MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2361

2007 SENATE FINANCE AND TAXATION

SB 2361

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2361**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: # 2471

Committee Clerk Signature	Sharon Renfrow

Minutes:

Sen. Urlacher called the committee to order and opened the hearing on SB 2361.

Sen. Oehlke: Prime sponsor of the bill appeared in support and deferred to others to explain the bill.

Sen.O'Connell: co-sponsor of the bill appeared in support with written testimony. (See attached) Also stating that this bill is strictly for new horizontal wells in the Bakken Field.

Sen. Wardner: co-sponsor of the bill appeared in support of this bill stating that when it comes to the oil production one of the things we have to keep in mind is the fact that as soon as the well is drilled and the first barrel is pumped there is a decline, there is a decline in the number of barrels produced. This bill addresses and deals with the Bakken. Funds are also affected by this.

Sen. Triplett: have you considered the inter-relationship of this bill with the one we heard earlier this morning and putting them together if they both passed?

Sen. Wardner: yes, I think that would be something that this committee could surely do and I would have no problem with that.

Bob Harms: Pres. of Northern Alliance of Independent Producers appeared in support with written testimony. (See attached)

Sen. Urlacher: How many independent rigs are drilling now?

Answer: 40 almost all are owned or operated by independent oil companies. May have 1 major.

Sen. Anderson: I see a trigger price, what does that mean?

Answer: the trigger price is a price in ND law that was set and began 6 yrs ago. The concept is if oil goes below a certain price the incentives in current law then come back into play.

Sen. Cook: if we created incentives to produce more oil then, do you think the sales tax incentive is going to get the pipelines created that need to be created to reach the capacity that we could possibly reach?

Answer: No, the larger pipelines that we expect really will come from providing more of a stable tax environment for the industry so that companies and CEO's can say, the ND climate is stable, we like it, we're going to make a 50 million dollar commitment so they can build the larger pipelines that we can extend that capacity.

Sen. Urlacher: what's the production on those that have the successful?

Answer: I think the average for Bakken today is still about 140 some barrels on average.

Sen. Urlacher: what's the success ratio of those that have been drilled?

Answer: I think the success ratio is very high.

Sen. Tollefson: how many rigs are working the Bakken formation now?

Answer: 20 rigs

Sen. Tollefson: of the holes that have been punched you say the majority have been productive?

Answer: yes, you'll see production up in the 90% range only 15% are profitable

Sen. Tollefson: without this bill, will the activity in the Bakken drop considerably?

Answer: we do run the risk of jeopardizing the Bakken

Sen. Tollefson: begin to dwell on the economy of the oil industry, being the devils advocate, now suppose that oil price would drop to 40 or 35 dollars, would that destroy all the incentive for expensive investment in the Bakken formation?

Answer: yes, the Bakken is going to be over if goes to $30.

Harold Hamm: Chief Exec. Officer of Continental Resources, Inc. appeared in support with written testimony. (See attached)

Dave Serrell: marathon Oil Co. Appeared in support.

Dale Frink: State Engineer appeared in opposition with written testimony. (See attached)

Tom Powers: on behalf of his brother Jim who is Vice President of Cordillera Energy Partners presented his written testimony. (See attached)

Jim Arthaud: Pres. of Missouri Basin Well Services Inc. appeared in support with written testimony. (See attached)

Todd Maleckar: Diamond Resources of Williston appeared in support stating that 15% is very scary and the Bakken will not continue without help.

Vicky Steiner: ND Oil & Gas Producers appeared to say they support.

Ron Ness: ND Petroleum Council appeared to state they support and handed out a sheet on Oil & Gas Tidbits. (See attached)

Milles Vosberg: Tax Dept. has some concerns with section 1 on sales tax exemptions stating this would exempt purchases of pipe, another section on contractors and would need further language. Also clarification on pipe use.

Sen. Horne: do they also exempt pipe and equipment in MT?

Answer: they don't have sales tax.

Closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2361**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February' 5, 2007

Recorder Job Number: # 2771

Committee Clerk Signature	Sharon Renfrow

Minutes:

Sen. Urlacher called the committee back to order for discussion on SB 2361.

Sen. Triplett: spoke with Bob Harms in regards to taking out Section 1

Sen. Cook: made a Motion to take out Section 1, seconded by Sen. Triplett.

Sen. Tollefson: so, we're taking out Section 1 and that does what?

Sen. Cook: Section 1 is the sales tax exemption for pipe used and expiration on the Bakken formation.

Sen. Urlacher: so what remains is the reduction of oil tax on oil drawn from the Bakken, is that what is left?

Sen. Cook: yes

Sen. Triplett: the FN doesn't make any estimates about section 1, it just says section 1 grants the sales tax and presently cannot estimate the fiscal impact of this section. So I think the fiscal note the way it's written, all of the numbers that relate to the extraction of tax anywhere.

Voice vote: 7-0-0 Motion carries

Sen. Oehlke: made a Motion for DO PASS as Amended, seconded by Sen. Triplett

Sen. Horne: if this is approved as written, we would have an incentive tax reduction on new production in the Bakken field, we'd reduce the extraction tax from 11 ½% to 9%?

Sen. Oehlke: it reduces the extraction tax from 61/2 to 4%

Sen. Horne: for 24 months and after that it would, the production tax would be at 9%, is that right? By doing this we're not only giving them an incentive to explore more in the Bakken field but we're reducing the long range tax of 11 ½% to 9%, right? Is that what we want to do?

Sen. Urlacher: here's the question in my mind, is the Bakken going to continue to be explored with it or without it?

Sen. Tollefson: in defense of the bill, the Bakken formation is a tremendous expense and growing proposition. I feel they do need an incentive.

Sen. Oehlke: line 21, page 2, it mentions the rate of tax on all extracted from new horizontal wells and new horizontal reentry wells is provided in section 6 shall remain 4% regardless of whether the trigger price is exceeded.

Sen. Cook: I think the argument that they make that justifies the bills passage is when you compare our tax policy to Montana's. We certainly don't want to have a tax policy that would drive these folks to do their drilling somewhere else. I think the biggest problem I think we have in the oil industry in ND right now is getting the oil out.

Sen. Oehlke: do we really need to own a pipeline?

No.

Sen. Triplett: requested information and hasn't gotten it yet and would like to wait to act on.

Sen. Horne: I think there are too many parts to this bill.

Sen. Oehlke: made a **Motion to Rescind the Motion and Sen. Triplett rescinds her second.**

Closed the discussion.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2361**

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 7, 2007

Recorder Job Number: # 3065

Committee Clerk Signature	Sharon Renfrow

Minutes:

Sen. Urlacher: called the committee to order for discussion and action on SB 2361.

Sen. Triplett made a Motion to Move the sunset amendments presented by Bob Harms, seconded by Sen. Horne.

Voice vote: 7-0-0 Amendments carry.

Sen. Triplett: asked Ron Ness if in his opinion if the Bakken bill passed would it take precedence.

Ron Ness: the Bakken situation would have precedence. This is a stand alone piece of legislation and the bill stands on its merits.

Sen. Cook: both bills deal with only new wells and I think these 2 bills are going to get merged together.

Sen. Oehlke: they deal with new wells or reentry horizontal drilling, is that considered new?

Ron Ness: correct, that is a new Bakken well when you reenter a well.

Sen. Cook: we could amend this bill into SB 2397.

Sen. Triplett: I think the reason not to do that is that people would be willing to vote for one but not the other. The think there are people who would see one of them as the restructuring as Mr. Ness has said and see the other one as an incentive bill and would have different attitudes about them. I think that would not be very fair to the sponsors to do that. But I would agree with you that we're going to pass the Bakken bill then what we should probably do is have Legislative Council redraft it to be as consistent as possible with what we already have passed before we let this one go tot the floor.

Bob Harms: I feel that 2361 will mold into 2397 so that both are effective

Sen. Horne: I think either we should amend 2361 to reduce the honeymoon period from 24 months to 15 months or we should move to add a 2% extraction tax on the honeymoon period like we did in 2397.

Sen. Horne: made a Motion to move the 2% extraction tax during the honeymoon period in the Bakken field, follow the 24 months. Seconded by Sen.Triplett

Ron Ness: basically what you're doing then is your giving a 1 year incentive for new Bakken wells which I think is really what everybody has said. The Bakken has great potential; you would move it up one year. You're basically trading a 1 yr Bakken tax incentive at 7% instead of 5% from 11 ½%. The other bill is going down to 9, not going to 7 unless the triggers come back on. So you're basically providing the tax holiday to 7% instead of 5 for 24 months.

Sen. Urlacher: so how does that plan with the 4 yr amendment?

Ron Ness: the Bakken provisions just go away at the end of 4 yrs with the sunset. It would definitely reduce the mill by 1/3.

Bob Harms: should reduce the FN by maybe a 1/3.

Voice vote: 7-0-0 Amendment carries

Sen. Anderson: if that sunset arrives and nothing happens, 2397 takes over.

Sen. Tollefson: made a Motion for DO PASS as Amended, seconded by Sen. Oehlke.

Roll call vote: 7-0-0 Sen. Oehlke will carry the bill.

FISCAL NOTE

Requested by Legislative Council
02/12/2007

Amendment to: SB 2361

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				($6,890,000)		
Expenditures						
Appropriations						

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

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 2361 provides an oil extraction tax rate reduction from 6.5% to 2% for the first 24 months, followed by a permanently reduced oil extraction tax rate of 4%, for new wells drilled in the Bakken formation. Recompleted wells in the Bakken are exempt from extraction tax for 9 months.

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 1 permanently lowers the oil extraction tax rate from 6.5% to 4% for new Bakken wells. Section 2 creates an additonal oil extraction tax rate reduction to 2% for the first 24 months of production from new Bakken wells. It also creates an oil extraction tax exemption for 9 months for reentry and recompleted Bakken wells. These sections will result in an estimated reduction in oil extraction tax revenues of $6.890 million in the 2007-09 biennium. The revenue loss would be distributed as follows: 60% from the permanent oil tax trust fund, 20% from the resources trust fund, and 20% according to Article X of the Constitution.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	02/14/2007

FISCAL NOTE

Requested by Legislative Council

01/23/2007

Bill/Resolution No.: SB 2361

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				($9,575,000)		
Expenditures						
Appropriations						

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

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 2361 provides a 24-month, and/or a 9-month oil extraction tax exemption followed by a permanently reduced oil extraction tax rate of 4%, for wells drilled in the Bakken formation. The bill also provides a sales tax exemption for qualifying expenditures on pipe used in the Bakken formation.

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 1 grants a sales tax exemption for piping used in the Bakken formation. At present, we cannot estimate the fiscal impact of this section.

Sections 2 and 3 create the 24 and 9 month exemptions, followed by a permanent 4% oil extraction tax rate. These sections will result in an estimated reduction in oil extraction tax revenues of $9.575 million in the 2007-09 biennium. The revenue loss would be distributed as follows: 60% from the permanent oil tax trust fund, 20% from the resources trust fund, and 20% according to Article X of the Constitution.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	01/30/2007

Date: 2-7-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2361

Senate Finance & Tax Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken Do Pass as amended

Motion Made By Sen. Tollefson Seconded By Sen. Oehlke

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson	✓	
Sen. Tollefson	✓		Sen. Horne	✓	
Sen. Cook	✓		Sen. Triplett	✓	
Sen. Oehlke	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Oehlke

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

REPORT OF STANDING COMMITTEE

SB 2361: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2361 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "a new subsection to section 57-39.2-04 and"

Page 1, line 2, remove "a sales and"

Page 1, line 3, remove "use tax exemption for pipe for gas gathering systems and pipelines and"

Page 1, line 4, after "exemption" insert "or rate reduction"

Page 1, line 5, after "tax" insert "rate"

Page 1, line 6, remove "and" and after "date" insert "; and to provide an expiration date"

Page 1, remove lines 8 through 11

Page 2, line 12, after "exempt" insert "or subject to a reduced rate"

Page 2, line 27, replace "exempt from any taxes imposed under" with "subject to a tax of two percent of the gross value at the well of the oil extracted"

Page 2, line 28, remove "this chapter"

Page 3, line 3, after "**DATE**" insert "**- EXPIRATION DATE**" and replace "taxable events occurring" with "oil extracted from wells drilled and completed"

Page 3, line 4, after "2007" insert ", and before July 1, 2011, and is thereafter ineffective"

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2361

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2361

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-14-07

Recorder Job Number: 3485

Committee Clerk Signature	Alice Delzer

Minutes:

Chairman Holmberg opened the hearing on SB 2361 at 9:30 am on February 14, 2007 regarding the Bakken Tax Incentive Bill.

Robert Harms, President North Alliance of Independent Producers presented written testimony (1) (2) and oral testimony in support of SB 2361. He stated there were 3 reasons to pass this bill,.

1. Economics.
2. Sustainability
3. Price Differentials.

Senator Seymour asked where ENBRIDGE located. He was informed they are a Canadian company. He also asked where PETRO HUNT is headquartered. He was informed their office is in Bismarck, ND, our headquarters office is in Dallas, Texas. We've been operating in the Williston Basin since the 1950's. He had questions regarding the North Dakota Tax percentage compared to other states.

Senator Mathern asked what the potential income of gas being flared off now is, for information regarding the economic status, other bills that address the oil field industry, workers and training for oil field workers and if there will be enough workers in the event that another oil boom happens in northwestern North Dakota.

Senator Tallackson had questions about the depth of the formation on the BAKKEN, why don't they drill in the middle of the blue field as displayed on the map that was placed on the wall for the committee to review. It was explained to the committee that the map shows where the BAKKEN shell is and where drilling is taking place.

Senator Bowman had questions regarding the horizontal drilling and the long term benefits of horizontal drilling. He was informed that horizontal drilling is a new technique and very successful in many areas, and not all companies are equipped to do this type of drilling. Information was told to the committee by Mr. Harms that it took Montana 3 years to unlock the BAKKEN, and Richland County and Montana have doubled their oil production. He was informed that the industry is aware that there is oil in the BAKKEN we just have to find it.

Ryan Kopseng, Missouri River Royalty Corporation gave oral testimony in support of SB 2361.

Ron Ness, North Dakota Petroleum Council gave oral testimony in support of SB 2361.

Jim Arthaud, President of Missouri Basin Well Services, Inc. Belfield, ND hadwritten testimony (3) in support of SB 2361 that was distributed to the committee by Mr. Harms.

Jeff Herman, Petro-Hunt, LLC gave oral testimony in support of SB 2361.

Senator Robinson asked if the people from the industry thought about amending the bill and we look at it again at a later time.

Jeff Herman stated there is a sunset on this bill. What this bill is trying to do is to give it a change to get it off the ground and continue to go.

No action was taken at this time. The hearing on SB 2361 closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2361

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-14-07

Recorder Job Number: 3488

Committee Clerk Signature	Alice Delzer

Minutes:

Chairman Holmberg opened the hearing on SB 2361 on February 14, 2007 regarding sales tax exemption for pipe for gas gathering systems and pipelines and an oil extraction tax exemption for oil produced for certain horizontal wells. He stated Senator Krauter had an interest in this bill and is not present. As he was speaking Senator Krauter came in to the hearing.

Senator Mathern moved a DO NOT PASS, Seconded by Senator Krebsbach.

Discussion followed.

Senator Wardner stated this bill comes because of the high prizes of drilling in the BAKKEN and keeping people there and the investments going.

A roll call vote was taken resulting in 10 yeas, 4 nays, 0 absent. The motion carried.

Senator Grindberg will carry the bill.

The hearing on SB 2361 closed.

Date: 2/14/07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2361

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ____________

Action Taken: do NOT pass

Motion Made By: Mathern Seconded By: Krebsbach.

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) 10 No ~~10~~ 4

Absent 0

Floor Assignment Grindberg

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

REPORT OF STANDING COMMITTEE

SB 2361, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2361 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

SB 2361

SB 2361 Summary

Senator David P. O'Connell

A bill relating to an oil extraction tax reduction for oil produced from certain new horizontal wells.

A new subsection to section 57-39.2-04 of the ND Century Code is created citing:

> *"Gross receipts from the sale of pipe used for gas gathering systems and pipelines used primarily for producing oil or gas from the Bakken formation."*

The rate of tax is 6.5 percent of the gross value at the well of the oil extracted, except that the rate of tax is 4% of the gross value at the well of the oil extracted when:

- Oil produced from horizontal wells drilled and completed or from horizontal reentry wells which are reentered and recompleted in the Bakken formation after June 30, 2007 and which production is not otherwise exempt under section 57-51.1-03 (line items 10-13, pg. 2)

The rate of tax on oil extracted from new horizontal wells and new horizontal reentry wells as provided in subsection 6 shall remain 4% regardless of whether the trigger price is exceeded (line items 21-23, pg. 2).

Initial production of oil from a new horizontal well drilled and completed in the Bakken formation after June 30, 2007, is exempt from any taxes imposed under this chapter for a period of 24 months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax (line items 26-29, pg. 2)

The initial production of oil from a new horizontal reentry well reentered and recompleted in the Bakken formation after June 30, 2007 is exempt from any taxes imposed under this chapter for a period of 9 months. Oil recovered during testing prior to well recompletion is exempt from the oil extraction tax (line items 30-31, pg. 2 & line items 1-2 pg. 3).

Northern Alliance of INDEPENDENT PRODUCERS

PO Box 2422 • Bismarck, North Dakota 58502-2422 • Phone 701-224-5037 • Fax 701-224-5038 • email NProducers@aol.com

Finance and Tax Committee
North Dakota Senate
January 31, 2007

Legislative Hearing **SB 2361 (Bakken Tax Incentive bill)**

Mr. Chairman and members of the committee, my name is Robert Harms. I am president of the Northern Alliance of Independent Producers, which is an oil and gas trade association of independent oil producers operating in the Williston Basin. Today, the Alliance represents over 40 companies operating in the Williston Basin and who are responsible for 45% of the wells drilled in 2006. At an average cost of $4 million per well that represents a capital outlay of $900 million annually.

We strongly support SB 2361, the Bakken Tax Incentive Bill. The following are some of the companies that support the bill: Encore Acquisition Partners, Armstrong Corporation, Cordillera, EOG, Headington, Copperhead Corporation, Powers Energy, Diamond Resources, Marathon, Missouri River Royalty, Missouri Basin Well Service, Murex, Northern Energy, Pearce & Durick, Ward-Williston, and Wyoming Casing---many located here in North Dakota.

I would like to talk to you about 4 things this morning:

1. What the bill does.
2. The significance of the oil industry to our state and our national scene.

3. The Bakken formation and reasons for the bill that others will address in detail.

4. And why the opposition you will hear is not valid.

First, the Bill does several things, providing:

- 24 month exemption from the 6 ½ oil extraction tax for all new horizontal Bakken wells.
- 9 month exemption from 6 ½ oil extraction tax for reentries that are drilled as horizontal Bakken wells.
- After the exemption period, the tax for horizontal Bakken wells is 4% (for a total of 9%) rather than the usual 11.5% tax rate.
- Sales tax is waived on pipe purchases for gathering systems and pipelines primarily used to gather Bakken oil and gas.

Second, as you know, oil revenues and the industry are important to our economy. The production taxes alone are projected to be $238 million in the coming biennium. This does not include corporate income tax, personal income taxes, sales taxes, or State royalty and lease bonus income, the new jobs and other sources of revenue generated by the oil and gas industry. In fact nearly half of our current ending fund balance is a result of oil revenues. I'd like to offer you some specific numbers to measure the real impact of the industry to help provide some context in which to evaluate SB 2361.

<u>For 2005-2007</u> North Dakota receive the following (as per most recent projections)

$263 million (general fund tax collections)

$ 10 million (estimate personal income tax on royalties, not included above).

$ 15 million (federal royalty income)

$ 79 million State Land Department oil revenues (not general fund)

For 2007-2009 North Dakota is projected to receive the following oil revenues:

$271 million (general fund tax collections)

$ 12 million (estimate personal income tax on royalties, not included above).

$ 13 million (federal royalty income)

$ 50 million (State Land Department estimate; March 06 estimated $28 million)

The OIL INDUSTRY is the third largest revenue source for the general fund, only behind sale and income taxes. (The oil industry will contribute $94 million just in production taxes in the coming biennium in contrast to the coal industry that will contribute $40 million from production taxes.) And we use or plan to use the oil revenue for a host of things:

-property tax relief, providing a Highway Stabilization fund, Common Schools Trust Fund, city and county government, (Foundation Aid Program), water projects through the Resources Trust Fund, renewable energy projects and college tuition programs to name a few.

Meanwhile, the industry has added thousands of jobs in the last few years, with average salaries of $40-50,000 annually.

Our point is simply that the oil industry is vital to our economic well being and we should strive to keep the industry vibrant and thriving. There are few industries that put that kind of money into our economy.

(And NO industry other than oil pays 11.5% of its gross revenues to the state whether it makes a profit or not). So, we are here asking you to remove a key disincentive for future investment.

I want to set the stage for just a moment about North Dakota's role regarding our national energy situation:

- US imports 60% of our oil; 97% of which is used for transportation.

- 1/3 of our annual trade deficit of $776 BILLION is imported oil.

-"Oil is the life blood of our economy" (General (Ret) Chuck Wald, *National Commission on Energy Security, January, 2007. Market Place, Fargo ND.)*

-*"America's dependence on oil is a threat to national security and prosperity" (Wald)*

-*"reduce vulnerability by decreasing demand and increasing supply" (Wald)*

"North Dakota is blessed with energy leadership, abundant natural resources.....is at the center of the national energy debate, and is the sixth largest energy producing state in the US. North Dakota decision-makers, entrepreneurs, educators and citizens can make a significant contribution to the national energy security challenge". (Wald)

Increasing AMERICAN oil and gas holds a key place to securing our nation's energy future.

So, what does this bill have to do with energy security for our nation and meeting North Dakota's economic potential? SB 2361 is limited to the Bakken formation. It is designed to help develop what may be one of state's largest oil and gas resource—the Bakken formation—an unconventional resource (oil from rocks) which lies under 9 northwestern North Dakota counties representing 7200 square miles and nearly 5 million acres. The U.S. Geological Survey was in North Dakota in November, 2006 and announced it is conducting a study that will assess what part of the resource is "technically recoverable" which will be completed in March, 2008. (Some in USGS have estimated as much as 500 BILLION bbls are present). The "Bakken formation" represents a potentially huge resource for the State. The "Bakken" represents one of those areas where the Governor stressed the potential for growth in the State of the State that will help us to meet, and to <u>exceed</u> the national average income. Today, the Bakken represents 6% of our current production, yet half the drilling rigs in the state are in the Bakken.

But the Bakken play needs some help, which is why the bill is before you. The reasons SB 2361 was brought to the Legislature are: current economics; sustainability and price differentials.

<u>Economics:</u> At present our records show that only 15% of the wells drilled in the Bakken are economic, meaning they will not reach pay out much less a profit for the company. (That may seem odd in view of $50-60 oil prices, but these wells are 2-3 times more expensive to develop then more conventional exploration, so even though oil may be found, it costs more to drill, develop and operate the well than the oil will pay for---even at today's prices.)

<u>Sustainability:</u> We want to improve the sustainability of the Bakken play by making it more competitive. At present a producer looking to invest risk capital here, faces:

- high costs (drilling costs have doubled or tripled; some wells exceed $6.5MM).

- lack of infrastructure (The Governor spoke in the State of the State address of 6 mcf of gas being flared each day because of a lack of infrastructure).

- high taxes (North Dakota is 2nd or 3rd highest in nation at 11.5% on gross revenues tax (even if you loose money).

- and price differentials as high as $31 per barrel, that cost North Dakota $19 million in tax revenue and royalty owners and producers $230 million in 2006 alone. Improving that tax structure will reduce the uncertainty for companies to "step up" and make commitments for hundreds of millions in new infrastructure investments needed to address the price differential. Meanwhile, other states are competing with us. For example, Montana's tax structure for a horizontal well is 0% for 18 months, and then goes to 9%, which was vital to helping develop the Bakken, which doubled Montana's oil production. Similarly, Oklahoma passed legislation in 2006, putting its tax load at 1% for 48 months, then to 7% thereafter.

If we change our tax structure, we will reduce disincentives and encourage companies to stay, to figure out the Bakken. (North Dakota makes itself more competitive on a host of fronts, through the Department of Commerce, Tourism Division, Bank of North Dakota programs, the University system, and we should do so in the oil industry.)

Rebuttal: Finally, I want to turn to the rebuttal case for a few minutes. Some will argue that:

- We can't afford $9.75 million for SB 2361. That figure represents approximately the cost of 2 wells-- 1% of the wells the industry will drill this biennium. This industry helped very much to create $500 million ending fund balance, and will return the investment many times over. We can and should make this investment.

- "Big oil doesn't deserve tax breaks"....first this is not a "tax break". But, if we want companies to continue to invest in North Dakota, then we have to address the 11.5% tax on gross revenues that creates a huge disincentive to invest here. (Keep in mind it was "big oil" (Chevron/Devon et al) that discovered reserves in the Gulf of Mexico last year that will double our nation's reserves and adds to our national security.)
- OMB or others may say "taxes are already low" by averaging this incentive, or that exemption, taxes are 7-8% of gross revenues. But, the real answer none of that matters. Companies are investing in the Bakken to the tune of $320 million (80 wells to date @ average of $4 million), and it's the Bakken production that is taxed at 11.5% today. SB 2361 addresses the Bakken and only the Bakken.
- "The public won't stand for it." We should have the courage to do what is right for North Dakota. Our citizens embrace the industry and recognize that our nation needs to adjust our energy policy. Increasing production of AMERICAN oil and gas is part of that answer. North Dakota citizens will embrace those changes if it means more jobs, or less dependence on foreign oil.

Mr. Chairman, members of the Committee, these are the reasons the Northern Alliance and its members feel so strongly that SB 2361 is good tax policy and good public policy for North Dakota and we encourage you to give it a DO PASS recommendation to the North Dakota Senate.

01/30/07 22:40 FAX

Encore
Operating, L.P.
A Subsidiary of
Encore Acquisition Company

777 Main Street
Suite 1400
Fort Worth, Texas 76102
(817) 877-9955
fax: (817) 877-1655

January 30, 2007

North Dakota Senate Finance and Taxation Committee Members
Attn: Herbert Urlacker – Chairman
State of North Dakota
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Re: Senate Bill No. 2361

Dear Mr. Chairman and Committee Members:

Encore Operating, L.P. wants to express its support for Senate Bill No. 2361. Encore has made a significant investment in the Williston Basin over the last eight years and just recently acquired the assets of Kerr McGee (formerly Westport Oil and Gas) in North Dakota which includes over 60,000 net acres in the Bakken play. We are currently working on this acquisition which prevents us from attending this hearing.

The industry faces several obstacles while attempting to economically develop the Bakken in North Dakota. These obstacles are higher cost, price differentials, limited infrastructure and higher taxes. The State cannot control the first three mentioned above but they can control the tax environment. By supporting the tax incentives described in Senate Bill No. 2361, the State can provide one very important leg of stability required to encourage investment and continued development. This investment in our industry will be seen in many different forms such as higher tax revenues, increase in higher paying jobs and the development of new small businesses in the State.

Your leadership and support of Senate Bill No. 2361 will direct this play in the right direction and will benefit the State and the people of North Dakota for years to come. Thank you for your time and consideration.

Sincerely,

Mark A. Carter

Mark A. Carter, CPL
Senior Landman

Missouri River Royalty Corporation

January 29, 2007

North Dakota Senate Finance and Taxation Committee

Herbert Urlacker – Chairman
Ben Tollefson – Vice Chairman
Arden C. Anderson
Dwight Cook
Robert M Horne
Dave Oehlke
Constance Triplett

Re: Senate Bill No. 2361

My name is Ryan Kopseng, and I am the President of a small North Dakota oil and gas production company based in Bismarck called Missouri River Royalty Corporation (MRRC). MRRC was founded by my father Loren Kopseng and his partner Don Russell in 1984. My father Loren and Don Russell started our company with one well and have built it into what it is today. Currently, MRRC and its affiliates own an interest in 108 producing oil and gas wells in North Dakota and Montana. Our net company wide production is about 740 net barrels of oil equivalent per day. We have an annual drilling budget of $5-$7-million and are involved in several oil and natural gas plays in the Williston Basin including the Bakken play. Since we are a 100% North Dakota owned company, and we are also active producers and explorers of oil and natural gas in North Dakota, we thought the North Dakota Senate Finance and Taxation Committee would like hear what we think about Senate Bill No. 2361 - which we understand will be heard by your committee on Wednesday of this week. We therefore respectfully offer our views on Senate Bill No. 2361.

In our opinion, the business environment for companies looking for oil and natural gas in North Dakota at this moment in time is terrible. In particular, the Bakken play has been particularly frustrating. We face very high exploration costs, a poor market for our oil and natural gas, disappointing drilling results, and most disappointing of all, the third highest tax rate in the nation that simply confiscates 11.5% of the oil found right off the top. The **disincentives** of doing business in this State are significant, and need to be changed if North Dakota wants to eventually cash in on the Bakken.

It is a well know fact that billions of barrels of oil have been generated by, and are trapped in, the Bakken formation. The fact that billions of barrels of oil exist in the Bakken formation makes it an attractive exploration target for oil companies big and small. That is the good news. The bad news is that the billions of barrels of oil that are

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trapped in the Bakken are encased in very tight rock that has very low permeability and porosity making it very difficult to produce in most areas. Dozens of Bakken test wells have been drilled in North Dakota, of which, only a hand full are economic. However, a very small geographic area relative to the prospective area has been tested. "Sweet Spots" similar to the area in Richland County, Montana that is very prolific likely exist but have yet to be found.

Presently, here in North Dakota, we have several world class exploration companies drilling exploratory Bakken wells in North Dakota hoping to encounter Sweet Spots. To name a few, Conoco-Phillips (Burlington Resources), Continental Resources, Inc., Marathon Oil, Hess Corporation, EOG Resources, Inc., and Kerr-McGee Oil and Gas. These companies are multinational, multi-billion dollar corporations that have the best technologies at work, and teams of very good people trying to make an economic go of the Bakken play. These companies explore for, and produce oil, and natural gas all over the world. If anyone can figure out the Bakken Play, these companies can. To date, they have spent several hundred million dollars leasing and drilling in North Dakota. The amount of oil that has been found and will be produced currently does not justify what has been spent. We too have invested millions in the Bakken play with mixed results. Admittedly, they are disappointing.

We fear that these companies are going to leave North Dakota if something does not change. They can do business anywhere in the world. We need these companies to keep drilling and hopefully find the right geographic areas to drill, or figure out the right technology that unlocks the play. Big oil companies invest in the deals that generate the highest returns for their shareholders. They analyze deals all over the world and deploy capital into the deals that exhibit the highest rate of return. The Bakken is not an economic success currently so it's only a matter of time before Bakken exploration comes to a screeching halt. The decision makers in the big companies that answer to the shareholders of the companies drilling Bakken wells will make the decision to pull out of the Bakken play if something is not done soon to encourage them to stay here. Passing Senate Bill No. 2361 will be a step in the right direction. It will send a clear message to industry that North Dakota does want companies investing here, it does want the Bakken play to be figured out, and it wants all of the good things associated with a healthy stable energy industry. We also want the billions of dollars it will take to figure out the Bakken to be spent here. The small companies like Missouri River Royalty Corporation need the big companies to figure the play out. We do not have the resources to do it ourselves.

With time, and enough investment, we believe that several large Bakken Fields will be discovered in North Dakota. If those fields are found a lot of the other problems the industry faces will be solved too. With enough new production, new export capacity for oil and new refining capacity will be justified thereby eliminating the substantial differential we receive for our oil. With more activity, there will be more competition; this will drive the cost of drilling Bakken wells down too.

In our opinion, this is the most important Bill to be introduced relative to the North Dakota oil industry. It has billion dollar implications to this State and time is of the essence. Please do what is right, and vote yes. It is not a hand out, or a subsidy to the oil industry like the opposition to this Bill will purport. Interestingly, a lot of the industries in North Dakota only survive with subsidies and government handouts. We simply need to be taxed less (but still way more than all industry in North Dakota) to be a prosperous stable industry. Oil and gas producers in general are good cooperate citizens. We pay more than our share of tax in this State. What other industry looses as much as 11.5% of its revenue right off the top before expenses? We then pay every other tax such as corporate and personal income tax and sales tax. It is incredibly unfair, and wrong!

I apologize that I can not be at the hearing. I am traveling but am available to talk to if you would like to reach me. Unfortunately, the biggest oil convention in the world is going on this week in Houston, Texas. Roughly, 13,000 people will be at the North American Prospect Expo. I would like nothing more than to tell everyone I encounter that North Dakota's tax structure is changing for the better I can be reached on my cell phone if you would like to talk to me, (701) 400-7152. Thank you for you time and consideration.

Sincerely,

Ryan V. Kopseng
President

Bismarck, North Dakota
January 31, 2007

My name is Harold Hamm and I am the Chief Executive Officer of Continental Resources, Inc.

First, I want to thank Chairman Urlacher and the other Committee members for allowing independent producers, such as myself, to speak in support of this important bill.

I drilled my first two North Dakota horizontal Bakken wells in 2004. Both wells were uneconomic, as has been the case for most North Dakota horizontal Bakken wells drilled to date. Today I have two operated rigs and ½ interest in two non-operated rigs drilling in North Dakota for the Bakken Field.

Like other independents, I hope to be able to duplicate in North Dakota the success achieved in the Richland County, Montana Bakken area where I have drilled about 80 horizontal wells. In Richland County, it took the industry three to four years to figure out the drilling and completion techniques that would result in consistent, economic wells. The North Dakota Bakken play is experiencing a similar learning curve right now and we are hopeful for positive economic results soon. I am sure that all of you know that by every technical definition the Bakken Shale is an unconventional play -- basically Tombstone rock, that we are able to extract oil from. It takes tough technology, and a lot of it, to accomplish this.

In Montana, the complete exemption from production tax for horizontal wells for 18 months provided industry assistance during the period when production results were uneconomic. The payback for Montana was significant. Five years ago Montana produced one-half as much oil as North Dakota. Today, both states produce about 100,000 barrels per day with the Richland County Bakken Field alone producing 50,000 barrels per day.

Most wells in the Richland County Bakken Field have produced longer than 18 months and are paying the 9% production tax rate. As a result of the new discovery of the Richland County Bakken Field, Montana

will realize a doubling of its production tax revenues, collecting over $80 million annually from the Richland County wells.

The potential for North Dakota is even greater. In geographical size, the prospective area for Bakken in North Dakota is fifteen times that of Richland County.

A further example of the positive impact of a targeted tax incentive is the horizontal well tax exemption passed in Oklahoma just last year. In Oklahoma, new horizontal wells have a production tax rate of 1% for 48 months, after which the rate increases to 7%. Since the July 2006 effective date of that legislation, the number of new horizontal wells being drilled in the state has increased and there are 27 rigs drilling horizontal wells in the Woodford Shale play in Oklahoma alone; an area one-fifth the size of the prospective North Dakota Bakken play. The Woodford Shale, like the Bakken, is also an unconventional play.

The industry is investing about $1 billion annually in the North Dakota Bakken play. With the proposed bill, the activity level will increase and provide the opportunity for the industry to discover how to unlock the vast potential of this play.

Without the tax incentive, I fear that more companies will leave the area, as have several of late, and the potential will not be realized. Today, the challenges are even greater than two to three years ago in Richland County – drilling costs have doubled, oil prices are lower, and the NYMEX differential is wider.

Passage of this tax incentive bill would send a pro-business message to industry at this critical time in the Bakken Field development to encourage industry to invest the capital to unlock the significant potential here in North Dakota.

Thank you again for allowing me to speak in support of this bill.

TESTIMONY ON SENATE BILL 2361

Senate Finance and Taxation Committee

Dale L. Frink
North Dakota State Engineer, and
Chief Engineer-Secretary to the
North Dakota State Water Commission

January 31, 2007

Mr. Chairman and members of the Senate Finance and Taxation Committee, I am Dale Frink, North Dakota State Engineer, and Chief Engineer-Secretary to the North Dakota State Water Commission.

I am appearing before you today in opposition to Senate Bill 2361.

Senate Bill 2361 reduces the oil extraction tax on oil produced from horizontal wells in the Bakken formation in North Dakota. I have not seen a fiscal note on the impact to the Resources Trust Fund, but 20 percent of certain oil extraction taxes are deposited in the Resources Trust Fund that are used to fund statewide water projects.

The executive budget allocated all of the funds in the Resources Trust Fund to water projects. A partial list of those projects include the Southwest Pipeline, Northwest Area Water Supply (NAWS), Red River Valley Water Supply, Devils Lake Water Supply, Fargo Flood Control, and funds for municipal, rural and industrial water supply projects. Many of these projects are looking for more funds either in the 2007-2009 biennium or in the 2009-2011 biennium. Diverting revenues away from the Resources Trust Fund would only expand the problem of funding needs for water projects.

Cordillera
ENERGY PARTNERS

January 15, 2007

The Honorable John Hoeven
State of North Dakota
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505.

Dear Governor Hoeven:

Thank you for meeting with me and the other members of the Northern Alliance of Independent Producers last week. We appreciate your time and consideration of the important matters we discussed.

As a native North Dakotan, I have worked hard to bring investment into the state to explore the natural resources we are so fortunate to have. Cordillera Energy Partners has invested over $10 million in leases, seismic and drilling in the last two years. We currently own or control over 120,000 net acres and have completed two horizontal Bakken on these lands to date.

Today, our company is in an interesting position with significant capital to invest. However, like many other companies attempting to economically develop the Bakken, we must consider the economics of continued investment in North Dakota versus opportunities in other states. The two wells we have completed in Mountrail County cost in excess of $8 million to drill.

We are facing high costs, price differentials, a lack of infrastructure to capture the associated natural gas, high taxes and wells that are questionably economic. (Dropping oil prices and 15% pay out in the Bakken won't keep it going long.) As we move forward in hopes of further investment in North Dakota, each of the aforementioned issues will weigh into our decision making process.

We can work with service companies on costs. We can continue to improve and try new completion technologies. We can explore differing geological environments from area to area. And we are looking to address crude oil differentials and infrastructure problems for gas gathering in the long term. We cannot control oil prices. But, the state can improve the tax climate in which we do business, which will be the one step that provides the greatest certainty for companies to continue risking their capital in North Dakota and continue all the benefits those investments provide for our state.

Industry has invested millions of dollars to date attempting to bring the Bakken play to a sustained level of development. We are now at a critical juncture with investment and interest – and with all of the challenges facing industry today in North Dakota we need to keep the momentum, and the investment into North Dakota on track.

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Your leadership and support would go along way in helping us get this done. While taxes are only one important consideration, they are a very important one. Tax incentives for horizontal Bakken wells will benefit everyone – it is the discouraged company who would chose to leave or ignore North Dakota that will hurt all of us and mostly the state of North Dakota.

We look forward to the legislative process and continued dialogue with you. Thank you for all that you do for our industry and the great State of North Dakota.

Kindest Regards,

Jim Powers

James E. Powers
Vice President, Business Development

Cc: Bill Goetz, Chief of Staff
Ron Rauschenberger, Deputy Chief of Staff
Ryan Bernstein, Counsel to the Governor

Senate Bill No. 2361
Senate Finance and Taxation Committee and Chairman Urlacher
January 31, 2007, 10:45 a.m.
Testimony of James Arthaud

Same given to Senate approps

Chairman Urlacher, members of the Senate Finance and Taxation Committee:

My name is Jim Arthaud and I am President of Missouri Basin Well Services Inc, which is based out of Belfield North Dakota. I am here to testify in support of Senate Bill No. 2361.

Missouri Basin is a locally owned trucking company that is engaged in the business of hauling liquids in bulk for the oil and gas industry i.e., crude oil and salt water.

We started our business in 1979 with one employee, Twenty-Eight years later we have 120 employees. Missouri Basin's payroll for 2006 was $6,496,449, which equates to an average salary of $54,000 per year. Missouri Basin also provides full Blue Cross Blue Shield Family Health, Dental and Life Insurance which equals an additional $830,000 per year.

I am here today to ask for your support in giving the oil and gas industry the opportunity through these proposed tax relief bills to enable companies like Missouri Basin and hundreds of other companies in Western North Dakota to continue to provide good paying jobs and lifestyles to its employees. This is much more than a tax relief bill to oil companies; this is an economic development opportunity for North Dakota to be able to continue to grow the economy of Western North Dakota.

If you take Missouri Basin's 2006 payroll of $6,496,449 and use NDSU's economic multiplier of 2, that is equivalent to $19,489,347, which is returned to our local economy. We are only one of hundreds companies that provide support to the oil and gas business in North Dakota, this industry needs this incentive to keep going forward and growing the economy of Western North Dakota.

My company and my employees are 100% dependent on the oil and gas industry, which in these times of high costs, higher crude oil differentials, lower crude oil prices and pipeline constraints need this relief to keep exploring for oil and gas.

It is with eager anticipation that our company looks to you to give this bill a do pass recommendation. Thank you for the opportunity to testify before you today.

By: Ron Ness

VOLUME I ISSUE II

Oil & Gas TIDBITS

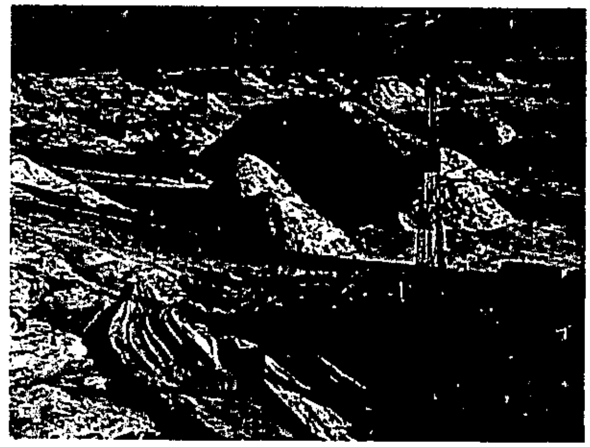
NORTH DAKOTA PETROLEUM COUNCIL

We Keep North Dakota Going Strong

GREETINGS

Greetings from North Dakota's oil and gas industry! This is our second issue of "Oil & Gas Tidbits." This publication will be distributed quarterly to North Dakota policy makers and interested parties in the oil and gas industry to keep you updated on issues that may be of interest in guiding our state's economy.

In future editions, we will focus on Energy Education, New Technology in the Oil and Gas Industry, Oil and Gas Research Council, Refining, the Economic Impact of North Dakota's Oil and Gas Industry and Workforce Needs Study Results.



Drilling rig in North Dakota Badlands

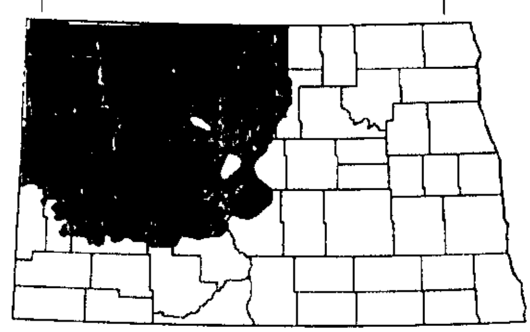
North Dakota Bakken – Geology at its Best and Worst!

Right now, the North Dakota Bakken Formation is the focus of much attention within the oil and gas industry as well as in the general media. Why all the excitement and why now? There are many answers, but the most important is it has great potential!

Oil industry leaders, as well as new operators, are beginning to nd success in the North Dakota portion of the Bakken Formation over a widespread area. The Bakken is once again creating excitement in the state's oil and gas industry.

365 million years ago North Dakota was covered by an ocean or sea which deposited various amounts of sand, silt, and shale. For this reason the Bakken Formation has been split into upper, middle, and lower members. The upper Bakken in North Dakota is comprised of black, oil-bearing shale. This rock is the source of Bakken oil.

The Bakken Formation is geology at its best because of the tremendous oil reserves (see Facts below), however, the Bakken Formation is also geology at its worst because sustainable oil production has proven to be elusive because of the character of the reservoir rock. ▶



Extent of the Middle Bakken Formation in North Dakota

FACTS

- The **Wilson M. Laird Core and Sample Library** in Grand Forks, North Dakota contains **6,119 feet of Bakken cores** from oil and gas wells.

- Reserve studies estimate **250 billion barrels of oil in the North Dakota Bakken**. However, current technology allows that **we could only produce about 1% of those reserves.**

- In 2006, there were **46 new horizontal Bakken wells drilled.**

- It cost nearly **$6 million to complete a Bakken well in 2006 compared to $1.3 million in 2004.**

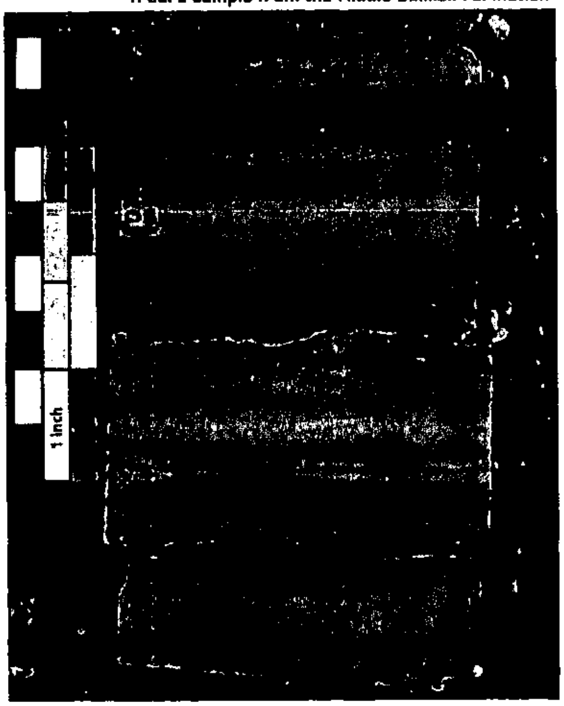
- **All Bakken wells** in North Dakota since October of 2005 **have been horizontal wells**. Statewide horizontal drilling accounted for **72% of all new wells drilled** and **55% of the state's total oil production** in 2005.

- The typical North Dakota **Bakken well is 10,000 feet deep** and has one to three horizontal **legs extending out as far as 9,000 feet** across two sections of minerals.

ND Bakken - Future Depends on Technology

Historically, the problem with drilling horizontally in this shale member, as was discovered during the previous Bakken plays of the 1980s and 1990s, is that the shale is impermeable, meaning it does not allow the oil to move freely. Unless a fracture system is encountered, the oil stays in place and the production declines rapidly. The formation needs natural conduits to enable oil to be produced. Recent technological advancements in horizontal drilling and well completion techniques including fracture stimulation has enabled the Bakken to be explored in a new way. This has resulted in the Williston Basin Bakken becoming one of the largest on-shore oil plays in the lower 48 states.

A core sample from the Middle Bakken Formation



Geologic study, continued drilling, and re nement of completion practices, will hopefully improve the success of this North Dakota Bakken play. Geology of the Bakken is very complex and this new technology is very expensive (see Facts section). As the Play develops scientists will continue to work together to unlock the mysteries of these ancient rocks.

Article submitted by Kathy Neset, owner of Neset Consulting in Tioga, ND. Kathy is a geologist and her business employs 22 people who provide well-site geological services for oil and gas companies in the Williston Basin. Kathy is a former school teacher. Neset Consulting is a member of the ND Petroleum Council.

North Dakota Petroleum Council

We Keep North Dakota Going Strong

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For more information, please visit our website at: www.ndoil.org

Ron Ness, President

Please note: If you do not wish to receive further mailings from us, please email ndpc@ndoil.org and you will be automatically removed from our mailing list.

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2.

Northern Alliance of INDEPENDENT PRODUCERS

PO Box 2422 • Bismarck, North Dakota 58502-2422 • Phone 701-224-5037 • Fax 701-224-5038 • email NProducers@aol.com

SB 2361 (Bakken Tax Incentive Bill)

- Bill exempts oil from new horizontal Bakken wells from 4.5% of extraction tax for 24 months (total tax of 7%); thereafter the extraction tax is 4% (total tax of 9%)
  - Oil is subject to 5% production tax and 2% of extraction tax during exemption period and a combined tax rate of 9% after the exemption period
  - New horizontal Bakken re-entries are exempted for 9 months at same tax rates.
  - I.e., bill lowers tax from11.5% to 7% during exemption period; then restores to 9%

- Bakken represents a huge potential asset for ND. The area is over five million acres (15 times the size of the Elm Coulee Bakken Field in Montana which produces 50,000 barrels per day)

- Average well drilled in Elm Coulee Field from 2000 to 2003 did not "payout". After 3 years of experimenting with different drilling and completion methods, the industry finally determined the techniques that worked. Field production grew significantly thereafter.

- Montana horizontal tax incentives (0% for 18 months and 9% thereafter) provided encouragement for industry to expend the capital to unlock the Elm Coulee Field.
  - In 2006, Oklahoma passed horizontal tax incentive (1% for 48 months and 7% thereafter) which is now spurring drilling for the Woodford Shale formation, which has 27 rigs today.

- ND Bakken is in its infancy--following the same track as Elm Coulee – most (85%) wells to date won't "pay out". 20 of 40 rigs are drilling in Bakken; represents 6% of ND production.

- There is potential for numerous Elm Coulee fields in North Dakota, however if only one field comparable to Elm Coulee is found in North Dakota the benefits will be:
  - $2 billion in direct capital investment for drilling of 400 wells
  - Indirect economic impact in multiples following the $2 billion of direct investment
  - $400 million in future extraction and production taxes (73% of total reserves remains to be produced after two year period)
  - 50% increase in North Dakota oil production from current 100,000 barrels per day

- Challenges are greater today than at time of Elm Coulee development with higher costs, higher crude oil differentials and lower crude oil prices.

- SB2361 is part of package that will result in more jobs, less dependence on foreign oil, greater US energy security, and a return of capital to North Dakota.

Northern Alliance (1)

of INDEPENDENT PRODUCERS

PO Box 2422 • Bismarck, North Dakota 58502-2422 • Phone 701-224-5037 • Fax 701-224-5038 • email NProducers@aol.com

Senate Appropriations Committee
North Dakota Senate
February 14, 2007

Legislative Hearing **SB 2361 (Bakken Tax Incentive bill)**

Mr. Chairman and members of the committee, my name is Robert Harms. I am president of the Northern Alliance of Independent Producers, which is an oil and gas trade association of independent oil producers operating in the Williston Basin. Today, the Alliance represents over 40 companies operating in the Williston Basin and who are responsible for 45% of the wells drilled in 2006. At an average cost of $4 million per well that represents a capital outlay of $900 million annually.

We strongly support SB 2361, the Bakken Tax Incentive Bill. The following are some of the companies that support the bill: Encore Acquisition Partners, Armstrong Corporation, Cordillera, EOG, Headington, Copperhead Corporation, Powers Energy, Diamond Resources, Marathon, Missouri River Royalty, Missouri Basin Well Service, Murex, Northern Energy, Pearce & Durick, Ward-Williston, and Wyoming Casing---many located here in North Dakota and represented in the room this morning.

I would like to talk to you about 3 things this morning:

1. What the bill does.
2. The cost

3. Why SB 2361 (and SB 2397 from yesterday) are necessary.

First, the Bill does several things, providing:

- 24 month exemption from 4 ½ % of the oil extraction tax for all new horizontal Bakken wells (7% total tax).
- 9 month exemption from 4 ½ % of the oil extraction tax for reentries that are drilled as horizontal Bakken wells (7% total tax).
- After the exemption period, the tax for horizontal Bakken wells is 4% (for a total of 9%) rather than the usual 11.5% tax rate.
- Has a 4 year sunset as amended in the Finance and Tax Committee

The importance of the oil industry:

For 2005-2007 North Dakota receive the following (as per most recent projections)

$263 million (general fund tax collections)

$ 10 million (estimate personal income tax on royalties, not included above).

$ 15 million (federal royalty income)

$ 79 million State Land Department oil revenues (not general fund)

For 2007-2009 North Dakota is projected to receive the following oil revenues:

$271 million (general fund tax collections) $238 million production taxes alone.

$ 12 million (estimate personal income tax on royalties, not included above).

$ 13 million (federal royalty income)

$ 50 million (State Land Department estimate; March 06 estimated $28 million)

Our point is simply that the oil industry is vital to our economic well being and we should strive to keep the industry vibrant and thriving. There are few industries that put that kind of money into our economy. And no other industry pays 11.5% of its gross revenues to the state whether it makes a profit or not. So, the changes provided for in SB

2361 (and SB 2397) are timely and frankly will set the stage from which the oil industry can continue to thrive and contribute to our economy and our State's tax revenues.

The OIL INDUSTRY is the third largest revenue source for the general fund, only behind sale and income taxes. And we use or plan to use the oil revenue for a host of things:

-property tax relief, providing a Highway Stabilization fund, Common Schools Trust Fund, city and county government, (Foundation Aid Program), water projects through the Resources Trust Fund, renewable energy projects and college tuition programs to name a few.

Meanwhile, the industry has added thousands of jobs in the last few years, with average salaries of $40-50,000 annually. Our point is simply that the oil industry is vital to our economic well being and we should strive to keep the industry vibrant and thriving. There are few industries that put that kind of money into our economy.

Cost of the Bill:

The original fiscal note provides $9.5 million loss of revenues (60% from permanent oil trust fund; 20% from resources trust fund and 20% according to Article X). That was based on full 6.5% of extraction tax being exempt as provided in the original bill. Amendments adopted in Finance and Tax restored 2% of the extraction tax (lowering the exemption to 4.5%) reducing the cost by 31%. So, a revised cost estimate should be $6.55 million. (If SB 2397 is adopted, costs would be reduced further, (by half) as SB 2397 reduces taxes for all new production beginning July 1, 2008 to 7%). The cost represents less than 1% of what the industry will spend just in drilling new wells this year. We think this is a small incentive to provide to an industry that contributes so much to our State's wealth and economic vitality.

The Bakken and why the bill is necessary:

SB 2361 is limited to the Bakken formation. It is designed to help develop what may be one of state's largest oil and gas resource—the Bakken formation—an unconventional resource (oil from rocks) which lies under 9 northwestern North Dakota counties representing 7200 square miles and nearly 5 million acres. Senator Dorgan brought the U.S. Geological Survey to North Dakota in November, 2006 which announced it is conducting a study that will assess what part of the Bakken is "technically recoverable" which will be completed in March, 2008. (Some in USGS have estimated as much as 500 BILLION bbls are present). The "Bakken formation" represents a potentially huge resource for the State. It represents one of those areas where the Governor stressed the potential for growth in the State of the State that will help us to meet, and to exceed the national average income. Yet, today it represents only 6% of our current production, although half the drilling rigs in the state are in the Bakken.

The reasons for SB 2361 are: current economics; sustainability and price differentials.

Economics: At present our records show that only 15% of the wells drilled in the Bakken are economic, meaning they will not reach pay out much less a profit for the company. (That may seem odd in view of $50-60 oil prices, but these wells are 2-3 times more expensive to develop then more conventional exploration, so even though oil may be found, it costs more to drill, develop and operate the well than the oil will pay for---even at today's prices.)

Sustainability: We want to improve the sustainability of the Bakken play by making it more competitive. At present a producer looking to invest risk capital here, faces:

- high costs (drilling costs have doubled or tripled; some wells exceed $6.5MM).

- lack of infrastructure (The Governor spoke in the State of the State address of 6 mcf of gas being flared each day because of a lack of infrastructure).

- high taxes (North Dakota is 3rd highest in nation at 11.5% on gross revenues tax

- and price differentials as high as $31 per barrel, that cost North Dakota $19 million in tax revenue and royalty owners and producers $230 million in 2006 alone.

Meanwhile, other states are competing with us. For example, Montana's tax structure for a horizontal well is 0% for 18 months, and then goes to 9%, which was vital to helping develop the Bakken, which doubled Montana's oil production. Similarly, Oklahoma passed legislation in 2006, putting its tax load at 1% for 48 months, then to 7% thereafter. If we change our tax structure, we will reduce disincentives and encourage companies to stay, to figure out the Bakken.

Mr. Chairman, members of the Committee, these are the reasons the Northern Alliance and its members feel so strongly that SB 2361 is good public policy for North Dakota and we encourage you to give it a DO PASS recommendation to the North Dakota Senate.

ENERGY FACTS:

- US imports 60% of our oil; 97% of which is used for transportation.

- 1/3 of our annual trade deficit of $776 BILLION is imported oil.

- 1 billion people in India and 1.3 billion people in China now compete with the US for world oil supplies.

- China bought 25% of the Alberta tar sands now to be exported from North America.

energy situation:

- US imports 60% of our oil; 97% of which is used for transportation.

-"Oil is the life blood of our economy" (General (Ret) Chuck Wald, *National Commission on Energy Security, January, 2007. Market Place, Fargo ND.)*

-*"America's dependence on oil is a threat to national security and prosperity" (Wald)*

-*"reduce vulnerability by decreasing demand and increasing supply" (Wald)*

"North Dakota is blessed with energy leadership, abundant natural resources.....is at the center of the national energy debate, and is the sixth largest energy producing state in the US. North Dakota decision-makers, entrepreneurs, educators and citizens can make a significant contribution to the national energy security challenge". (Wald)

1-14-07 . Tribune

Energy: N.D.'s great opportunity

By GEN. CHARLES WALD

GUEST COLUMN

With over 35 years of military experience, I've faced my fair share of challenges. I've flown combat missions over Vietnam, Cambodia, Iraq and Bosnia. I've commanded U.S. troops around the world. Today, I believe America's greatest challenge is finding a secure source of energy.

That is why, after completing my career in the Air Force, I became a member of the Energy Security Leadership Council. On the council, I am working with some of America's most prominent business and retired military leaders to develop a comprehensive, long-term policy to reduce U.S. oil dependence and improve energy security.

It also is why I am coming home to North Dakota, where I believe we can find many of the answers to America's growing energy crisis. I have accepted an invitation from Sen. Kent Conrad to deliver a speech on Jan. 17, in Fargo, at Marketplace for Entrepreneurs. I encourage as many North Dakotans as possible to attend — because, not only is energy our nation's greatest challenge, it is North Dakota's greatest opportunity.

Currently, America consumes roughly 20 million barrels of oil a day. We import about two-thirds of this oil from some of the most unstable parts of the world. In a few short years, as oil consumption increases in nations such as China and India, meeting the global demand for energy will create international tensions and pose serious security threats. Suffice it to say, we are in for a rough ride through uncharted territory.

At the Energy Security Leadership Council, we are particularly concerned about the dangers of an oil supply shock. Because approximately 97 percent of transportation in America runs on oil, we are highly vulnerable to interruptions in the supply of this vital commodity. There is no shortage of scenarios for how the flow of oil might be cut. Foreign powers that would never dare to attack America directly could do so by striking at oil facilities overseas. Al-Qaida has also expressly declared war on the world's vulnerable oil production and delivery infrastructure. In sum, we face a real threat to our nation's economic security — and our national security.

By raising the fuel efficiency of our cars and trucks, increasing the availability of alternative fuels, and responsibly expanding domestic oil exploration and production, we can put ourselves in a far better position to weather an oil supply crisis.

I am firm in my belief that North Dakota, with its vast resources of traditional and renewable energy sources, can play a significant role in meeting America's energy demands. How we utilize North Dakota's diverse resources to help lessen our dependence on oil and improve energy security overall can be a blueprint for other regions of the country to follow. But to do that, we will need the right federal policies in place.

For instance, if we are going to convert North Dakota's 800-year-supply of lignite coal into liquid fuel, it will require federal tax incentives to deploy clean and efficient production facilities.

North Dakota's rich harvests of soybeans, canola and corn can also provide energy, since they can serve as economically-feasible sources of biodiesel and ethanol. In fact, we have the capacity to produce as much as 336 million gallons of ethanol in North Dakota. Once again, government has a role to play — not only in promoting ethanol output, but also by helping family-owned gas stations install ethanol-compatible pumps and ensuring that consumers can purchase flexible-fuel vehicles.

Oil will remain an important energy source, and it is worth remembering North Dakota's resources of oil, currently producing around 10,000 barrels of oil a day. Of even greater significance is the fact that North Dakota ranks No. 1 in wind energy potential for generating electricity. But whatever the particular form of energy, if we are to make the most out of our state's diverse treasure of traditional and renewable energy resources, we must have the right federal policies.

I personally believe Sen. Conrad's energy plan, the BOLD Energy Act, is a critical component of any comprehensive plan that will be required for greater energy security. Conrad's policy promotes a three-step approach:

- ✓ Promoting greater production of renewables such as ethanol, biodiesel, and wind;
- ✓ Maintaining a domestic supply of traditional energy sources, including oil and gas.
- ✓ Investing in the future by encouraging the development of hydrogen and coal-to-liquid-fuel technologies.

At Marketplace, I expect to lay out the great energy challenge before our nation, as well as the vital steps we must take to navigate our way to energy security. I look forward to working with Conrad in this effort to strengthen our nation. It is the right thing to do for North Dakotans and for all Americans.

(A native of Minot and graduate of North Dakota State University, Gen. Charles "Chuck" Wald [ret.] is a national leader on energy policy. Wald will be the keynote speaker at Marketplace for Entrepreneurs on Wednesday at the Fargodome. — Editor)