

HOUSE BILL NO. 1322

Introduced by

Representatives Porter, Brandenburg, S. Kelsh

Senators Flakoll, Triplett, Wardner

1 A BILL for an Act to create and enact a new chapter to title 17 of the North Dakota Century
2 Code, relating to an energy policy commission; to provide for an energy policy commission
3 study; to provide for a water resources study; and to provide for a legislative council study.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 17 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Energy policy commission.**

- 8 1. The energy policy commission is composed of:
- 9 a. The commissioner of commerce;
 - 10 b. A representative of the agriculture community appointed by the governor;
 - 11 c. A representative recommended by the lignite energy council appointed by the
12 governor;
 - 13 d. A representative recommended by the North Dakota petroleum council
14 appointed by the governor;
 - 15 e. A member from the biodiesel industry appointed by the governor;
 - 16 f. A member from the biomass industry appointed by the governor;
 - 17 g. A member from the wind industry appointed by the governor;
 - 18 h. A member from the ethanol industry appointed by the governor;
 - 19 i. A representative recommended by the North Dakota petroleum marketers
20 association appointed by the governor;
 - 21 j. A member from the North Dakota investor-owned electric utility industry
22 appointed by the governor;
 - 23 k. A member from the generation and transmission electric cooperative industry
24 appointed by the governor;

1. A member from the lignite coal-producing industry appointed by the governor;

2. A member from the refining or gas-processing industry appointed by the
3. governor; and

4. Additional nonvoting members appointed by the governor.

2. Each member of the commission shall serve for a term of two years, beginning July
6. first, may be reappointed for additional terms, and serves at the pleasure of the
7. governor.

3. The commissioner of commerce is chairman of the commission.

4. The commission shall meet at least four times per biennium or as often as the
10. chairman deems necessary. The commission shall hold at least two public
11. hearings per biennium, at which time interested parties may present testimony
12. regarding issues pertinent to the development of the policy. The department of
13. commerce shall provide staffing for the commission.

5. The commission shall develop a comprehensive energy policy for the state. The
15. commission shall monitor progress made toward the goals outlined in the energy
16. policy and make changes to the energy policy as needed. The commission shall
17. report biennially to the legislative council.

6. The members of the commission who are not state employees are entitled to
19. mileage and expenses as provided by law for state officers and employees.
20. Unless otherwise provided in this subsection, the expenses of appointed members
21. are to be paid by the department of commerce. A state employee who is a
22. member of the commission must receive that employee's regular salary and is
23. entitled to mileage and expenses, to be paid by the employing agency.

24. **SECTION 2. ENERGY POLICY COMMISSION STUDY - REPORT TO LEGISLATIVE**

25. **COUNCIL.** The energy policy commission shall study, during the 2009-10 interim, issues
26. related to taxation of the energy industries in this state. The tax commissioner and the
27. department of commerce shall assist the commission in conducting this study. Notwithstanding
28. sections 57-38-57 and 57-39.2-23 and other confidentiality statutes, the tax commissioner shall
29. provide the department of commerce the information necessary to accomplish and effectuate
30. the intent of this section. Confidential information the department of commerce receives from
31. the tax commissioner may not be divulged by the department of commerce unless the

1 information is in the aggregate and in a manner that will not divulge information specific to any
2 taxpayer. The commission shall report its findings and recommendations to the legislative
3 council before September 1, 2010. The study must include:

- 4 1. An analysis of the use and effectiveness of existing income and sales tax
5 incentives to promote energy development.
- 6 2. An analysis of the traditional tax framework for lignite and electric generation
7 projects to determine which incentives may be expanded to provide for new
8 projects that allow for the future growth of the lignite industry.
- 9 3. Consideration of property taxation of wind farms based upon installed capacity and
10 production.

11 **SECTION 3. WATER RESOURCES STUDY - REPORT TO LEGISLATIVE COUNCIL.**

12 The state water commission shall study, during the 2009-10 interim, the effect of energy
13 development on the state's water resources and make recommendations on methods to
14 minimize this impact and maximize the available water supply to support future energy growth.
15 The state water commission shall cooperate with the energy policy commission in conducting
16 this study. The water commission shall report its findings and recommendations to the
17 legislative council before September 1, 2010.

18 **SECTION 4. LEGISLATIVE COUNCIL STUDY - LIVESTOCK FEEDING FACILITY**

19 **PERMITTING PROCESS.** The legislative council shall consider studying, during the 2009-10
20 interim, issues related to the development of livestock feeding facilities and the use of
21 byproducts from biofuels production as a feedstock. The legislative council shall report its
22 findings and recommendations, together with any legislation required to implement the
23 recommendations, to the sixty-second legislative assembly.