

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Porter

1 A BILL for an Act to create and enact a new chapter to title 17 relating to an energy policy
2 commission; to provide for an energy policy commission study and a water resources study;
3 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 appointment by the governor;
 - 11 c. A representative recommended by the lignite energy council and appointed by
12 the governor;
 - 13 d. A representative recommended by the North Dakota petroleum council and
14 appointed by the governor;
 - 15 e. A member from the biodiesel industry appointed by the governor;
 - 16 f. A member of 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 and appointed by the governor;
 - 21 j. A member from the North Dakota investor-owned electric utility industry and
22 appointed by the governor;
 - 23 k. A member from the generation and transmission electric cooperative industry
24 and appointed by the governor;

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

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

5 n. Additional nonvoting members appointed by the governor.

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

9 3. The commissioner of commerce is chairman of the energy policy commission.

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

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

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

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

26 **COUNCIL.** During the 2009-10 interim, the energy policy commission shall study issues related
27 to taxation of the energy industries in this state. The tax commissioner and the department of
28 commerce shall assist the commission in conducting this study. Notwithstanding sections
29 54-38-57, 57-39.2-23, and other confidentiality statutes, the tax commissioner shall provide the
30 department of commerce the information necessary to accomplish and effectuate the intent of
31 this section. Confidentiality information the department of commerce receives from the tax

1 commissioner may not be divulged by the department of commerce unless the information is in
2 the aggregate and in a manner that will not divulge information specific to any taxpayer. The
3 commission shall report its findings to the legislative council before September 1, 2010. The
4 scope of the study shall include:

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

12 **SECTION 3. WATER RESOURCES STUDY - REPORT TO THE LEGISLATIVE**

13 **COUNCIL.** During the 2009-10 interim, the water commission shall study the effect energy
14 development is having on the state's water resources and make recommendations on ways to
15 minimize this impact and maximize the available water supply to support future energy growth.
16 The water commission shall cooperate with the energy policy commission in conducting this
17 study. The water commission shall report its finding to the legislative council before September
18 1, 2010.

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

20 **PERMITTING PROCESS.** During the 2009-11 interim, th legislative council shall consider
21 studying issues related to the development of livestock feeding facilities and the use of
22 byproducts from biofuels production as a feedstock. The legislative council shall report is
23 findings and recommendations, together with any legislation required to implement the
24 recommendations, to the sixty-second legislative assembly.