenses to be incurred by Seller for relocating or duplicating completed work because of its relation to the boundary line, the additional expenses will be borne by Buyer.

Thank you for the opportunity to furnish this proposal. Upon acceptance, we will prepare construction documents that when executed guarantee the pricing and term of this proposal.

O'DAY EQUIPMENT, INC.



Wade Zumbaum
Inside Sales Support

ACCEPTED BY: _____

DATE: _____



600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

**Testimony of Roger Johnson
Agriculture Commissioner
SB 2282
Senate Transportation Committee
Lewis & Clark Room
February 1, 2007
10:00 am**

Chairman Lee and members of the Senate Transportation Committee, I am Agriculture Commissioner Roger Johnson. I'm here today to offer testimony in favor of SB 2282, which would establish a renewable fuel standard in North Dakota and provide a number of retail incentives for the sale of ethanol-blended and biodiesel-blended fuels. The legislation would establish a goal of replacing 25 percent of all gasoline with biofuels by the year 2020.

SB 2282 was patterned after a renewable fuel standard that was signed into law in the state of Iowa just last year. After nearly a decade of failed efforts to pass a 10 percent ethanol requirement, proponents in Iowa chose another route – putting a statewide goal in place along with several industry incentives.

I have long supported a straightforward 10 percent ethanol requirement in all gasoline sold in this state. Efforts to pass a 10 percent requirement have failed each time they've been brought before

the legislature. As legislators, you really have two options when it comes to passing laws. Either you require someone to do something or you put incentives in place to accomplish the same thing. Requirements, or mandates as many like to call them, are the less expensive route to take.

North Dakota stands to reap great economic benefits from development of renewable energy production and consumption. North Dakota is currently home to three operating ethanol facilities – Alchem, Grafton; ADM, Walhalla; and Red Trail Energy, Richardton - with a combined annual production capacity of 83.5 million gallons. Blue Flint Ethanol, Underwood, with a production capacity of 50 million gallons per year, is scheduled to come online early this year. Additional projects totaling 200 million gallons of ethanol production capacity have been announced or are under construction. Currently, North Dakota is turning approximately 20 percent of our annual corn production into ethanol. 80 percent of our corn production will be consumed by ethanol production once the projects that have been announced or are under construction come on line. (Attachment 1)

ADM is also constructing a new canola-based biodiesel facility at Velva with a production capacity of 85 million gallons per year. Several additional projects – corn and cellulose ethanol projects, canola and soy biodiesel projects and oilseed crushing facilities – are also being contemplated across the state. The establishment of these production facilities is a positive step forward in the development of renewable energy industries, but much more remains to be done.

We must also do more to encourage the consumption of the ethanol and biodiesel that will be produced in the state. Ethanol accounted for 5.14 percent of gasoline sales by volume from May

2005 through May 2006. Ethanol was blended into approximately 48 percent of the all gallons sold during that same time period. The total number of taxable gasoline gallons sold in North Dakota from May 2005 through April 2006 was nearly 360 million gallons.

North Dakotans agree that renewable energy development needs to be a priority for North Dakota. The North Dakota Renewable Energy Partnership, in cooperation with the Office of Renewable Energy & Energy Efficiency, commissioned the University of North Dakota Bureau of Governmental Affairs to conduct a public opinion survey on renewable energy issues in North Dakota. More than 600 North Dakotans, equally split male and female, were surveyed from June 13th to July 12th of 2006.

The survey showed that overwhelmingly, North Dakotans support renewables. Of those surveyed:

- 93 percent believe that renewable energy should be a priority in our state legislature.
- Nearly 80 percent support a 10 percent ethanol blend requirement in gasoline sold in North Dakota.
- 87 percent support a tax advantage for ethanol that makes ethanol cheaper than regular gasoline.
- 83 percent support a 2 percent biodiesel blend requirement in North Dakota's diesel fuel supply.
- 83 percent believe the state legislature should provide incentives that encourage the production and use of biodiesel.

The production and use of renewable fuels is of paramount importance not only to our state, but as part of our country's national energy security strategy. Retired Air Force General Charles "Chuck" Wald – a North Dakota native – addressed the attendees of Marketplace for Entrepreneurs in Fargo just last week. General Wald described a sobering picture of US and world energy production and consumption. Wald said that the United States currently spends approximately \$50 billion annually to ensure the free flow of oil throughout the world. When amortized to the price of gasoline, Wald estimated that US citizens are currently paying approximately \$6.50 per gallon of gasoline consumed.

President Bush in his State of the Union address earlier this week also spoke about our energy situation, saying, "...it's in our vital interest to diversify America's energy supply...we need to...expand the use of...biodiesel fuel...we must continue investing in new methods of producing ethanol...using everything from wood chips to grasses to agricultural wastes...let us build on the work we've done and reduce gasoline usage in the United States by 20 percent in the next ten years."

SB 2282 not only establishes a renewable fuels standard for the state, but provides a number of incentives as well. The legislation provides a scalable tax credit for retailers based on meeting the renewable fuel standard (Section 5), a tax credit for the sale of biodiesel-blended diesel fuel (Section 6), and eliminates the tax on the ethanol portion in each gallon of gasoline sold (Section 8). In addition, the legislation provides a \$10 break on the registration fee for flexible fuel vehicles (Section 3).

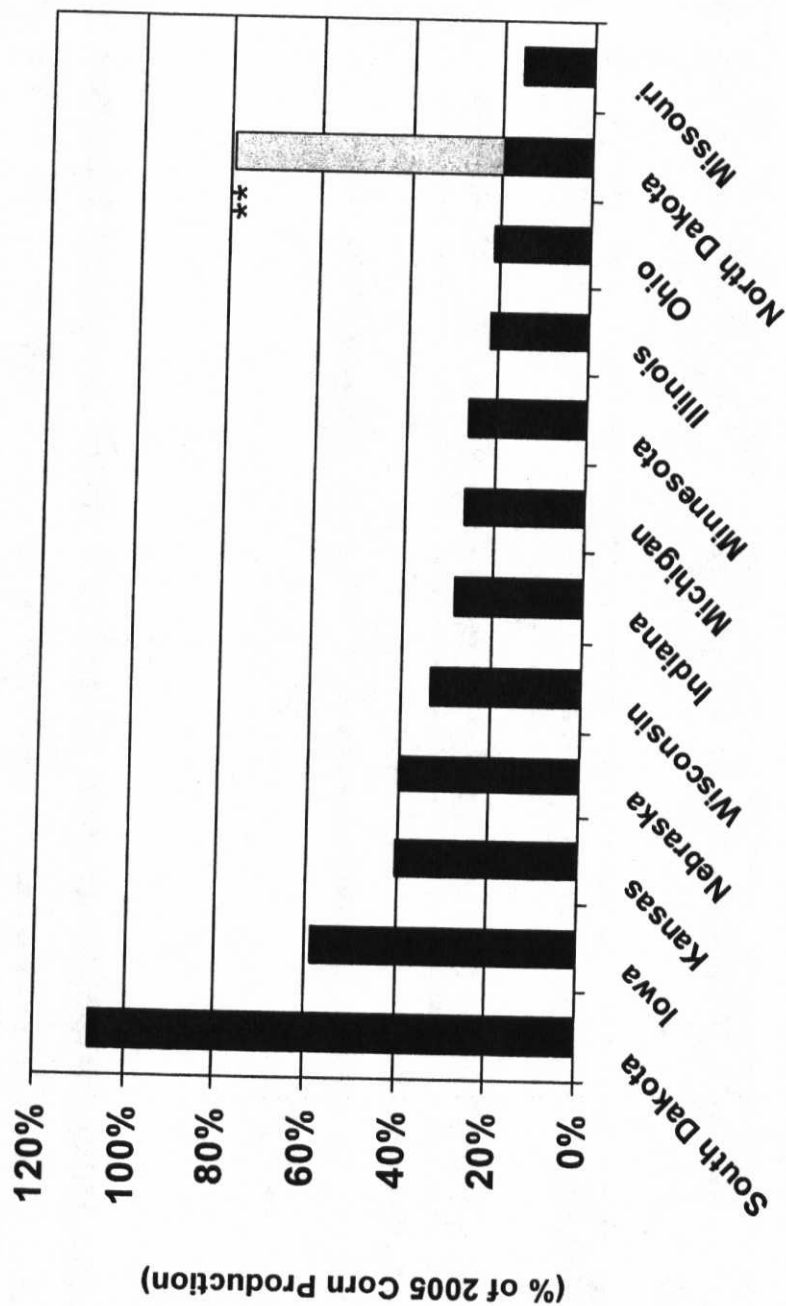
Another important component of SB 2282 is contained in Section 1, which directs the Renewable Energy Research Council (created in SB 2288) to provide cost-share assistance to "install or convert infrastructure to dispense ethanol blends greater than 10 percent and to store, dispense, and distribute biodiesel." Section 9 provides a \$750,000 appropriation from the Renewable Energy Development Fund (created in SB 2288) for this cost-share assistance. Retailers will be able to apply for cost-share assistance to install E-85 pumps, blender pumps or any other new technology that comes on-line.

The federal renewable fuels standard sets a base for the ethanol market in this country. I supported the establishment of the federal standard and I will support a substantial increase to that standard during the 2007 farm bill debate. Setting a state standard is important, as well; it provides a local market for the 300+ million gallons of ethanol we are going to be producing in this state. North Dakota should consume as much of the ethanol, biodiesel and related products as we can so that we can support local businesses and farmers and decrease our dependence on foreign source of oil. Perhaps even more importantly, such a state standard would send a strong message to consumers around the country who we want to buy and use our ethanol that we in North Dakota are practicing what we preach. A state standard also sends a welcoming message to the renewable energy industry that we not only want the economic development that the industry brings to our state, but that we will do what we can to build a market; these signals are important.

Chairman Lee and committee members, I would like to recommend a "do pass" on SB 2282.

Thank you for this opportunity to offer testimony. I would be happy to answer any questions you may have.

Corn Crop to Ethanol by State



**corn crop to ethanol including production that is announced or under construction

Sources: Renewable Fuels Association, National Agricultural Statistics Service

**TESTAMONY
SENATE BILL 2282
TRANSPORTATION COMMITTEE
FEBRUARY 1, 2007**

Mr. Chairman and members of the Senate Transportation committee my name is Tom Balzer, managing director of the North Dakota Motor Carriers Association. I am here this morning to testify in opposition of Senate Bill 2282.

We have three main concerns with this legislation.

First, we do not believe that goals, objectives or targets have any business on the law books. They are unenforceable and do not provide for a standard by which the rule of law that can be administered.

Second, the reduction of registration fees and gas tax as proposed in Section 3 and Section 8 creates problematic funding scenarios for a number of reasons:

1. Registration revenue is vital to the Department of Transportation business; reducing that even by ten dollars a vehicle could impact the agencies ability to provide the services the citizens depend upon.
2. With the declining federal resources and gas tax collections unable to fund road construction and rehabilitation projects we have today, future need for funding to just maintain the infrastructure investment we currently have is of vital importance to the state, by exempting out ethanol blended products the pool of revenue will see a dramatic decrease in tax revenue which will need to be made up by another source.
3. It creates a false market for the product. Consumers purchase fuel primarily based on price. By offering a reduced tax you will also reduced the cost of these fuels in turn creating a demand for the product based on price and not on quality or environmental concerns.

Our final and the most important objection to the trucking industry is the definition of biodiesel in Section 6. The science of biodiesel is relatively simple and the concept of using vegetable oil to power these engines is not new, in fact when Rudolph Diesel designed his engine it was originally designed to run on peanut oil. But, as it should be, the free market prevailed and petroleum based diesel powered the engines with greater power and at a reduced cost. Currently it costs between \$2.63 to \$2.90 per gallon to produce biodiesel compared to the wholesale cost of diesel currently around \$1.62

This fall the National Biodiesel Board, in conjunction with the National Renewable Energy Laboratory, conducted a survey of 40 biodiesel producers and found that one-third of the samples taken did not meet the American Society of Testing Materials (ASTM) quality specifications. This survey resulted in the NBB issuing a winter weather advisory on biodiesel use.

The bill also fails to require pump labeling and does not establish a ceiling on maximum biodiesel content, leaving the end-user to guess whether higher percentage biodiesel blends are being used that could potentially reduce performance or complicate warranty claims.

The committee members have heard me in previous testimony describe the problems with fuel gelling at low temperatures, clogged fuel filters because of the solvent properties of biodiesel and quality concerns regarding the blending of this product.

Our amendments ask that the definition of biodiesel specifies a range of biodiesel content of at least 2% but no more than 5%. According to the Engine Manufacturers Association, biodiesel blends up to a maximum of 5% should not cause engine or fuel system problems, provided the biodiesel used in the blend meets the requirements of ASTM D6751 and D975. Engine manufactures that are offering to cover the use of biodiesel under their warranties are specific to the maximum amount of blended biodiesel at 5%.

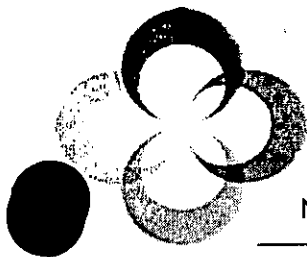
I hope the committee will strongly consider making the definition of blended biodiesel more consistent with the national industry standard and at levels that can be used by the trucking industry.

Mr. Chairman, even with the amendments we respectfully ask for a DO NOT PASS recommendation. This concludes my testimony and I would be happy to answer any questions the committee may have.

Proposed Amendments

Page 3, line 18: remove "of at least ten percent blend" after "fuel"

Page 3, line 19: add "D6751 and D975 at blended levels of at least two percent but no greater than five percent" after "testing materials"



NDREP

North Dakota Renewable Energy Partnership

Mailing address:
PO Box 11063, Fargo, ND 58103
(701) 239-7258
Fax: (701) 298-7810

TESTIMONY
To the
SENATE TRANSPORTATION COMMITTEE
Of the
NORTH DAKOTA LEGISLATURE

RE: Senate Bill 2282

By Mike Clemens
Chairman, ND Renewable Energy Partnership
February 1, 2007

Chairman Lee and Members of the Committee:

Thank you for this opportunity to submit testimony on Senate Bill 2282. I am here today to urge your DO PASS vote on this bill that provides for a renewable fuels standard, incentives to reach that standard, and appropriations for those provisions for the state of North Dakota.

I am testifying today not only as the chair of the NDREP, but also as a corn, soybean, sunflower producer from Wimbledon ND and a director on the ND Corn Growers Association.

It has been my privilege these past few months to serve as chair of the ND Renewable Energy Partnership. This group is composed of a cross section of over 50 organizations and individuals representing both the private and public sector. Members range from private citizens to groups representing large constituencies such as Excel Energy and the ND Association of Rural Electric Cooperatives. The vision of this group is for ND to become the preeminent renewable energy producing state in the nation. Part of achieving that vision requires that ND also become a leader not only in producing renewable energy but also using renewable energy.

As chair of the NDREP I would like to reference the study that the NDREP conducted this past summer in cooperation with the Department of Commerce. The study, conducted by the UND Dept of Governmental Affairs, assessed the opinions of 600 North Dakotans regarding renewable energy in ND. The results indicated that 93 percent of North Dakotans surveyed believe that renewable energy should be a priority of our state legislature. 96 percent believe that we should reduce our dependence on foreign sources of oil by promoting renewable sources of energy and energy conservation. 87 percent support a tax advantage for ethanol that makes ethanol cheaper than regular gasoline. 83 percent believe the state legislature should provide incentives that encourage the production and use of biodiesel. Senate Bill 2282 addresses many of the opinions and concerns expressed by the citizens of ND in that survey.

As a corn, soybean, and sunflower producer I would like to say that it has been gratifying to see North Dakota's market share in ethanol use increase from 11% in 2000 to an average of 44% in 2005 and 36% in 2006. Market share figures correlate very consistently with pump prices. The wider the price difference between ethanol and regular, the greater the market share difference. Surveys by the ND Corn Growers Association show that ND citizens are knowledgeable about ethanol and have a positive attitude toward ethanol. However, the bottom line is that the number one factor influencing consumer choice of gasoline is price. The incentives provided for in SB 2282 encourage retailers to price ethanol to increase use.

As a director on the BOD of the ND Corn Growers Association I would like to say that the ND Corn Growers Association also urges a DO PASS from the committee on SB 2282.

Thank You.

NORTH DAKOTA PETROLEUM MARKETERS ASSOCIATION

1025 N 3rd Street • PO Box 1956 • Bismarck, ND 58502
Telephone 701-223-3370 • www.ndpetroleum.org • Fax 701-223-5004

REPRESENTING:

Bulk Oil Jobbers
Convenience Stores
Service Stations
Truck Stops

Mike Rud

Senate Appropriations Committee Members:

Just a few brief notes on the various renewable fuels bills which have been referred back to appropriations and the position NDPMA is taking regarding these pieces of legislation:

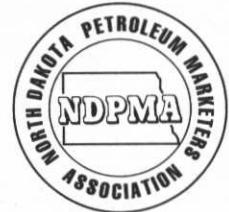
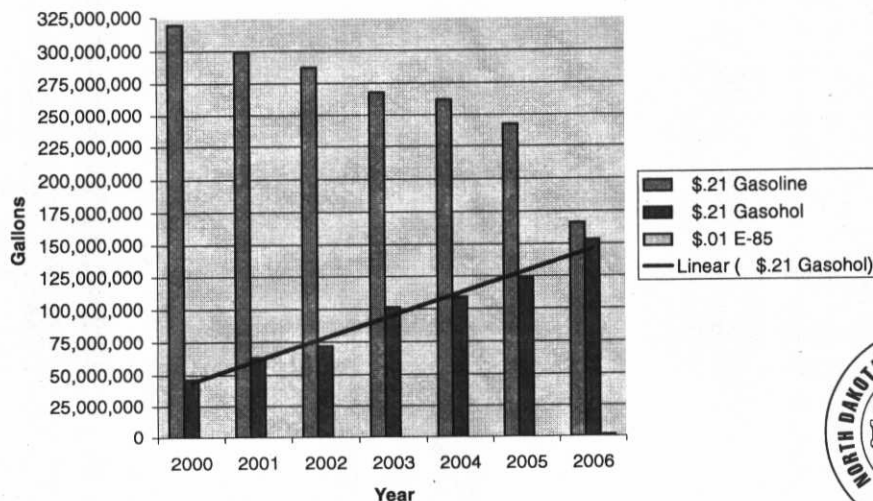
SB 2288: This is the renewable fuels partnership bill. NDPMA stands behind the amended version. All energy industries, including the fossil fuels must work together and have access to research and development funds.

SB 2282: This bill gives ND gas retailers an incentive in the form of a tax credit to reach certain percentages of ethanol blended gasoline sales. NDPMA opposes this bill for several reasons. First, judging from the chart below, E-10 sales have increased by over 300% in the last six years. Secondly, the incentive being offered creates a public relations dilemma for the ND gas retailer. The consumers will likely view this tax credit as a 6.5 cent a gallon decrease to the retailer and expect to see it in the form of lower prices at the pumps. Finally, once the average marketer reaches the 10-11% goal, it would mean every gallon of gas sold would have to contain an ethanol blend. The ND gas retailer would rather see the money designated for a tax credit be used as funding for a marketing program to enhance consumer knowledge of ethanol blended gas. **LET THE FREE MARKET WORK!**

SB 2391: Another E-10 incentive bill designed to reward marketers 3 cents a gallon for every gallon of ethanol they sell. This refund would come from the tax commissioner. Again, NDPMA opposes this bill. ND gas retailers believe this would paint our industry in a poor light if this 3 cents weren't reflected in pump prices. The reality is both the kickbacks in SB 2282 and SB 2391 would be six and half tenths per gallon and three-tenths per gallon since each gallon would contain just 10 % ethanol. Again, our marketers would prefer to see some money used for consumer education or an ethanol coupon program. **LET THE FREE MARKET WORK!**

Motor Vehicle Fuel Taxable Gallons							
Year	2000	2001	2002	2003	2004	2005	2006
\$.21 Gasoline	319,441,875	299,334,460	287,253,545	267,865,489	262,108,957	242,567,191	166,390,066
\$.21 Gasohol	46,581,496	63,277,422	71,923,119	101,107,576	108,814,865	123,563,091	153,077,375
\$.01 E-85						1,369,032	
Total Taxable Gallons	366,023,371	362,611,882	359,176,664	368,973,065	370,923,822	366,130,282	320,836,473
Gasohol Sales Percentage	12.73%	17.45%	20.02%	27.40%	29.34%	33.75%	47.71%

Motor Vehicle Fuel Taxable Gallons



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TESTIMONY
To the
SENATE APPROPRIATIONS COMMITTEE
Of the
NORTH DAKOTA LEGISLATURE

RE: Senate Bill 2282

By Mike Clemens
Chairman, ND Renewable Energy Partnership
February 13, 2007

Chairman Holmberg and Members of the Committee:

Thank you for this opportunity to submit testimony on Senate Bill 2282.
I am here today to urge your DO PASS vote on this bill that provides for a renewable fuels standard, incentives to reach that standard, and appropriations for those provisions for the state of North Dakota.

I am testifying today not only as the chair of the NDREP, but also as a corn, soybean, sunflower producer from Wimbledon ND and a director on the ND Corn Growers Association.

It has been my privilege these past few months to serve as chair of the ND Renewable Energy Partnership. This group is composed of a cross section of over 50 organizations and individuals representing both the private and public sector. Members range from private citizens to groups representing large constituencies such as Excel Energy and the ND Association of Rural Electric Cooperatives. The vision of this group is for ND to become the preeminent renewable energy producing state in the nation. Part of achieving that vision requires that ND also become a leader not only in producing renewable energy but also using renewable energy.

As chair of the NDREP I would like to reference the study that the NDREP conducted this past summer in cooperation with the Department of Commerce. The study, conducted by the UND Dept of Governmental Affairs, assessed the opinions of 600 North Dakotans regarding renewable energy in ND. The results indicated that 93 percent of North Dakotans surveyed believe that renewable energy should be a priority of our state legislature. 96 percent believe that we should reduce our dependence on foreign sources of oil by promoting renewable sources of energy and energy conservation. 87 percent support a tax advantage for ethanol that makes ethanol cheaper than regular gasoline. 83 percent believe the state legislature should provide incentives that encourage the production and use of biodiesel. Senate Bill 2282 addresses many of the opinions and concerns expressed by the citizens of ND in that survey.

As a corn, soybean, and sunflower producer I would like to say that it has been gratifying to see North Dakota's market share in ethanol use increase from 11% in 2000 to an average of 44% in 2005 and 36% in 2006. Market share figures correlate very consistently with pump prices. The wider the price difference between ethanol and regular, the greater the market share difference. Surveys by the ND Corn Growers Association show that ND citizens are knowledgeable about ethanol and have a positive attitude toward ethanol. However, the bottom line is that the number one factor influencing consumer choice of gasoline is price. The incentives provided for in SB 2282 encourage retailers to price ethanol to increase use. The other factor influencing sales is availability. Right now ND has only about 20 operating E85 stations.

The \$750,000 appropriation request in this bill would be used to build the E85 infrastructure in ND. Once ND produces the 400 million gallons of ethanol that it is slated to produce by 2009, it will be to the state's advantage to sell as much product as possible within the state as possible.

Finally, I want to stress that the language in this bill calls for a goal only. This is not a standard. The goal is set as a benchmark that can be used to calculate the amount of tax credit for the retailer.

As a director on the BOD of the ND Corn Growers Association I would like to say that the ND Corn Growers Association also urges a DO PASS from the committee on SB 2282.

Thank You.