

June 2009

TITLE 17

Energy

Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 17. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2245 changes the time at which a wind option agreement, wind easement, or wind energy lease terminates due to inactivity from not any development within five years to if within five years a certificate of site compatibility or conditional use permit has not been issued, if required, and if within five years a transmission interconnection request is in process and not under suspension.

Senate Bill No. 2291 allows a livestock operation that has reached the \$250,000 limit under the biofuels partnership in assisting community expansion fund to be eligible to receive another \$250,000 as an additional interest rate buydown for the purchase or installation of a biodigester system.

Senate Bill No. 2297 changes cross-references for the purposes of the line mile tax in lieu of property tax.

Senate Bill No. 2376 allows the North Dakota Transmission Authority to replenish a reserve fund for a portion of bonds issued by the authority.

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

House Bill No. 1322 creates an Energy Policy Commission chaired by the Commissioner of Commerce and composed of members of the energy industry to develop a comprehensive energy policy for the state.

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

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