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1128

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1128

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1128

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 16, 2007

Recorder Job Number: 1176

Committee Clerk Signature Stephanie N Thomas

Minutes:

Chair Keiser opened the hearing on HB 1128.

Karlene Fine, Industrial Commission: See written testimony #1.

Lynn Helms: Overview of handout (map) #1. See written testimony #2.

Rep. Dosch: Assuming this authority is granted, what sort of time frame are we looking at to build this? If we do build it, what are then the relationships with the other states?

Lynn: The Canadian superhighways for crude oil are targeted to the keystone pipeline, which is targeted to go in service in 2009/2010. The other one is still just in the planning stages. We're looking at a 2-3 year time frame before the pipeline authority can actually show what it can do, in terms of crude oil transportation. In terms with working with the other states, Governor Hoeven has revitalized a task force with Interstate Oil and Gas Compact Commission, which is working on the crude oil market situation in the Rockies. It involves people from all of the Rocky states, Alberta, and the Canadian federal government along with people from DOE and Interior.

Rep. Zaiser: When you are able to build this project, have you done any projections in terms of payback and costs?

Lynn: I really have not at this point. These pipelines typically look for a 10 year return on investments; I'm going from history, so that's typically what they set their tariffs at. We're the state of ND to get involved and to build or be involved in a $300 million dollar project to deliver crude oil straight to the keystone pipeline over here to Jamestown, we'd probably be looking for something in that range.

Rep. Thorpe: The Canadian side of the provinces, do they have refining capacity, and do they move products east and west, or is it pretty much all south?

Lynn: The Canadian provinces, most of their refining capacity is over in the Ontario region, so they move most of their crude oil currently into the Sardinia, Ontario, and Chicago market. They are looking at expansion plans. The Chinese National Offshore Oil Company purchased a 25% stake in the oil sand. The pipeline expansions to the west are to build a huge crude port to take the Chinese share of the oil sands to China to be refined. The Canadian refinery system is full, as is ours. They're really restricted in their ability to expand. They want to displace Venezuelan crude from our refining system down in Houston.

Rep. Keiser: You have me nervous with the capacity issue. I can see the Transmission Authority coming in and saying we want the right to capacity for our electrical transmission, and also the conclusion of the last resort issue on that particular issue. Share with the committee this need for the right to capacity, and why that exclusion isn't imperative in this bill.

Lynn: That is a pretty significant risk that you take on when you take a right to capacity. The initial stages there is a non binding nomination that most of these pipelines go through. That would be the point at which the state of ND would acquire capacity. As you look at a pipeline, for example this one from Ft. McMurray all the way to Houston, they're in the process right now of going out and asking for non binding nominations to test the waters and see how much interest there is. Is there enough oil to fill our pipeline? At that point, you really are not making a firm commitment. About a year later if it looks like there's enough capacity, or oil to fill this pipeline, then they'll go up for binding nominations. At that point the Transportation Authority would have the authority to actually commit the state to purchasing space on a pipeline. The reason we wrote that into law was because it was such an effective tool for the state of Wyoming.

Rep. Keiser: What's wrong with giving the pipeline authority the power to make either of the types of decisions relative to capacity, and still require the attempt to exit strategy? Can we write an amendment so that we don't have to do it 180 days before, but that you are in fact obligated to go back to the private sector and do everything within the power of the state to exit the ownership?

Lynn: That is a very good idea, and I believe that is in the legislation. We still have to do the exit strategy.

Rep. Keiser: Karlene said this was exempted from the actual strategy. The capacity issue is exempted.

Karlene: Just the hearing process upfront, but we still have to do the exit strategy, and have that available when we make the decision.

Overview of the Fiscal Note for HB 1128.

Rep. Keiser: This is a new continuing appropriation?

Karlene: No, there has been in place a continuing appropriation for Oil and Gas Research Fund, the first $1.3 million a biennium.

Rep. Johnson: On the procurement part, you're asking for a waiver of what?

Karlene: Under state law, we all have to abide by procurement regulations, so that's how you go about the biding process for services, as well as the supply. We are asking for an exemption for that.

Rep. Johnson: The exemptions just for expertise?

Karlene: It's basically for all the services. We'd still be going through a contracting process, and still taking bids. Basically, for services it's more important that we have the exemption for that.

Rep. Vigesaa: In a perfect world, if these pipelines were in place right now, what would the price of oil coming out of ND raise to in your estimate, and how much revenue would that bring into our state on a biennium?

Lynn: We essentially had a perfect world until the plat pipeline went out unfortunately December of 2005, and the express pipeline filled everything in Montana, Wyoming and Colorado with western Canadian sour crude oil. For as long as we have tracked crude oil price differentials, ND crude has sold at about $2.50 to $3.00 a barrel. ND crude would be batching about $49.00 a barrel today. We are about $20 a barrel below Nymex for a brand new well out there that doesn't have a contract, and doesn't already have a home for this oil. Last year in 2006 for the state of ND, it cost us $15 to $20 million, we're probably looking at $10 to $15 million dollars this coming year. The situation is better with the expansion, but it's not cured by any means. We're still looking at a cost to the state of $10-$15 million to the mineral owners, and the royalty owners in those wells about the same amount, just a little bit more. That translates to the cost of industry of about $80 million that could be reinvested into new wells.

Rep. Dosch: The bonds that you anticipate issuing to finance the project, what type of bonds are they. Are they tax exempt, or are these revenue bonds, or what type?

Karlene: This would be revenue bonds. We would have to have a source to repaying off the debt service on those bonds.

Rep. Keiser: Can't this authority service the shallow gas industry just as well, and does it have the flexibility to do it?

Lynn: Yes, it certainly could service the shallow gas industry, just as well as it could service ethanol industry, or carbon dioxide, or coal to liquids. In that case, the pipeline authority could look into how we could market, for example, in the resources shallow gas as discovered in Emmons County.

Ron Ness, ND Petroleum Council: See written testimony #3.

Rep. Thorpe: On handout #1, how do they finance in regards to oil and crude and those things? Is it done through government up there, or through the industry?

Ron: You build the pipeline before you have the committed production put in the pipeline. To go out and build a pipeline, you have to have committed barrels to fill that pipe.

Robert Harms, Northern Alliance of Independent Producers: See written testimony #4.

Ron Day, Tesoro Mandan Refinery: See written testimony #5.

Rep. Thorpe: Is the reason that we haven't heard any news of Tesoro considering expansion, the reason being piping the finished products out. Is that one of the holdups?

Ron: In order for the refinery to have an expansion project, we'd have to find new markets. Right now our only real market is to go east through our existing pipeline. For us to drill that facility out there, we'd have to find a new market, which right now the only economic means to get to market is through the pipeline.

Rep. Kent Onstad, District 4: I work with the rural electric company that deals a lot of power concerns for oil companies. It is a concern of representatives from Montreal County, that to properly develop this potential oil field, I don't think we've established how large and how large an impact this is going to be to ND. It's probably the single largest development in ND since the development of Harwood Spring, to create the capabilities to expand and help develop the potential of this for the state of ND.

Edward Steadman, Energy & Environmental Research Center: See written testimony #6.

Rep. Johnson: The economic carbon credit trading, that would be kind of like green energy where you need to have somebody brings energy for your company, and if you don't have it you purchase the credit from a company that uses more than their share?

Edward: That basically is what it is. It's anticipated that there is restrictions put on a co2 emissions, and that in a cap and trade type situation, the carbon credits will be bought and sold among different industries that produce the co2.

Rep. Amerman: Is carbon sequestration, CRP lands, pasture lands, and grasslands, would those all be good storage areas?

Edward: Yes. There are two types of co2 sequestration; one is geologic sequestration, which is what I focused on in my testimony. The other is a trust real sequestration, and that's where things like no till farming, management of grasslands and wetlands can be used for producing carbon credits. Both types will be needed in the future, and both will benefit our states economy.

Randy Schnider, ND Ethanol Producers Association: I'm here to support our oil, gas, and coal in HB 1128. It allows us to take a look at moving ethanol to a pipeline. Today our industry really only has two ways to move the 400 million gallons that we're going to be producing through truck or rail. Today, it costs us about 10 cents per gallon to move ethanol by rail. Our ability to move ethanol would probably be about 1 cent per gallon, so our industry would save roughly about 9 cents per gallon.

Rep. Nottestad: We talked about ethanol not being able to be transported by pipeline, because it picks up residuals. You say you'd like to get into the transportation of it, am I wrong from what I heard before?

Randy: Historically, the technology with regard to pipeline has been a problem, because ethanol will grab the water that is in the pipeline. There's new technology being developed that will allow kind of a dedicated pipeline, especially for ethanol, that would prevent some of those problems from occurring.

Sandy Tabor, Lignite Energy Council: Support HB 1128.

Vicki Steiner, ND Association of Oil and Gasification County: Support HB 1128.

Jeff Herman, Petro Company: Support HB 1128.

Rep. Boe: This $15 to $31 disparity between the NY Stock Exchange and NY price, is that considered a basis like we do in the grain markets? How much of this basis could we see disappear because of the pipeline?

Jeff: We've always been $2 to $3 less, which would be considered the basis. So, if we could close it within $5 that would be fantastic.

Hearing Closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1128

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1330

Committee Clerk Signature Stephanie N Thomas

Minutes:

Rep. Johnson opened the subcommittee hearing on HB 1128.

Rep. Keiser: There probably is a need to address the right to capacity issue. I do have a potential problem, which is to limit the state exposure to risk associated with that capacity question. There were two critical points in time when capacity becomes a big issue. There's a preliminary point in time, when the state needs to be able to step up to the plate, and say we are committed to capacity. The second when we have to make a commitment to capacity, then I think our committee has a responsibility to do due diligence on that question, because the state will be taking the lead and ownership potential of capacity, and what are the liabilities with that. What happens if we default on the capacity? How do we provide the optimal exit strategy out of the capacity issue if at all possible? We've done it on the Transmission Authority, and capacity is something we want to be apart of, but if in 4 or 5 years we've bought a bunch of capacity and can't deliver it, we're being assessed $50,000 a day because we're not delivering on the capacity commitment we made. I would just like to know that I'm taking that risk up front. How does it open the state to risk, what is the risk, and is there a way to minimize our exposure?

Rep. Kasper: When you talk about the concern of capacity, when does the risk of capacity first begin?

Rep. Keiser: That's part of the question. What are the dates when things happen? Ironically, this is kind of a straw man deal, because if we build this we are going to have more supplies that we'll have capacity.

Icona Jeffcoat-Sacco: The real interest of the PSC here is the captive repair, which not every line is going to affect the captive review, but a natural gas line would. As I understood what we were saying from Wyoming is that the state and authority could reserve the capacity in order to make the line viable to be built. So, if you follow through on yours, but everybody else defaults, then you have the line half full, which then the rates are being charged only to the half that's flowing through the line. The other people have all defaulted on the capacity they promised to pay; the rate would end up paying double the normal price for the transportation. So, that is an additional capacity that I'm a little worried about.

Todd Cranda: As far as I understand the commercial side of the project, Trans-Canada has already gone through the introductory open season, which is non binding. Then we went through a binding season, which is just that. It commits shippers to a set amount, whether it is pay or play. You pay anyway; so that they then can go back, finance off of those commitments of this entire project, determine the tariff, and everything that is going to go through for long term. I believe the contracts were on average 10 plus years.

Lynn Helms: The only way that company who made it binding in obligation to the pipeline gets out of that obligation is bankruptcy. There committed whether they put a deco-thermal gas on that pipe, or a barrel of oil in there pipe.

Rep. Keiser: The suppliers make that commitment. So, the state should step up and say we're making the commitment, but I don't yet have the suppliers behind me, yet there is that potential. The risk could be pretty big, so how do we minimize so that we get the suppliers behind us?

Lynn: In Wyoming, the interior department said we want to experiment with taking our oil and gas in kind, in marketing ourselves. We think we can get more than if we let the market operate for us, and so they did that as a pilot project. So, Wyoming has there own contributions in there state. When they made that commitment to put 200 million cubic feet a day on that pipeline, they knew they had those volumes.

Rep. Johnson: Does the State of ND have multiple volumes?

Lynn: Nothing comparable to that. The State of ND through aggregated federal and state royalty and kind, we would have approximately 4,000 barrels of oil a day, and 5 million cubic feet of gas.

Rep. Keiser: That's what I'm looking for, how the structure is. Perhaps before we do the binding settlement, we have to obtain the status of the zero land management royalty state, and we have to formally make a commitment of those assets as equity in this project.

Rep. Delzer: What about putting language in there, that before the state can make a binding contract, they must have binding contracts. What does that do to the pipeline authority?

Ron Ness: This seems to me that step one of this is the most important, that non binding discussion concept. The big difference that we have in ND, is that we have small fields, small volumes of oil dispersed amongst many operators. The large commitment is an issue, that's really part where we see bringing 200,000 barrels at a shot, when we really have one field in the state that has 40,000 barrels in it.

Rep. Keiser: I think we want to put in as much flexibility as we can. That gives us the protection. We can't go in to conclude the binding, unless we have the capacity right behind us. I think we should also put in language here that the state will seek this other alternative as well.

Robert Harms: Essentially, we are trying to get to a situation where a large pipeline may have a certain commitment you say committed, but is not being built, the state could be able to a certain threshold of commitments that are in place. That would get the project over the top, get it built for use, and the problem can be solved. If we use some threshold, 50% of capacity committed, I think that would get it.

Rep. Delzer: As legislators, I think we have to protect the state and taxpayers. Oil is more veritable than electricity. What kind of percentage of the pipeline in your company is putting out on land?

Todd: There is a level financially that they determine they have to have, probably capacity. They just barely met that threshold on the original open season to go with the mainline project before this cushion extension. I don't know that they've reached that level. 435,000 barrels is the capacity, currently it can go up to 670,000, and they can still leave a flex there, because they're account interior. They are all binding; they're all rock solid commitments for what portion of that 435,000 they were secured in.

Rep. Delzer: So, the total capacity is like 670?

Todd: Yes. The pushing extension, which is going to be open season here toward the end of the month goes to the upwards of 670, because they'll build that extra line.

Rep. Delzer: That 435,000, that would be like 60%?

Todd: It's 435,000 currently without that extension, and because you can put more into it with that additional pipe, it would be up to 670,000 in volume for that extension.

Rep. Delzer: You were talking about when somebody gets out of there claim, you have to file bankruptcy. What about if they have another cooperation under cooperation? Does the first cooperation still go bankrupt?

Todd: I guess as a pipeline, we want everybody committed, because we're building this taking a billion dollar risk.

Rep. Delzer: What is the capacity to refine it, at the end of these pipelines?

Lynn: The Wichita , Kansas and Oklahoma refineries have capacity right now. They are looking for light sweet crude oil. As an alternative, they will spend the money to put corkers in and switch over. As it stands in the near term, they're hoping to secure a supply of light sweet oil, which is ND type oil.

Rep. Delzer: Where is the Canadian one that there talking about building down there?

Todd: Eventually it's going down to the cushioning extension, but they are branching over to Patoka. Eventually if we get enough of the ND small oil producers pulled together to become a force in creating maybe a 200,000 barrel batch that can be inserted into the pipeline, and because of the pipeline structure, it will stay sweet crude. That's a very desirable type of product for these refineries.

Rep. Keiser: If the state takes a position that we have to have 100% of the capacity guaranteed prior to signing the binding contract, we don't need the right to capacity in this bill. That's the policy question. On the other hand if we look at bond proposal where we say we want to be pretty sure that we're going to meet them requirements for capacity, and we want 60% or 70% of that capacity identified before signing the binding agreement, then trying to exit the other remaining percent.

Rep. Kasper: How long are the refineries at the other end of the line going to wait for ND oil?

Todd: I guess it's just a replacement.

Rep. Johnson: Rep. Keiser mentioned not having 100% capacity binding for that. You just mentioned that with your group they can get maybe like 10% capacity when they're constructing, just to have it there. Is that going to become a conflict?

Todd: Before you commit to x quantity on all pipeline, you would have to have 70, 80, or 100% of the producers ready to give you that oil, for you to be the entity to contract with us for that capacity. We'll take whatever commitments, and bring it in and say do we have enough commitments from the state of ND, and whoever's backing them. You'll give us that bid, and we'll get the other people together, and out of 435,000 financially our people will say, will there be enough here to put off this project, finance it, build it, and then operate.

Rep. Johnson: What is committed to the state would have to have 100% of its portion in binding, is that right?

Robert: I think that is one option, but if the state is going to commit to that, to have it, that makes the project work. You may or may not have a full 100% behind you, but have the opportunity to pick up 20% or 30%, and share that.

Rep. Delzer: When you are looking at the bill, you're looking at these 3 million dollars that you're trying to put in there to have available.

Karlene Fine: The 3 million dollars is put over that research program in total.

Rep. Delzer: How would we pay for that?

Karlene: One of the sources would be to go to the Oil and Gas Research program, and ask for it.

Lynn: The Land Board could exercise that authority.

Rep. Delzer: We could look at what is the maximum dollar exposure to the state.

Rep. Keiser: The dilemma there is that this is a long term commitment, and financially it won't work.

Rep. Ruby: The state is already in this deal, and the cash flow isn't there.

Rep. Delzer: You have to think, if you put yourself at a cap of the exposure, you can get into it. It's a possibility.

Rep. Keiser: Let's say that we can get research to come in and build, and we want the option for research development to be able to come in with assistance. So, we take that number and we played it in to 80% of the capacity that we want. We then say we want to add 20% capacity to do that for state rural. Assume that risk that we're going to get more development and be able to divest it to new players, and then we could use that 20% to define the maximum exposure the state would have over the length of the project.

Ron: It still really goes back to that nonbinding commitment, because it's the first step that I think industry has trouble making decisions on. I believe there are enough competitive forces out that, that as soon as you get past step1, there are people that are going to want that extra space.

Rep. Keiser: I have no problem with the nonbinding; it's the binding I have the problem with.

Rep. Delzer: If we said that everything in the bill took 100% binding, when we get to the binding then we have to secure it 100% of there 95, or whatever.

Pat Fahn: The rates are redesigned so that the cost of the pipeline is spread over the remaining flow to the pipeline, and it causes an increase in the cost of consumers. The commission at that point would say the utilities might come in for a request for increase. The commission would have to look at it and say if it's reasonable.

Rep. Keiser: I cannot support this capacity statement as written. I want to see an amendment to the capacity issue. I could live with a 90% capacity within a standing if there's an obligation to try and sell that additional percent, but we need to have backing with the binding. With the nonbinding, the state can have the authority.

Rep. Boe: When you talk about the capacity of the pipeline, and we talk about the contracting of the product that goes into the line. Is there a long term contract for the consumption at the other end?

Rep. Keiser: It is all one big picture. The pipeline people are not going to spend all of those dollars if they don't have a contract in the front, and on the back. Nobody makes that kind of a financial commitment if they don't have those commitments locked up.

Rep. Kasper: Page 6, lines 29-30, is that enough of a statement for everything that goes on with the records and contracts that we need to signs on the front and the back that will be reviewed by the authorities, so that they can remain confidential?

Karlene: The amendments that we proposed, it says to the fact that a request has been made.

Robert: I'm wondering if we couldn't look at the language. What we are trying to do is maximize the usefulness, probably of the pipeline authority, and limit this exposure. The structure that we're talking about right now is the nonbinding scenario which probably would get us through most of what we might get exposed to. The second tier, so to speak, would be 100% commitment, or we could go 90% and get to the binding scenario. If under that we couldn't maybe just look, for the reason I said, unless by unanimous consent of the ND Industrial Commission we're looking at a lower threshold than 90%. There's going to be some political restraint on the Industrial commission members, the political ness that we're willing to assume, and also draft those amendments. I just thought maybe we could look at it.

Rep. Keiser: No.

Ilona: Pipeline Safety Jurisdiction today over intra state lines, we don't expect them to do it for us, but we want to preserve that safety jurisdiction. The second one where there were concerns about the property tax, and the relationship between the authority and Keystone was that Keystone would end up paying the property tax, and that everyone's very excited about.

Rep. Kasper: As far as the staff for the pipeline authority to get work done behind the scenes, is there enough staff right now, or do you need to add one or two FTE's to get the work done?

Karlene: What we've done is by increasing the fund, you have your Oil and Gas Research Fund, and that fund would be used to contact if we need an employee to provide services for the work that needs to be done.

Rep. Kasper: I'm talking about people that actually do the work.

Karlene: We contract out.

Ron: The Industrial Commission did discuss this, and we have a technical advisor that basically manages, oversees, and runs them on a contract basis.

Rep. Keiser: For every successful project, unless you have a formal cheerleader that runs the show and gets things moving, you're going to be real slow.

Hearing Adjourned.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1128

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 22, 2007

Recorder Job Number: 1613

Committee Clerk Signature	Stephanie N Thomas

Minutes:

Rep. Johnson opened the subcommittee hearing on HB 1128. The concern was the states liability on the capacity issue. We also talked about having someone in place to get the authority moving.

Karlene Fine: See proposed amendment.

Rep. Johnson: What is the funding available on the research fund right now?

Karlene: If this bill would pass, it would be $3 million a biennium.

Rep. Delzer: That would be minus the contract and stuff that we didn't talk about later on?

Karlene: Correct. That would be a match on those things.

Todd Cranda: It's a moving target. As the biennium goes on, as the research council commits dollars to research, we have less and less available. No more than $3 million.

Rep. Johnson: How does that work then if the amount that's in the Oil and Gas Research Fund is a moving target? At some point you have to commit some amount to the capacity. What happens if the target moves below what's been committed?

Karlene: We'd stop giving to any more research programs.

Rep. Keiser: This goes a long way. I just think that we need to add to that small part of the amendment that although we are committing these dollars, we will continue to negotiate contracts to satisfy the amount. What we really want is to be able to make an additional commitment of up to 10% on capacity within standing that we're going to try and market it.

Karlene: It would be our incentive to do that, if we are going to continue doing other kinds of research.

Todd: On page 8 of the bill, we make a very strong commitment to sell that commitment, that 10% that we acquired, as quickly as possible. Before taking that position, you have to have a plan for investing the pipeline authority of that position so, before you ever sign on that dotted line you can take that 10%.

Rep. Delzer: What about just putting it in as a last resort, the state may obligate up to 10%. Does that cover anything?

Rep. Keiser: That covers the front end, but it still gives you that ability to commit 10% without pressure to sell it off.

Ilona Jeffcoat-Sacco: It does at the beginning mention capacity, it just talks about ownership. You might want to add that in both places.

Rep. Delzer: You're talking just under subsection 3, adding ownership or capacity.

Ilona: I would put it in both places.

Rep. Keiser: Wherever it says ownership, we're going to add ownership and capacity.

Rep. Delzer: I like what I see here, it covers the state, and it still gives us the opportunity to move forward. It'll keep us from getting in a bind, where 10 or 15 years down the road we aren't sitting with something we can't afford.

Robert Harms: Page 3, line 5, my understanding from last week was that the concern was whatever obligation the state makes for acquiring this capacity, we want to make sure the state wasn't on the hook, so to speak, for no more than 10% of capacity. Since we've got a 90% tax, the way I read that paragraph, I could see somebody saying that the state can only acquire 10% in a line. I don't think that's really what we were talking about. We were wanting to make sure if the line is 5,000 barrels or 100,000 barrels, we'd essentially have 90% commitment whether we contracted for 30% of the pipeline capacity, or 50% of the pipeline capacity.

Rep. Delzer: I guess I would read it different to, because the states don't pick up whatever share they're having. If they pick up 50% of whatever they have, 40% of it is contracted out, and that's where the other 10% comes in. It doesn't matter how much you're buying, the state can only be obligated to 10%, the rest can be all done under that.

Rep. Keiser: That's really what we want. The pipeline authority is going to enter into a contract. Whatever they're going to buy, that's going to be the pipelines purchaser of a right to capacity. Of that total, only 10% of our purchase need not be backed by contract at the time of purchase.

Todd: That was the intent of the language we drafted. There was no limit on how much capacity the pipeline authority could acquire, but there is a limit on what percentage of that apposition can be an obligation of the state.

Marcy Dickerson: I don't see that as greater, I think it's no more than 10%, and if there isn't sufficient funding available from the research fund there would be less than 10%. I don't think we'd ever be over 10 %.

Karlene: Overview of proposed amendment.

Rep. Keiser: Should there be any limit on that amount of money?

Ron Ness: I guess I would urge not to have a limit. We frankly don't know the costs of those studies and all of those extra pieces are extremely sensitive. We don't know what we are going to run into. The research fund is administered by a board, ultimately, all decisions are approved by the Industrial Commission, so you still are using funds within that same module of money that impacts this.

Rep. Delzer: The only thing I would add to that is pretty much what he said, if it's an outside source of money, there wasn't any reason for them to watch their spending, and I feel nervous about it. The one thing you might want to have is some sort of reporting requirement.

Rep. Kasper: Who's going to be responsible for making this language work? Are we cutting ourselves short?

Rep. Keiser: I think the intent is to try to leave this open enough, so they have a lot of flexibility.

Rep. Delzer: What if we went with an FTE of the state, then we might have some problems with confidentiality with open records laws. You're trying to deal with some businesses out there; we certainly don't want to have full open records on those things we have in here that keep things confidential. There probably needs to be that availability in contracts and things we set up over that new FTE.

Rep. Keiser: What we did talk about at the last meeting was a champion, someone who is going to move this forward. This isn't just a part time person that works 3 or 4 hours a week on this, somebody that's really going to have the ability and resources to take this and run with it, and make it operational.

Robert: On page 9, line 11; we heard testimony the other day on how urgent of a need this is. There are two issues in that language that I would at least like you to think about. One is contracting staff that probably would work, but it's taking part of the Transmission Authority. So, an FTE might very well make sense. The other is using funds from the Oil and Gas Research Fund, and this is an issue for our concerns that when you have a research council that's got a mission for research communication in the industry, which is a little different than the pipeline. Having the pipeline authority at least go back to the research council in terms of funding I think there is a loop there, but having to go back to the Oil and Gas Research Fund with staffing probably would be less effective than pipeline authority fund.

Rep. Kasper: To me the words "shall contract for staffing" means that you will go outside of an FTE, which means you cannot have an FTE so to me this is prohibited language not enabling language. So, if we wanted to hire an FTE, we couldn't based off of this line.

Rep. Delzer: This will probably have to go to appropriations; they probably have more expertise on the actual FTE count for the Industrial Commission.

Rep. Keiser: That's really challenging here to hire the right person for two years and staff it. I'm not sure what that amount is going to be.

Todd: I think tying ourselves to an FTE is going to make this even more difficult. This is something so undefined, what would the appropriate salary be for an executive director of the Pipeline Authority? What would the general fund appropriation be? That's the reason it was made as generic as it was.

Rep. Keiser: I think that Karlene's suggestion is right on track. There should be a general contract for who'll hire staffing, and this is going to appropriations no matter what else you do to it.

Continue overview of proposed amendment.

Rep. Keiser: On the reporting department, why are you reporting to Legislative Council, versus a standing committee?

Karlene: It could be reporting to the new energy committee that we talked about.

Rep. Delzer: That's why it works. Basically, whoever's chairman in the Legislative Council, the makeup of the legislators pick who that report goes to.

Rep. Keiser: I would move to adopt the proposed amendment with those two corrections.

Rep. Kasper: Second.

Voice vote taken, motion carries.

Hearing Closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1128

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: 01-29-2007

Recorder Job Number: 2116

Committee Clerk Signature	Lisa M Thomas

Minutes:

Chairman Keiser allowed committee discussion on HB 1128. HB 1128 relates to Administrative Agencies Practice Act exemption for the pipeline authority; and procurement, business incentive exception, and deposits to the oil and gas research fund; and to provide a continuing appropriation.

Rep. Johnson: If you look on page three, line five, the first large group of amendments that limits the state obligation. It cannot exceed ten percent of the pipeline's authority's acquisition or purchase to right of capacity and is limited to whatever funding is available in the oil and gas research fund. If this bill passes all the way through both house and Senate, it would increase the oil and gas research fund to a maximum of three million dollars. So doing in any of their research, any of the employing of people to work in the pipeline authority and then the acquisition of capacity or pipeline. All of that totaled would have to be no more than three million dollars. The other amendments, if you look on the next one, page nine, after line eleven, that put in there authority to hire or contract for staffing. After the exchange with the transmission authority that really didn't start moving until they actually had a person that was in charge of moving that transmission authority along. Rather than delay this one, we thought, let's just put it in there. This doesn't mean an FTE this money also would come out of the oil and gas research fund. The last big amendment on page ten after line seven, that reporting requirement because a lot of the records are confidential, they wouldn't come as those total reports to legislative council, but there would be some reports of activities to Legislative Council, but the one's that have the expenditures and things would go to the industrial commission for their overview. Then we added the emergency clause to that.

Rep. Keiser: We wanted to place a reasonable limit on the state. There is a need for them to be able to enter into the capacity issue. There are two points at which capacity becomes a question initially when groups are getting together and having discussions, they need to talk about making a commitment to capacity. There is a second point at which to sign the contracts in which the state is making an absolute commitment to capacity. So we have placed a limitation on the exposure of the state to that capacity. Rep. Kasper raised the issue in the subcommittee that we need to get people on board that can be dedicated to this purpose. The reporting requirements are already covered. The emergency clause. There is no reason not to get going on this as soon as possible. We have a problem in getting our oil and gas reserves out of the state and the western part of our state.

Rep. Vigesaa moved to adopt the amendments Rep. Kasper seconded.

Voice vote: Unanimous vote. Amendments adopted.

Rep. Johnson moved a DO PASS AS AMENDED on HB 1128. Rep. Boe seconded.

Roll Call Vote: 13 yes. 0 no. 1 absent.

Carrier: Rep. Johnson

FISCAL NOTE

Requested by Legislative Council
02/08/2007

REVISION

Amendment to: HB 1128

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						
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).*

HB 1128 establishes the Pipeline Authority. Section 6 increases the limitation on the transfer of the state's share of the oil and gas gross production tax and oil extraction tax to the Oil and Gas Research Fund from $1.3 million to $3 million.

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 6 increases the limitation on the transfer of the State's share of the oil and gas gross production tax and oil extraction tax to the Oil and Gas Research Fund from $1.3 million to $3 million. This increase in the limitation will result in a decrease of $1,700,000 in the Permanent Oil and Gas Trust Fund and an increase in the Oil and Gas Research Fund of $1,700,000. A portion of the funding being provided to the Oil and Gas Research Fund will be utilized by the Pipeline Authority.

No impact has been reflected above as it is a decrease in the Permanent Oil Trust Fund and an increase in the Oil and Gas Research Fund. (Because these are both "other funds", above, they net out to zero.)

Governor Hoeven has indicated his support for the Pipeline Authority legislation and this increased funding for the Oil and Gas Research Fund.

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:	Karlene K. Fine	**Agency:**	Industrial Commission
Phone Number:	328-3722	**Date Prepared:**	02/09/2007

FISCAL NOTE

Requested by Legislative Council
01/31/2007

Amendment to: HB 1128

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			($1,700,000)	$1,700,000	($1,700,000)	$1,700,000
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).*

HB 1128 establishes the Pipeline Authority. Section 6 increases the limitation on the transfer of the state's share of the oil and gas gross production tax and oil extraction tax to the Oil and Gas Research Fund from $1.3 million to $3 million.

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 6 increases the limitation on the transfer of the State's share of the oil and gas gross production tax and oil extraction tax to the Oil and Gas Research Fund from $1.3 million to $3 million. This increase has been reflected in the Governor's Executive Budget.

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.*

The increased revenues for the Oil and Gas Research Fund of $1.7 million for the 2007-09 biennium have been 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:	Karlene K. Fine	**Agency:**	Industrial Commission
Phone Number:	328-3722	**Date Prepared:**	01/31/2007

FISCAL NOTE
Requested by Legislative Council
01/02/2007

Bill/Resolution No.: HB 1128

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			($1,700,000)	$1,700,000	($1,700,000)	$1,700,000
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).*

HB 1128, Section 6, increases the limitation on the transfer of the state's share of the oil and gas gross production tax and oil extraction tax from $1.3 million to $3 million.

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.*

HB 1128, Section 6 provides for the Treasurer to transfer 2 percent of the state's share of the oil and gas gross production tax and oil extraction tax revenues up to $3 million into the oil and gas research fund. In addition the interest income on the oil and gas research fund will remain in the fund.

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.*

The increased revenues for the Oil and Gas Research Fund of $1.7 million for the 2007-09 biennium have been 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:	Karlene Fine	**Agency:**	Industrial Commission
Phone Number:	328-3722	**Date Prepared:**	01/13/2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1128
Revised January 22, 2007

Page 1, line 9, remove "and"

Page 1, line 9, after "appropriation" insert "; and to declare an emergency"

Page 2, line 4, after "of" insert "renewable energy,"

Page 3, line 5, after "resort." insert "The obligation of the State cannot exceed ten percent of the Pipeline Authority's acquisition or purchase of a right to capacity in any pipeline system or systems and the State's obligation is limited to the funding available from the Oil and Gas Research Fund."

Page 7, line 29, after 49-22 insert "and 49-02-01.2"

Page 9 after line 11, insert
"3. The Industrial Commission shall contract for staffing necessary to effectively administer the Pipeline Authority, utilizing funds from the Oil and Gas Research Fund."

Page 9, line 17, remove ", are not public records subject to section 44-04-18 and section 6 of"

Page 9, line 18, remove "article XI of the Constitution of North Dakota, and"

Page 9, after line 31, insert: "The fact that a request has been made is exempt."

Page 10, line 1, replace "Any request under" with "The information submitted pursuant to"

Page 10, after line 7, insert:

54-17.7-13. Reporting Requirements. The authority shall deliver a written report on its activities to the legislative council each biennium. The authority is not subject to the requirements of Chapter 54-60.1, but in order to ensure public accountability, the authority shall provide an annual report to the Industrial Commission detailing activities and expenditures incurred during the preceding year.

Page 10, line 11, remove "this chapter." and insert "54-17.7."

Page 12, line 1 after pipeline insert "owned by the authority and"

Page 12, line 31, overstrike "that have been deposited into the"

Page 13, line 1, overstrike "general fund"

Page 13, after line 3, insert:

"**SECTION 7. EMERGENCY.** Sections 1, 2, 3, 4, and 5 of this Act are declared to be an emergency measure."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1128
Revised January 23, 2007

Page 1, line 9, remove "and"

Page 1, line 9, after "appropriation" insert "; and to declare an emergency"

Page 2, line 4, after "of" insert "renewable energy,"

Page 3, line 5, after "resort." insert "The obligation of the State cannot exceed ten percent of the Pipeline Authority's acquisition or purchase of a right to capacity in any pipeline system or systems and the State's obligation is limited to the funding available from the Oil and Gas Research Fund."

Page 7, line 29, after 49-22 insert "and Section 49-02-01.2"

Page 8, line 17, replace "ownership." with "ownership or capacity acquisition."

Page 8, line 20, after "ownership" insert "or capacity"

Page 9 after line 11, insert
"3. The Industrial Commission shall contract for or hire staffing necessary to effectively administer the Pipeline Authority, utilizing funds from the Oil and Gas Research Fund."

Page 9, line 17, remove ", are not public records subject to section 44-04-18 and section 6 of"

Page 9, line 18, remove "article XI of the Constitution of North Dakota, and"

Page 9, after line 31, insert: "The fact that a request has been made is exempt."

Page 10, line 1, replace "Any request under" with "The information submitted pursuant to"

Page 10, after line 7, insert:

54-17.7-13. Reporting Requirements. The authority shall deliver a written report on its activities to the legislative council each biennium. The authority is not subject to the requirements of Chapter 54-60.1, but in order to ensure public accountability, the authority shall provide an annual report to the Industrial Commission detailing activities and expenditures incurred during the preceding year.

Page 10, line 11, remove "this chapter." and insert "54-17.7."

Page 12, line 1 after pipeline insert "owned by the authority and"

Page 12, line 31, overstrike "that have been deposited into the"

Page 13, line 1, overstrike "general fund"

Page 13, after line 3, insert:

"**SECTION 7. EMERGENCY.** Sections 1, 2, 3, 4, and 5 of this Act are declared to be an emergency measure."

Renumber accordingly

Date: 1-29-07

Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1128

House **Industry Business & Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do pass, as amended, Rereferral to Approp.

Motion Made By Rep. Johnson Seconded By Rep. Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe	X	
Rep. Dosch			Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 13 No 0

Absent 1

Floor Assignment Rep. Johnson.

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

REPORT OF STANDING COMMITTEE

HB 1128: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1128 was placed on the Sixth order on the calendar.

Page 1, line 9, remove the second "and" and after "appropriation" insert "; and to declare an emergency"

Page 2, line 4, after "of" insert "renewable energy,"

Page 3, line 5, after the underscored period insert "The obligation of the state may not exceed ten percent of the pipeline authority's acquisition or purchase of a right to capacity in any pipeline system or systems and the state's obligation is limited to the funding available from the oil and gas research fund."

Page 7, line 29, after "49-22" insert "and section 49-02-01.2"

Page 8, line 17, after "ownership" insert "or capacity acquisition"

Page 8, line 20, after "ownership" insert "or capacity"

Page 9, after line 11, insert:

"3. Utilizing funds from the oil and gas research fund, the industrial commission shall contract for or hire staffing necessary to effectively administer the pipeline authority."

Page 9, line 17, remove ", are not public records subject to section 44-04-18 and section 6 of"

Page 9, line 18, remove "article XI of the Constitution of North Dakota, and"

Page 9, after line 31, insert:

"f. The fact that a request has been made is exempt."

Page 10, line 1, replace "Any request under" with "The information submitted pursuant to"

Page 10, after line 7, insert:

"54-17.7-13. Reporting requirements. The authority shall deliver a written report on its activities to the legislative council each biennium. The authority is not subject to the requirements of chapter 54-60.1, but to ensure public accountability, the authority shall provide an annual report to the industrial commission detailing activities and expenditures incurred during the preceding year."

Page 10, line 11, replace "this chapter" with "54-17.7"

Page 12, line 1, after "pipeline" insert "owned by the authority and"

Page 12, line 31, overstrike "that have been deposited into the"

Page 13, line 1, overstrike "general fund"

Page 13, after line 3, insert:

"**SECTION 7. EMERGENCY.** Sections 1 through 5 of this Act are declared to be an emergency measure."

Renumber accordingly

2007 HOUSE APPROPRIATIONS

HB 1128

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1128

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 2, 2007

Recorder Job Number: 2663

Committee Clerk Signature	Shirley Branning

Minutes:

Chm. Svedjen opened the hearing on HB 1128.

Rep. George Keiser:, District 47 began his testimony with an explanation of Engrossed House Bill 1128 with the policy position of the Industry, Business and Labor Committee. This is the same as the electric transmission bill but substituting "pipeline authority" in place of ""electric". He made reference to page 3, lines 3 and 4. There are 3 partners: the oil, gas or other producers; second, the pipeline company; and third the refinery. It would be ideal to get our own oil to Houston for refining.

There are two levels of commitment: first level is with the financing, construction management owning of this 3 partner relationship. Second, ...

Subsection 3 states obligation is limited to the funding available from the oil and gas research fund.

Page 9, Subsection 3 states that someone is needed to run the project. Lines 15-17 have the language to hire staffing.

Page 13, lines 6-9 have language related to the funding changes to \$3m of the state's share is deposited in the oil and gas fund per biennium.

Chm. Svedjen: The fiscal note reduces the general fund by \$1.7m because of the change in what goes into the oil and gas fund.

Rep. Keiser:: Yes, the fiscal impact is the $1.7m

Rep. Wald: Are you saying in this bill we could confiscate space in the Enbridge pipeline system? Is this similar to Wyoming that was the first to have pipeline authority?

Rep. Keiser:. No, this would give the authority to negotiate with them. This is a better bill than the Wyoming bill.

Rep. Kempenich: What kind of impact are we going to have, how is the money going to be appropriated out of the state and back into the county?

Rep. Keiser: It is not new language.

Rep. Ekstrom: This relates to moving oil and other energy out of the state, does it also refer to ethanol, for instance?

Rep. Keiser: The definition on line 3 is natural gas and energy related commodities are included. It means any substance.

Rep Klein: What is the total cost in this?

Rep. Keiser: $1.3m currently goes into the fund and this bill adds $1.7m additional into that fund. The available dollars in that fund can be used as a back stop up to 10% of the capacity of the state in negotiating and signing a final commitment with a pipeline company. $3.m in the fund.

Rep. Skarphol: (Ref.16.30) relating to the Mandan refinery and the first $60m belonging to the refinery. Is that being repealed?

Rep. Keiser: We want to be a partner in the pipeline without penalty.

Rep. Skarphol: You're not aware of a mechanism for a company to come forward and say we would like to commit to this.

Rep.Jeff Delzer, District 8 and Speaker of the House, Spoke in support of HB 1128.

Karlene Fine, Executive Director and Secretary, Industrial Commission (See handout #1, HB 1128) provided testimony supporting the bill.

Rep. Skarphol: Who does the company contact if they want to get involved. What entity in state government is going to be overseeing this?

Fine: The staffing for the pipeline authority, the Industrial Commission will house the employee.

Rep. Wald: Is this all state obligation?

Fine: It is all state obligation.

Rep. Kempenich: Will there be more appropriation from the state?

Fine: Only if the pipeline is the builder. A review of the bill was further provided, highlighting the builder of last resort, working with the Public Service Commission, and bonding.

Chm. Svedjen: Is there authority for bonding granted in the bill?

Fine: It would not, as stated in line 17, page 3. Attention was given to Handout # 2, a white paper that was developed by Ron Ness, President of the North Dakota Petroleum Council.

Rep. Skarphol: How can we be the builder of last resort with a 10% cap?

Fine: Page 4 of the amendment, (Ref. 28.41).

Rep. Skarphol: If we are the builder of last resort and we have to exceed that 10%, what could we hold as a percentage of the capacity?

Fine: We could only hold 10% of the total amount. During the open season we may be committed to X amount of dollars.

Rep. Skarphol: Is that all we have to be committed to as far as the cost of building the pipeline?

Fine: For building a brand new pipeline, we have to have revenue contracts in place to be able to sell the bonds.

Rep. Monson: How much would the bonds be? Would the $3m be used to pay off the obligation?

Fine: No, if the money didn't come in we would have a breach of contract.

Rep. Kempenich: You'd have to have 90% of the pipeline committed before we could start with it.

Chm. Svedjen: If there is commitment on capacity, and this is the key to satisfy the bond requirements.

Fine: If we were building the pipeline, we would have to have 100% commitment.

Rep. Gulleson: On the renewable side, has the Industrial Commission discussed who they will partner with to identify all of the issues surrounding the growth of the ethanol industry and bio diesel? Who will you look to for that information?

Fine: No one is identified specifically but a number of people have come and offered help and expertise in that area.

Rep. Skarphol: The oil industry is noted for boom or bust, if something happens and we are financing this with revenue bonds, who will be obligated when there is no revenue?

Fine: The bondholders will sign explicit contracts.

Rep. Skarphol: If that happens, what will happen to our bonding rating?

Fine: It would probably be more of an oil industry issue rather than us not paying our bonds.

Rep. Kempenich: Does the Legislature need to know that we are headed down this road?

Fine: We have reporting requirements as the builder of last resort.

Ron Ness, President of the North Dakota Petroleum Council: (See handout # 2, HB 1128) testified in support of HB 1128. Page 3 shows the impact to North Dakota. Last year the state produced more than 36m barrels of oil = $230m in lost revenue to producers and royalty owners which equates to $19m lost in tax revenue to the state of North Dakota.

Rep. Wald: Addressing Ron Ness, If production exceeds capacity, how do you decide whose oil goes into the pipeline?

Ness: There is opportunity to batch high quality into Canadian pipelines.

Rep. Aarsvold: When do we become the authority of last resort?

Ness: When the state decides that the amount of revenue loss is so great, it needs to take that step forward. This is a way to facilitate discussions.

Fine: The builder of last resort criteria is listed at the bottom of page 4 of the bill.

Robert Harms, President of Northern Alliance of Independent Producers: Testified in favor of the bill. Question regarding who is going to do the work and who is responsible. The pipeline authority should have the authority to do what it is designed to do.

Rep. Skarphol: The appropriation that is in the bill goes to the oil and gas research fund. The pipeline authority is going to have to ask them for money in order to fund this position.

Fine: Both entities are under the Industrial Commission.

Rep. Wald: On Page 9, the funding in the administrative authority, the state impact fund which goes to political subdivisions has to contribute to the administrative fund?

Fine: No, it is not a requirement.

Rep. Wald: **Motion to Do Pass the First Engrossed Bill of HB 1128. Rep. Kerzman, second.**

The Do Pass motion carried by a roll call vote of 23 yeas, 0 nays and 1 absent and not voting. The carrier will come from the Industry, Business and Labor Committee, the originator of the bill.

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

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1128

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Do Pass Engrossed Bill

Action Taken

Motion Made By Wald Seconded By Kerzman

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleson	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	—	—	Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 23 No 0

Absent 1

Floor Assignment Rep. Keiser (?) IBL

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

REPORT OF STANDING COMMITTEE

HB 1128, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (23 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1128 was placed on the Eleventh order on the calendar.

2007 SENATE POLITICAL SUBDIVISIONS

HB 1128

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1128

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: March 8, 2007

Recorder Job Number: 4662 (Hearing) 4737 (Committee Work) 4808 (Action)

Committee Clerk Signature	Shirley Borg

Minutes:

Chairman Cook called the Senate Political Subdivisions Committee to order. All members (5) present.

Chairman Cook opened the hearing on HB 1128 relating to North Dakota Pipeline authority.

Representative Keiser, District 47, Bismarck, ND, introduced the engrossed version of HB 1128 which is the pipeline authority bill. The intent of this bill is to attempt to provide the oil-gas industry in our state with some assistance with a significant problem that they are encountering, which is that they have more capacity than they can sell. There is no way to get it out of the region and one of the direct impacts is the reduction in price that people are willing to pay. We want to see in what way the state can become involved in assisting in the development of a pipeline authority. For a pipeline and pipeline authority to operate there are three general partners. (1)There are the producers, the people who go out and drill the oil wells, extract the oil or gas or products from the ground. (2) The pipeline group company which is separate and independent from the producers and (3) the refiners which are the people at the far end who are going to take the product. This bill is going to permit the state to make a commitment to a right to capacity. He explained the changes in the bill. If we can get the produced capacity that we have in our state out of here at a non discounted price. The implications for the budget we believe are phenomenal.

Lynn Helms, Director of the Department of Mineral Resources for the North Dakota Industrial Commission. He handed out Karlene Fine's testimony as she was not able to be at the hearing. (Attachment # 1) He testified in support of HB 1128. (Attachment #2A & B) If the state takes a stake in the pipeline then there would be the opportunity to do eminent domain. In terms of the federal funding, currently there is no federal funding available for natural gas or oil pipelines. We built that into the bill for flexibility.

Chairman Cook: The pipelines we have in the state now were built without any help from the state of North Dakota, if we create a pipeline authority are we going to completely eliminate the pipelines being built without any state involvement?

Lynn Helm: I don't believe so. I think what we are doing is introducing a catalyst into the process. We have not built any new pipelines for at least 30 years.

Senator Olafson: How much of a catalyst would three million dollars be on a pipeline project which would be tens or hundreds of millions of dollars?

Lynn Helms: Three million dollars sometimes could be that little incremental amount that it takes to push the pipeline over that economic edge. If this fund does not spend its three million dollars it can retain those funds and accumulate them. It also can retain any interest that is paid on the fund, so it could build up a larger amount in the fund.

Chairman Cook: We can sell the commitment for a profit.

Lynn: Yes

Ron Day, Tesoro/ Mandan Refinery, appeared to support of HB 1128. We see this bill as a future opportunity of the Tesoro/Mandan Refinery to find a new market and be competitive.

Ron Ness, President of ND Petroleum Council, testified in support of HB 1128. (Attachment # 3)

Todd K Kranda, TransCanada Keystone, testified in support of HB 1128. We think this is important and the facilitating of local smaller producers to get together and join into a coalition to build it and connect and ship.

Illona Jeffcoat-Sacco, Executive Director, Public Service Commission, appeared neutral. I did make an error and miss that statue. I purpose the amendment. (Attachment # 5)

Senator Warner: Is there another bill we could put this amendment on?

Illone Jeffcoat-Sacco: I will check on that.

No future testimony in support, opposed or neutral on HB 1128.

Chairman Cook closed the hearing on HB 1128.

HB 1128 3-08-07 Recorder # 4737 (Committee Work)

Chairman Cook asked the committee to go to HB 1128.

Senator Warner: Did we get a ruling on the amendments?

Chairman Cook: The amendment if we put on the bill, there will not be a pipeline built that has a safety infraction on it in the next two years and secondly we have another bill we will hear next week HB 1127 that relates to the transmission authority. If they really need the amendment they can tack it on to that bill.

Senator Anderson: If this accomplishes getting the oil out of the state, I am all for the bill.

Senator Olafson: The testimony said we should seriously consider the risk that the state would face. I am under the understanding the three million dollars is the risk. I don't understand this well enough to feel comfortable to take any action.

Senator Hacker: I would like to have them explain what the states oil and gas impact fund is. They receive money from there. It doesn't say how much.

Chairman Cook: We will get someone to come to the committee and answer the questions.

HB 1128 3-09-07 Record # 4808 (Action)

Chairman Cook opened the discussion on HB 1128

Senator Olafson: I have a question on the eight hundred million on line 17, page 3.

Karlene Fine, Executive Director and Secretary, Industrial Commission of North Dakota, appeared to answer questions. What Section one page three allows us to do is if we enter into a contract agreement with a pipeline company or entities that will be willing to pay their part of the lease that we would have on the pipeline, then we would issue the bond to be the financing for that project. We have allowed up to eight hundred million dollars. There is federal legislation being considered to make any bonds that are issued by a state entity of this sort of infrastructures at the national level tax exempt. The state would not be provided a moral obligation or general obligation on these bonds they are strictly a lease bond.

Chairman Cook: We have before us HB 1128.

Senator Warner moved a Do Pass on Engrossed HB 1128 and Rereferr to Appropriations.

Senator Anderson seconded the motion.

Discussion:

Roll Call Vote: Yes 4 No 0 Absent 1

Carrier: **Senator Cook**

Date: 3-9-07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. H B 1128 Engrossed
Re Referred to Appropriations

Senate Political Subdivisions **Committee**

☐ Check here for Conference Committee

Legislative Council Amendment Number ____________

Action Taken Do Pass + Rerefer to Appropriations

Motion Made By Senator Warner **Seconded By** Senator Anderson

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X		Senator Arden C. Anderson	X	
Senator Curtis Olafson, ViceChair	X		Senator John M. Warner	X	
Senator Nicholas P. Hacker	Absent				

Total Yes 4 **No** 0

Absent 1

Floor Assignment Senator Cook

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

REPORT OF STANDING COMMITTEE

HB 1128, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1128 was rereferred to the **Appropriations Committee**.

2007 SENATE APPROPRIATIONS

HB 1128

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1128

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-16-07

Recorder Job Number: 5241

Committee Clerk Signature	Alice Delzer

Minutes:

Chairman Holmberg opened the hearing on HB 1128 on March 16, 2007 regarding the Nroth Dakota Pipeline Authority.

Karlene Fine, Executive Director and Secretary Industrial Commission presented written testimony (1) and oral testimony in support of HB 1128. She gave a brief review of the bill, stating the House did amendments to the bill and explained them to the committee and asked that this bill be considered an emergency measure.

Senator Mathern had questions regarding the financial limitations. He was informed the information he was asking about is explained on page 3 of her testimony.

Senator Bowman asked if there is any advantage to the local subdivisions, and does part of the revenue of that go to the counties. I don't want to see all the revenues just transferred to the state because there are costs for the local subdivisions too. He was told the counties will not see a reduction in the amount of payments that are coming to the counties right now because of the transportation barriers that we have and then we have put in the provision concerning tax redemption granted. Senator Bowman made comments concerning the amount the counties could get.

Lynn Helmes, Director of Department of Resources Industrial Commission presented written testimony (2) and oral testimony in support of HB 1128. He talked about a FTE that would be funded through the Oil and Gas Research Council He explained the maps that were presented in written testimony (1) regarding the pipeline. He talked about the fact the pipelines are full, we only have 2 outlets, the price of oil in relation to Southwestern North Dakota, the State losing money because we can't move our oil out, and the fact that this bill is about relieving the bottleneck problem. Pipeline Transportation Authority would be the catalyst to provide some one to meet with producers and work together moving the oil. He stated last year the governor was really good to them and spent a lot of hours with myself and with the pipeline companies brokering these meeting. we need this Pipeline Authority so this person can work on that full time and put those meeting together.

Senator Christmann asked what the percentage is that we can purchase and what is the limit that is appropriate. He was told there are two limits, one is the bonding limit , but the one you are speaking to is the 10% or amount that the Oil and Gas Research Council has it's bank account. We toned that down quite a bit, however, I think it is still adequate to have that extra little push that could push a pipeline project over the top. I would like to have more, but this is what the House side was comfortable with the state risking, and it is a fairly risky business. These pipelines put this stuff out on open season and open bid when you buy transportation on them you pay whether you have the barrels to fill it or not. Maybe we'll be back in the next session or the following session and ask for it to be bumped up, but for starters 10% of a pipeline and that dollar amount is a reasonable place to be.

Senator Bowman stated that the reason we are losing so much money is that we can't get our product to a market that we can get a better price for it.

Lynn Helms stated that this bill is designed to do just that. We need to relieve that bottleneck that exists in Bowman County for 45, 000 barrels of crude oil a day that last year sold at $32 below WTI and this year $10 to $16 below WTI. A part of that goes back to the county but the mineral owners and the oil companies are really hit hard and so they make this investment.

Senator Tallackson stated he understands that all these pipelines are owned by Canadian companies. He asked why we are not building our own. Why do we depend on Canada to transport our oil? He stated even the two new ones that are proposed are Canadian.

Lynn Helms stated that US companies built these pipelines and then sold them to Canadian companies in the late 90's. we partner with them and catch a ride on their train. This country needs and wants that 1 trillion barrels of oil. So we want to partner. What were thinking back then? It was a source of cheap crude oil.

Ron Ness, President of North Dakota Petroleum Council presented written testimony (3)(4) and oral testimony in support of HB 1128 and in support of the Emergency Clause. He made comments regarding linking with Canada for a natural gas pipeline.

Senator Robinson asked if there were any plans concerning the refining capacity in our state. He was informed that Tesora at Mandan would be really helped by that if it should ever happen.

Chairman Holmberg closed the hearing on HB 1128.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1128**

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: **March 22, 2007**

Recorder Job Number: **5455**

Committee Clerk Signature

S Holmberg HB 1128, Karlene Fine was here, she presented written testimony on the hearing, gave a review of the bill. S Mathern asked about financial limitations, the information was explained on page 3 of the testimony. S Bowman asked if there were any advantages for the local subdivisions and does part of the revenue go to the county? The county would not see a reduction in the amount of payments coming to the counties right now because the transportation barriers, and then we have to put in the provision for tax redemption granted. Lynn Helm presented testimony in support of the bill. He had maps, which you have.

S Christman asked what the percentage was, and what is the limit that is appropriate? There are two limits: bonding limits, 10% that is in the bank accounts which is adequate he believed in the next session it may be bumped up, but 10% is a good starting place.

S Tallackson stated he understands the pipelines are owned by Canadians. Helm stated the companies built these pipelines and then sold the to Canadian companies. Ron Ness presented written testimony and oral testimony in support and in support of the emergency clause. S Robinson was asked about capacity in our state, Tesoro in Mandan would be really helped if that should every happen. More testimony continued.

S Bowman reviewed that part of the bill was the large drop in the oil last summer. When things were booming well in the oil patch, and the refinery in Guernsey and had to shut down, all these oil moved by truck and then there was a \$20-\$30 spread when that happened. That cost ND a tremendous amount money. We had some meetings in Bismarck on this, what we're looking at is, how do we tie new production to movement of product so don't lose money. If you drive down 85 right now, every 10 minutes you'll see a tanker boil head north. Somewhere along the line, it would be way cheaper to move through pipeline in ND.

S Robinson asked if someone could explain, Karlene and the bonding issue, how that structure what the potential impact on bonding limits would be. Was confused on that segment of the bill.

Karlene Fine *Execuive Director of the Industrial Commission* asked to give a review. What this allows in this legislation is similar to what we have with the transmission authorities permissive language that we could issue up to \$800 million dollars of revenue bonds we have to have so that the state will not have a loan obligation on these bonds. Would have to have a lease agreement with companies that they would provide the revenues that would pay the bond holders. It would be like a lease contract. No obligation from the state.

S Robinson this would be no obligation from the state? It is revenue bond outside the traditional bond structure?

Karlene F: Yes

S Krauter: The only issue was that we would be raising the cap on the oil and gas research fun from \$1 million to \$3 million. Which means there will be less money. If we're going to move forward to get the oil out of the state.

Motion for a Do Pass by S Krauter

Second by S Wardner

Roll call for a Do Pass on HB 1128 – Passed

S Holmberg this goes back to Political Subs

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1128

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-22-07

Recorder Job Number: unknown

Committee Clerk Signature	

Minutes:

Chairman Holmberg opened the hearing on HB 1128.

Chairman Holmberg read previous minutes as a refresher from 3/16.
Senator Bowman part of bill large drop in oil last summer during the winter when refinery at Gurnsey most oil is moved by truck and 20-30 spread cost ND money look at how to tie new production to movement of product so don't loose money IF the product is moved through pipelines it would be cheaper.

Senator Robinson asked an explanation of the bond issue and how that structure and impacts on bond limits

Karlene Fine, Executive Director, Industrial Commission indicated they could issue bonds but would have to have leases with companies and the Industrial Commission would be entity to go through with no obligation from state. The revenue bonds would be outside the traditional bond structure.

Senator Krauter indicated the only issue was to increase the permanent oil trust fund.

Senator Krauter moved a do pass on HB 1128, Senator Wardner seconded. There was no discussion. A roll call vote was taken resulting in 14 yes, 0 no 0 absent. The motion passed. Senator Cook will carry the bill.

Chairman Holmberg closed the hearing on HB 1128.

Date: 3/22
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1128

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DP

Motion Made By Krauter Seconded By Wardner

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

Total (Yes) 14 No 0

Absent 0

Floor Assignment Cook Pol Sub

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

REPORT OF STANDING COMMITTEE

HB 1128, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1128 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1128

#1

INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven
Governor

Wayne Stenehjem
Attorney General

Roger Johnson
Agriculture Commissioner

Testimony on House Bill 1128
By Karlene Fine
Executive Director and Secretary
Industrial Commission of North Dakota
January 16, 2007 – House Industry, Business and Labor Committee

Mr. Chairman and members of the House Industry, Business and Labor Committee, my name is Karlene Fine and I serve as Executive Director and Secretary for the Industrial Commission. Last session the Industrial Commission introduced and you established the North Dakota Transmission Authority which put in place a state entity to assist with resolving the constraints that face the electric generation industry in moving electricity to our customers. Today the Industrial Commission is asking for your support in establishing the North Dakota Pipeline Authority to assist in resolving the transportation issues we are facing in moving energy-related commodities through pipelines.

This legislation will look very familiar to you as it was drafted based on the North Dakota Transmission Authority Act and the Wyoming Pipeline Authority law. Since the drafting of HB 1128 we have identified a few changes that we believe will improve the legislation. I have prepared draft amendments which are attached to my testimony. I am going to quickly review the bill and as I go through it I will note where we are proposing amendments.

As we drafted this legislation we designed it to provide flexibility, provide for checks and balances and to limit state ownership—no more than necessary; no longer than necessary and require an exit strategy.

A brief review of the bill:

Section 1 provides for an exemption from the Administrative Practices Act similar to what we have in place for the Transmission Authority.

Section 2:

54-17.7-01 creates the Authority and that it will be governed by the Industrial Commission.

54-17.7-02 provides definitions that are needed. We are proposing an amendment to the definition of energy-related commodities. (Page 2, line 2) It was our intent to have this definition reflect a broad range of energy related commodities--more than just oil and gas so an "Authority" didn't need to be created for each type of commodity. Unfortunately our proposed legislation did not accomplish that goal--thus the reason for the amendment.

54-17.7-03 states the purposes for the Pipeline Authority.

54-17.7-04 outlines the powers of the Pipeline Authority – these powers have been drafted to provide flexibility as the Authority works to diversify and expand the State's

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economy by the development of pipeline facilities as they relate to energy-related commodities. This section allows for the planning and development of pipeline facilities, contracting with others, serving as an alternative source of financing, consultation with the Public Service Commission, other interested persons and parties including regional organizations, federal entities, etc. Note on the top of Page 3 lines 1 through 5 permits the Pipeline Authority to acquire the right to capacity in any pipeline system. This is a provision that was useful in the State of Wyoming and Lynn Helms will comment further on that specific provision.

54-17.7-05 provides that the Authority would be the Builder of Last Resort.

54-17.7-06 allows the Authority to be a partner or an investor in a pipeline project.

54-17.7-07 allows the Authority to issue revenue bonds.

54-17.7-08 provides that the Public Service Commission will continue to have siting authority. However, in regard to rate setting, the Pipeline Authority rates would be exempt from Public Service Commission authority. Interstate pipeline rates would be subject to FERC jurisdiction.

54-17.7-09 declares the bonds of the Pipeline Authority as legal investments and permits the Investment Board to invest in the bonds if they so determine.

54-17.7-10 relates to the Authority being the Builder of Last Resort and only for that period of time needed.

54-17.7-11 establishes a separate Pipeline Authority Fund to deposit revenues and from which to make expenditures.

54-17.7-12 provides for confidentiality of materials provided to the Authority. We have been informed by the Attorney General's Office that this language needs to be updated and we have proposed an amendment to do so.

Section 5 provides for a property tax exemption of Pipeline Authority property for ten years with payments in lieu of property taxes provided to the counties

There are three provisions in this legislation that relate to the Oil and Gas Research Program.

Section 3 provides that the Oil and Gas Research Program and the Pipeline Authority are exempt from the State's procurement law. The specialized expertise needed for the analysis of projects limits the number of entities that could provide the services required.

Section 4 would provide an exemption for the Oil and Gas Research Program from 54-50.1-01 of the North Dakota Century Code which deals with accountability similar to the Lignite Research Program. In regards to the Pipeline Authority I am proposing an amendment that requires the filing of annual and biennial reports.

Current law provides that 2% of the State's share of the oil and gas taxes up to $1.3 million be transferred to the Oil and Gas Research Fund. Section 6 increases the limitation of the amount of funding coming into the Oil and Gas Research Fund from $1.3 million a biennium to $3 million a biennium. HB 1128 also provides that any interest earned on the Oil and Gas Research Fund stays within the Fund. In addition to the demands for research on the Oil and Gas Research Program, there will be costs for hiring consultants and doing studies/analysis in regards to the Pipeline Authority. Costs of the Pipeline Authority would come from the Oil and Gas Research Fund.

Included in these amendments is a request that this be made an emergency measure. Pipeline capacity is at a maximum and even with the best efforts of the industry there is a need to move forward as quickly as possible in entering into discussions with potential partners. CO2 issues and the Coal to Liquids project are moving forward now and it is important for the State to indicate its support for resolving the pipeline constraints we are currently seeing.

You may ask why a Transmission Authority and now a Pipeline Authority—why can't they be combined? We did consider this option and after considering the expertise that would be needed to do the work, the regulatory structure for the different commodities (transmission lines involve a national grid and a complex cost/price allocation; involvement by a regional organization—MISO); and the different groups that you need to work with, we came to the conclusion that combining the two Authorities wouldn't work. However, by placing both entities under the Industrial Commission we would be able to identify opportunities that could be beneficial to both Authorities.

With your permission Mr. Chairman I would ask Lynn Helms Director of the Department of Mineral Resources to follow me. This past year, on behalf of the Industrial Commission, he served as the point person to define the transportation crisis in North Dakota and to outline methods for resolving that crisis. He, along with Ron Ness of the North Dakota Petroleum Council, developed a white paper on this matter and I have attached a copy of that paper for your information.

On behalf of the Industrial Commission we ask for your support of the amendments we have proposed and then your support for House Bill 1128.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1128

Page 1, line 9, remove "and"

Page 1, line 9, after "appropriation" insert "; and to declare an emergency"

Page 2, line 4, after "of" insert "renewable energy,"

Page 9, line 17, remove "are not public records subject to section 44-04-18 and section 6 of"

Page 9, line 18, remove "article XI of the Constitution of North Dakota, and"

Page 9, after line 31, insert: "The fact that a request has been made is exempt."

Page 10, line 1, remove "Any request under" and insert "Any information submitted pursuant to"

Page 10, after line 7, insert:

> **54-17.7-13. Reporting Requirements.** The authority shall deliver a written report on its activities to the legislative council each biennium. The authority is not subject to the requirements of Chapter 54-60.1, but in order to ensure public accountability, the authority shall provide an annual report to the Industrial Commission detailing activities and expenditures incurred during the preceding year.

Page 12, line 31, overstrike "that have been deposited into the"

Page 13, line 1, overstrike "general fund"

Page 13, after line 3, insert:

> "**SECTION 7. EMERGENCY.** Sections 1, 2, 3, 4, and 5 of this Act are declared to be an emergency measure."

Renumber accordingly

#2

Williston Basin Crude Oil Transportation Bottleneck White Paper
By Ron Ness and Lynn Helms, July 7, 2006

Summary of Transportation Bottleneck:

The US portion of the Williston Basin is currently producing approximately 200,000 barrels of oil per day. North Dakota is producing 110,000 barrels per day and Richland County in eastern Montana is producing approximately 60,000 bbls per day, along with about 30,000 barrels per day from southeastern Montana and South Dakota.

Most of the crude oil produced in southwestern North Dakota, southeastern Montana, and South Dakota is shipped by pipeline to the Guernsey, Wyoming hub then to Rockies refiners or to Wood River, Illinois on the Platte Pipeline. Suncor Energy Inc. has two Denver refineries with a total refining capacity of 90,000 barrels of oil per day. One of those refineries, Commerce City near Denver, was operated at reduced capacity while the company upgraded the facility to refine more crude oil from Canadian oil sands following a fire in December 2005. The Western Canadian Sour (WCS) crude oil is shipped to the refinery via the Express Pipeline, which runs through Montana and Wyoming to Colorado. Kinder Morgan Canada, which owns the Express Pipeline, says the pipeline operated well below its 270,000 barrels per day capacity during the refinery turnaround. The **Platte Pipeline has been apportioned since the 4th quarter 2005 and is applying a historical apportionment policy.**

Most Richland County Montana and northern North Dakota crude oil is delivered to the Clearbrook, Minnesota hub via the **Enbridge North Dakota pipeline system**. This system **was apportioned for most of 2006 and applies a historical apportionment policy.**

The **Tesoro Refinery in Mandan** has a maximum capacity of 60,000 barrels per day. They report that 95% of their crude is from the western North Dakota portion of the Williston Basin. They had record throughput in 2005 but **reduced refining capacity in January through February 2006 due to declining market demand in northern states** for the full slate of refined products.

In addition, small amounts of WCS crude oil are occasionally trucked into North Dakota and blended with Williston Basin sweet (primarily Bakken) crude and small amounts of Williston Basin crude oil are also periodically trucked into Canada.

The entire Rocky Mountain region is experiencing oil production growth and the effects of increasing competition for existing pipeline and refinery capacity. Industry and state government are engaged in cooperative efforts to expand infrastructure in North Dakota, Montana, Wyoming, Colorado, and Utah.

Growing oil production in the Rocky Mountain region has surpassed existing transportation capacity and producers have seen their ability to market crude restricted or have experienced significant differentials from NYMEX posted crude oil prices. The prospect of not being able to market crude, or having to market at significantly reduced prices, is likely to create uncertainty with investors drilling new wells and could have long-term impacts as companies place their investments in other areas of the US or the world.

There is a sense of urgency because Bakken zone exploration in North Dakota has not yet been as successful as it has in Montana. Continued research, through drilling new wells, is needed to develop better completion techniques for an economic Bakken oil play in North Dakota. The cost of drilling a well in the Williston Basin has risen dramatically in the past year and is now between three and five million dollars per well.

North Dakota's oil industry has added more than 1,000 jobs in the past 18 months and still has over 200 jobs available through Job Service North Dakota. There are currently 40 rigs drilling new wells in North Dakota and 25 in eastern Montana with more than 3,600 operating oil wells in North Dakota alone. **Oil activity in the state is having a significant positive impact on the state's economy. The state's average wage is up, oil tax revenues are creating a budget surplus for the state, and western counties are seeing housing shortages and vibrant economies once again, but decreased oil production and price are reducing economic impact and tax revenues of the state, counties, cities, and schools in oil producing areas.**

Potential Solutions to Transportation Bottleneck:

- **Enbridge Pipeline expansion**
- Transport crude by rail
- **Expand the Mandan Tesoro Refinery and build refined products pipeline**
- **Increase the Quality Restriction on the Enbridge Pipeline in North Dakota**
- Build new refineries in Williston Basin markets
- Improve market access in U.S. to growing supplies of crude oil from Western Canada
- **Access Keystone Pipeline Project**
- **Create a Pipeline Transportation Authority**
- Place a Tariff or Excise Tax on Canadian crude oil entering North Dakota
- Review FERC pipeline apportionment policies
- Apportion the production of crude in North Dakota/Montana.

Advantages/Disadvantages of Potential Solutions:

- Enbridge Pipeline expansion
  - Advantages:
    - Enbridge is moving forward with a $30 million expansion project consisting of a series of upgrades to the system over the next 16 months that could add up to 30,000 barrels per day by mid-2007
      - The project will be done in several phases, the first adding up to 6,000 bbl per day by using drag reducer beginning in May 2006 and 7,500 bbl per day by October 2006 via increased operating pressure
    - Reversal of the Portal Pipeline into Canada could add an additional 25,000 barrels of pipeline capacity to the Williston Basin
    - Transporting crude oil by pipeline is the most efficient and cost-effective method of getting the product to the marketplace
  - Disadvantages:
    - Hydro tests may not be successful and could slow or limit the expansion
    - Reversal of the Portal Pipeline would be expensive and result in a higher freight charge since its farther to market
    - Permitting delays could occur and process of expansion takes time
    - Might create an opportunity for Canadian crude to fill the capacity expansion

- Transport crude oil by rail
  - Advantages:
    - 300 cars at 600 barrels each = 180,000 barrels potentially available with one railroad; in addition more rail cars may be available
    - Round trip to Edmonton every 10 days = 18,000 barrels per day
    - Rail cars could serve as a short-term solution to move barrels into another market
  - Disadvantages:
    - Approximate transportation cost by rail is $6-$10 per barrel including trucking
    - Transporting crude by rail adds other logistical problems and is not the most efficient way to transport crude oil

- Expand the Mandan Tesoro Refinery and build refined products pipeline
  Advantages:
  - New capacity of 60,000-120,000 barrels per day of Williston Basin crude
  - EPA permit timeframe much shorter than for new refineries
  - Energy bill includes incentives for small refinery expansions
  - Long term, high salary jobs in North Dakota
  - Create a long-term market for North Dakota crude oil
  - Williston Basin reserves studies indicate long term supply is available

  Disadvantages:
  - Current northern area refined products market is full with no growth, in fact, renewable mandates are reducing market share for niche market refiners
  - Limited access to growing markets without new pipeline
  - Major investment required
  - It would take a long pipeline to reach growing refined products market areas

- Increase the minimum quality restriction on Enbridge Pipeline system in North Dakota
  Advantages:
  - Reduce the incentive to truck heavy Canadian crude into North Dakota to blend with Williston Basin sweet and transport through North Dakota pipelines to Minnesota and eastern markets
  - Will require more Williston Basin sweet to be added to blend with the heavy Canadian crude oil to meet the higher minimum gravity requirement

  Disadvantages:
  - Damage relations with Canadian producers and purchasers
  - The amount of Western Canadian Sour crude oil entering North Dakota is minimal
  - Some Bottineau and Renville County crude may not meet quality restrictions
  - Need to be careful not to discriminate among shippers and violate (common carrier) pipeline's existing tariff or FERC regulations

- Build New Refineries in Williston Basin Markets
  Advantages:
  - New refining capacity for Williston Basin crude
  - Enhance the economy by adding more value to North Dakota oil
  - Add new high skill, high wage jobs in North Dakota
  - Williston Basin reserves studies indicate long term supply is available

  Disadvantages:
  - It will likely take years to permit a new oil refinery through EPA
  - The Three Affiliated Tribes plan to use Canadian crude in their proposed refinery
  - Rates of return for the refinery sector are not high enough to attract the long term private investment in capital needed to support construction of new refineries in the U.S., thus few new refineries have been proposed in the U.S.
  - Current northern area refined products market is full with no growth, an additional refinery may only add to the problem without a new market

- Improve market access in U.S. to growing supplies of crude oil from Western Canada
  Advantages:
    - Part of the situation is the growing amount of supplies from Western Canada that exceed the northern tier refinery market demand
    - Solutions are underway to extend access to new refinery markets
      - A recent reversal of an Enbridge line now allowing Canadian crude to move from Chicago to Cushing, Oklahoma
      - ExxonMobil has reversed another pipeline to deliver WCS from Illinois to the Gulf Coast large refinery market
      - The Enbridge Lakehead system has proposals to expand and extend in stages between now and 2009 that will continue to slowly gain access to a variety of markets east of North Dakota

  Disadvantages:
    - Solutions to the east and south help the overall problem but still pose capacity restraints in North Dakota

- Access Keystone Pipeline Project
  Advantages:
    - Capacity of 480,000 bbl per day with 350,000 committed and planned expansion to 600,000 bbl per day leaves more than 100,000 bbls per day of current capacity and 250,000 bbl per day ultimate capacity available
    - The Keystone Pipeline Project will parallel North Dakota on the Canadian side of the border and then pass north to south through eastern North Dakota
    - Expect permits to be filed with the North Dakota Public Service Commission in 2006

  Disadvantages:
    - Designed to transport Western Canadian Sour (WCS) to U.S. refining hubs
    - This is a long-term project and will take three years to complete
    - A significant amount of new pipeline would need to be installed to connect to the Keystone pipeline either in Canada or North Dakota
    - North Dakota oil will have to be shipped in 200,000 bbl batches
    - The project is too far along to make significant route changes

- Create a Pipeline Transportation Authority
  Advantages:
    - The North Dakota Legislature passed a bill in 2005 creating a Transmission Authority. The purpose of the Transmission Authority is to allow the State of North Dakota to provide assistance in developing new transmission lines to export North Dakota electricity
    - The North Dakota Legislature could pass legislation in 2007 to authorize similar assistance with the transportation of crude oil, natural gas, or refined petroleum products
    - Wyoming's Pipeline Authority, which is charged with promoting the development of all types of pipelines, is studying potential short-term and long-term solutions
    - Allows the state to engage in the process, remove state regulatory roadblocks and lend support as needed

  Disadvantages:
    - Requires legislation and at the earliest would take until spring 2007 to become law
    - Might not achieve any positive results

- Place a tariff or excise tax on Canadian crude oil entering North Dakota

  Advantages:
  - Creates a disincentive for transporting Western Canadian Sour crude into North Dakota to be blended with North Dakota sweet crude oil
  - Generates revenues for the State of North Dakota

  Disadvantages:
  - CAFTA, NAFTA and WTO filings very likely and would result in litigation
  - The amount of western Canadian sour crude oil entering North Dakota has not been determined
  - Could violate the Interstate Commerce Act
  - Common carriers such as pipelines are not allowed to discriminate among shippers who meet tariff conditions
  - We may determine North Dakota oil has better markets in Canada at some point in the future

- Review FERC pipeline apportionment policies

  Advantages:
  - Could be tailored to give highest priority to Enhanced Oil Recovery (EOR) production. EOR projects require huge amounts of capital investment and must be operated at maximum efficient rate to prevent permanent loss of reserves.
  - Could give higher priority to new well production. Drilling of new wells results in the greatest positive economic impact on local communities.
  - Could give more priority to marginal well production. Marginal wells are very sensitive to oil price and may be plugged and abandoned resulting in permanent loss of reserves if subjected to large price discounts.
  - Current historical apportionment practices favor existing production which most likely has reached payout on initial investment and is less impacted by price discounts.

  Disadvantages:
  - Significantly more complex process
  - Possible damage to relations with existing crude purchasers and transporters
  - Need to be careful not to discriminate among shippers and violate (common carrier) pipeline regulations

- Apportion the production of crude in North Dakota/Montana

  Advantages:
  - Protects correlative rights by making sure all wells are produced

  Disadvantages:
  - Reduction of Williston Basin crude oil transported to market may create a greater opportunity for Canadian crude to fill transportation capacity
  - Public hearings are required
  - No assurance Montana will follow suit thereby allowing more Montana oil to be transported
  - The state of North Dakota calculates each well's allowable production according to published rules. The rules are outdated from the early 1980s and they do not address Enhanced Oil Recovery units or other major changes in production

#3

NORTH DAKOTA PETROLEUM COUNCIL

Ron Ness
President

Marsha Reimnitz
Office Manager

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House Bill 1128

House Natural Resources Committee

January 16, 2007

Chairman Keiser and Members of the Committee. My name is Ron Ness. I am the President of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents 130 companies involved in all aspects of the oil and gas industry including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain Region. Petroleum Council members produced 80% of the nearly 36 million barrels of oil produced in North Dakota in 2006. I appear before you today in support of House Bill 1128 and we support the amendments offered by the Industrial Commission and the Emergency Clause.

OIL INDUSTRY FACTS:

- **North Dakota ranks 9th among the nation's oil producing states**
- **North Dakota produces 113,000 barrels of oil per day**
- **There are currently 42 rigs drilling new wells**
- **Industry produced 36 million barrels of oil last year**
- **Currently, there are more than 3,600 producing oil wells in the state**
- **Average production per well is about 30 barrels per day**
- **160 oil companies own and operate wells in North Dakota**
- **Industry has added an estimated 2,500 jobs in the past 30 months**

OIL AND GAS INDUSTRY TAX REVENUES:

- **$152 million in 2005 in oil and gas production taxes**
- **A 63% increase in oil tax revenues from 2004**
- **3rd largest source of revenue to the general fund behind sales and income taxes**
- **$82 million to Permanent Oil Tax Trust Fund through October 2006**
- **$167 million in oil tax collection in fiscal year 2006**

The question we should all be asking is, **"What can be done to not only maintain this incredible economic growth, but expand our state's oil production to 150,000 or 200,000 barrels of oil per day?"** The impact of that type of growth in North Dakota's oil industry would drive the state's economy for decades. There are a number of challenges facing industry today that hold back that type of growth. Commodities prices and economics drive investment in this business. High prices have made it possible to invest in new technology which makes developing a resource like the Bakken play possible. New technology and positive economics will continue to be important; however, other solutions, like having a trained workforce, are critical, along with a fair tax and regulatory climate in the state, and expand infrastructure to produce, transport, and refine our oil and gas resources. The state can work to address several of these concerns and you are likely to see numerous bills this session that will have a positive or negative impact on these issues.

House Bill 1128 is designed to allow the state an opportunity to facilitate pipeline projects for North Dakota's energy industry. The intent is not to have the state own or operate transportation facilities, but to help gather information and remove potential roadblocks on energy transportation projects and help pave the way for industry to make the investment. As indicated, oil industry investment is driven by price and economics. North Dakota competes with the rest of the nation and the world to attract investment. Currently, the state's oil patch has become a hotbed in the United States for interest and investment and our economy is certainly seeing the benefits. However, oil company executives tell me that the inability to sell oil or market oil at a fair price will shut down the investment and surge in oil activity faster than any other challenge facing industry. For the past year, North Dakota oil producers have been faced with an issue we didn't see coming. Increased production of oil in the state and region along with imports into regional pipelines have put great pressure on oil markets and negatively impacted oil prices in North Dakota. This imbalance of supply and demand for export capacity has resulted in the industry, mineral owners, and the state of North Dakota losing

millions of dollars and the problem has the potential to significantly impact future oil activity in the state. We know that additional infrastructure to export our oil to the gulf or other regions or expand regional refining capacity is likely the answer; however, major investments such as these take time and research. HB 1128 can help move these projects along.

Estimated Financial Impacts of the Pipeline Bottleneck:

The average ND differential (basis) from NYMEX for the past four years prior to 2006 as reported by the ND Tax Department was $4.11. The 2006 basis was $10.50 for every barrel sold in the state. The differential has grown $6.39 per barrel in the past year.

36 million barrels x $6.39 = $230+ million in lost revenue to producers and royalty owners

$230 million x 8.35% = $19+ million in lost tax revenue to the state of North Dakota

Industry is working diligently to address the problems related to exporting Williston Basin crude oil. Over the past year, the Petroleum Council, industry, and state officials have been investigating every possible alternative to address this issue. Each company is looking at their situation and seeking solutions. Enbridge Pipelines (ND) is investing millions to upgrade their pipeline facilities that will add up to 45,000 barrels a day export capacity by 2008. HB 1128 will not solve this problem alone, but it is one of the many identified steps that presents a potential solution. Through the Pipeline Authority, the state can provide an important role in facilitating pipeline projects. The oil industry is extremely competitive and companies are often reluctant to discuss future development plans. The Pipeline Authority can gather information and work to eliminate roadblocks on behalf of all parties considering new projects. The Wyoming Natural Gas Pipeline Authority has shown success in addressing gas bottlenecks in that region in recent years. A new gas pipeline was constructed in Wyoming with the assistance of the Pipeline Authority.

I urge your support for HB 1128. I would be happy to answer any questions. Thank you.

Scenario #2

Current Oil Tax Distribution

(Fiscal Year 2005- 2006 [July 1, 2005 thru June 30 ,2006] Revenue Totals & Distribution)

$166,011,820.24 Received

5% Gross Production Tax
$103,765,309.35

- 1% of the 5% or 1/5 (20%) → $20,753,061.87
  - $5,000,000 Oil Impact Fund
  - $15,753,061.87 State General Fund
- 4% of the 5% or 4/5 (80%) → $83,012,247.48
  - $57,761,009.79 State General Fund (70% of $83,012,247.48)
    - $26,702,168.22 Permanent Oil & Gas Trust Fund
    - $30,217,384.82 State General Fund
    - $841,456.75 Oil & Gas Research Council Fund
  - $25,251,237.69 Oil & Gas Counties (30% of 83,012,247.48)
    - $11,738,291.04 Counties 45%
    - $8,837,933.19 Schools 35%
    - $4,675,013.45 Cities 20%

6½% Oil Extraction Tax
$62,246,510.89

- 60% → $37,347,906.53 State General Fund
  - $11,859,809.97 Permanent Oil & Gas Trust Fund
  - $25,029,553.31 State General Fund
  - $458,543.25 Oil & Gas Research Council Fund
- 20% → $12,449,302.18 Resources Trust Fund
- 20% → $12,449,302.18 Education Purposes
  - $6,224,651.09 Common School Trust Fund
  - $6,224,651.09 Foundation Aid Stabilization Fund

Summary:

$103,765,309.35 + $62,246,510.89 = $166,011,820.24

Oil Impact	State General	Resources Trust	Counties	Schools	Cities	Permanent Oil & Gas Trust	Oil & Gas Research Council	Common School Trust	Found. Aid Stab.
$5,000,000.00 (3%)	$15,753,061.87 $25,029,553.31 $30,217,384.82 $71,000,000.00 (43%)	$12,449,302.18 (7%)	$11,738,291.04 (7%)	$8,837,933.19 (5%)	$4,675,013.45 (3%)	$11,859,809.97 $26,702,168.22 $38,561,978.19 (23%)	$458,543.25 $841,456.75 $1,300,000.00 (1%)	$6,224,651.09 (4%)	$6,224,651.09 (4%)

HB 1128

ISSUE I EDITION I

Oil & Gas TIDBITS

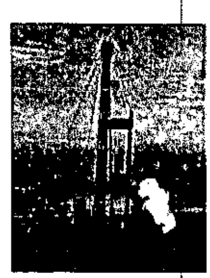
NORTH DAKOTA PETROLEUM COUNCIL

We Keep North Dakota Going Strong

GREETINGS

Welcome to the first edition 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.

Greetings from North Dakota's oil and gas industry! These are exciting times for North Dakota as there is a tremendous amount of activity taking place throughout the 17 oil-producing counties. Plus, we are seeing growing interest in new areas as well, which is great for our state and economy. Please enjoy the following stories about recent happenings in the oil and gas industry.



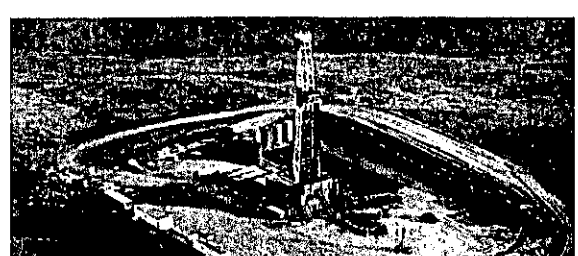
In future editions, we will focus on Energy Education, New Technology in the Oil and Gas Industry, Oil and Gas Research Council, Refining, The Bakken Play, The Economic Impact of North Dakota's Oil and Gas Industry, Williston Basin Geology, and Workforce Needs Study Results.

WILLISTON BASIN CRUDE OIL TRANSPORTATION BOTTLENECK

The Williston Basin is currently producing approximately 200,000 barrels of oil per day (bpd). North Dakota is producing 110,000 bpd and Richland County in eastern Montana is producing approximately 60,000 bpd, along with approximately 30,000 bpd produced in southeastern Montana.

The Tesoro Refinery in Mandan is refining nearly 60,000 bpd of Williston Basin crude oil. Most of the crude oil produced in southwestern North Dakota and southeastern Montana is shipped by pipeline to the Guernsey, Wyoming hub then to Denver area refiners. Most Richland County, Montana and northern North Dakota crude oil is delivered to the Clearbrook, Minnesota hub via the Enbridge (ND) pipeline system. The growing oil production in the Williston Basin has surpassed existing transportation capacity and crude producers in the Williston Basin have seen their ability to market crude restricted and some have experienced significant differentials from NYMEX posted crude oil prices. The prospect of not being able to market crude, or having to market at significantly reduced rates, is likely to create great uncertainty with investors drilling new wells and could have long-term impacts as companies place their investments in other areas of the country or world.

There is a sense of urgency because Bakken zone exploration in North Dakota has not been as successful as in Montana. Continued research, through drilling new wells, is needed to develop the right completion techniques for an economic Bakken oil play in North Dakota. The cost of drilling a well in the Williston Basin has risen dramatically in the past year and is now between three and five million dollars per well. Investors may become hesitant to continue ▶



FACTS

-North Dakota is the **ninth largest** oil producing state. The state produced nearly 98,000 barrels of oil per day in 2005, **totaling 35.6 billion** barrels for the year. Currently, the state is producing **110,000 barrels** of oil per day.

-At the end of 2005, there were **3,908 wells** capable of producing oil and gas in North Dakota. The average North Dakota well produced approximately **25 barrels per day**.

-The drilling rig count, which is a prime barometer for measuring new oil and gas activity, averaged **25 rigs a day** in 2005, and is currently at 39 drilling rigs. The peak year for drilling rigs was 1981, with an average monthly rig count of **119**. The all-time high was in October of 1981 with **146 rigs** operating. However, with today's technology, one rig today can do the work of four in 1981.

Bottleneck, cont'd

drilling wells in an area where there are problems marketing the oil.

Enbridge Pipeline (North Dakota) is working with producers and shippers to meet their transportation needs of getting their production to market. Enbridge is implementing its capacity expansion of its pipeline that would add an additional 30,000 bpd year round with a potential of 45,000 bpd depending upon temperature and crude oil viscosity. The capacity expansion project consists of adding drag reduction agents (DRA) at selected stations, hydro testing the pipeline to insure the pipeline's integrity at increased pressures, upgrading and adding new pumping stations, and construction of a 52 mile segment. The new segment would increase transport capacity from Alexander to Beaver Lodge including areas of highest production increases in western North and Richland County, Montana oil fields.

On August 24, Enbridge successfully completed the third and final hydrotest on three line sections from Beaver Lodge Station to Clearbrook, Minnesota. These successful tests allow for the continued plans to add additional pump stations along the line segment to increase capacity to Clearbrook. The successful hydrotests also allow for safely increasing capacity to Clearbrook. The combination of increased operating pressures and the use of drag reduction agents have currently added a capacity increase of approximately 10,000 bpd 12,000 bpd from Beaver Lodge to Minot and a capacity increase of approximately 15,000 bpd from Minot to Clearbrook. These capacity increases will uctuate along with temperature and crude viscosity. These additional capacities are in effect as of September 1 from Beaver Lodge to Clearbrook. Completion of the entire expansion project, including the new pipeline construction, is estimated by year end 2007. Enbridge continues to monitor production trends and dialogue with producers and shippers for other potential pipeline expansion opportunities to meet anticipated demand.

However, that may still not be enough new pipeline capacity as we continue to see eastern Montana produce more oil, Bowman County's oil production increase, and Canadian crude being trucked into Williston Basin pipelines and markets.

For more detailed information on this issue, see – Williston Basin Crude Oil Transportation Bottleneck Whitepaper at www.ndoil.org/content/category/1/1/2/.

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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VOLUME I ISSUE II

Oil&GasTIDBITS

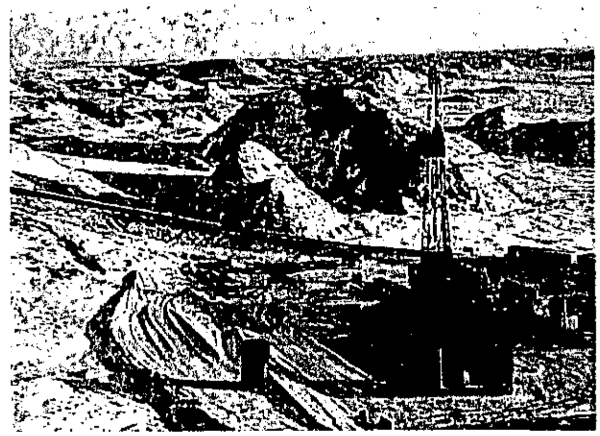
NORTH DAKOTA PETROLEUM COUNCIL

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

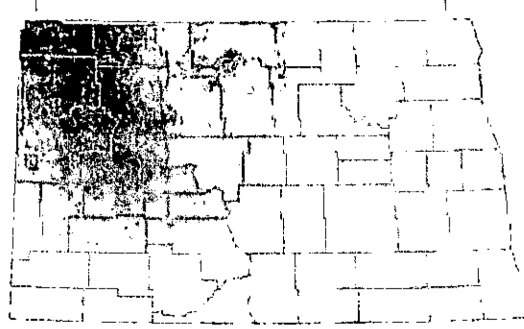
North Dakota Bakken – Geology at its Best and Worst!

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.**

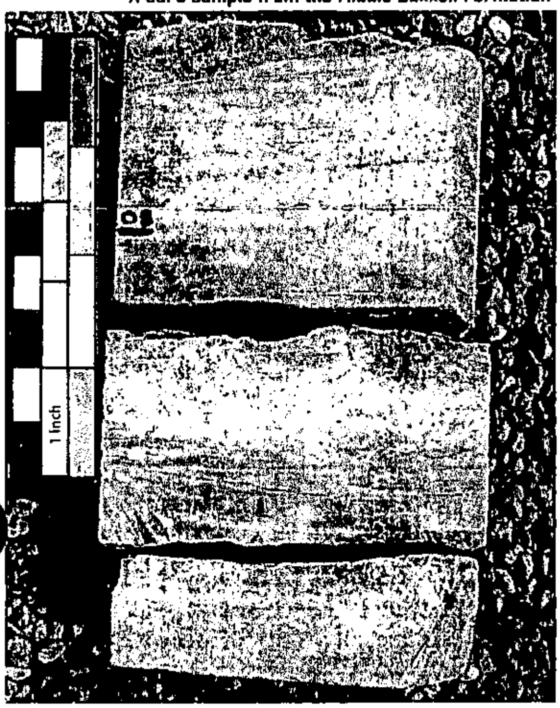
- **All Bakken wells** in North Dakota since October of 2005 **have been horizontal wells**. Statewide horizontal drilling accounted for **72% of all new wells drilled** and **55% of the state's total oil production** in 2005.

- 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.

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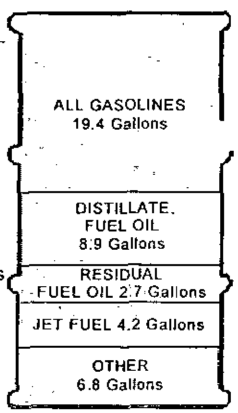
Responsible Development on Public Lands

- The oil and gas industry in North Dakota has explored and drilled the grasslands for over 50 years and has a proven track record of being able to produce oil without disrupting the environment or wildlife.
- The industry, in cooperation with the Forest Service, has reclaimed over 700 wells and 280 miles of roads in the national grasslands. This represents 5,300 acres returned to vegetation after the oil and gas reserves were depleted.
- Almost 21% of the state's oil production and over 21% of the state's producing wells are on the grasslands.

Refining and Transportation

- The state's only operating crude oil refinery is at Mandan. It has a daily capacity of about 60,000 barrels.
- There are nine natural gas processing plants operating in western North Dakota. They are located near Tioga, Ambrose, Killdeer, Lignite, Rhame, Gorham, Arnegard, Trotters, and Marmarth.
- The nine natural gas processing plants processed enough natural gas in 2005 to heat 447,000 households for one year. 43% of the homes in North Dakota use natural gas as their primary heating fuel.



AVERAGE GALLONS OF PRODUCT DERIVED FROM EACH BARREL OF CRUDE OIL
(42 Gallons in a Barrel)

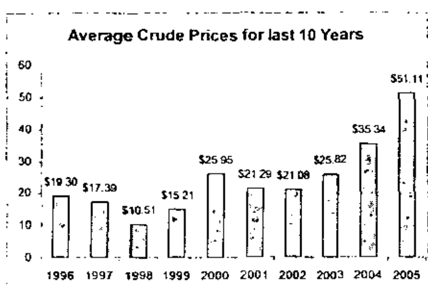
Gasoline – Consumption & Taxes

North Dakotans pay 23 cents state tax and 18.4 cents federal tax on each gallon of gasoline and diesel fuel they buy.

- North Dakotans used over 360 million gallons of gasoline in 2005, and just over 481 million gallons of diesel fuel.
- Gasoline and special fuels taxes raised nearly $125 million in tax revenue during 2005 – up from $120 million the previous year. These funds are used primarily for road construction.

History

- Oil was discovered on April 4, 1951 near Tioga in Williams County. That well, the Clarence Iverson #1, produced more than 585,000 barrels of oil over 28 years.
- Prior to the discovery of oil in 1951, 64 wells had been drilled in the state dating back to 1910. Since 1951, another 14,224 wells have been drilled in North Dakota.
- The average crude oil posted price for North Dakota in 2005 was $51.11 per barrel. That represents nearly $16 a barrel increase from the 2004 average.



- The future is bright for the oil and gas industry in North Dakota. There is a huge amount of oil and gas still in the ground in areas that have not been explored. New technologies, new discoveries, and new work in older fields have vastly increased both the odds of finding oil and the efficiency of producing it.

And Nationally.......

- The biggest source of energy in the United States in 2005 was petroleum, supplying 40% of our nation's energy. Natural gas furnished 23%, coal 23%, nuclear 8%, and renewables 6%.
- The average drilling rig count in the U.S. for 2005 was 1,380, up 16% from 2004. The all-time high was 4,530 in 1981.
- U.S. crude oil production in December of 2005 was 4.9 million barrels per day.
- Total petroleum imports averaged 13.5 million barrels per day for 2005, down 5.6% from 2004.
- The U.S. imported 65.7% of its total oil needs in 2005. The largest importers to the U.S. are Canada with 10.4%, Mexico with 7.9%, Venezuela with 7.3%, Saudi Arabia with 7.6% and Nigeria with 5.5%. Iraq supplied the U.S. with 3.2% of its oil in 2005. Collectively, OPEC countries supplied about 27% of our nation's daily oil needs. Saudi Arabia was the largest producer of oil in 2005.

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All data is from latest year available.
For sources or additional information, contact:

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President

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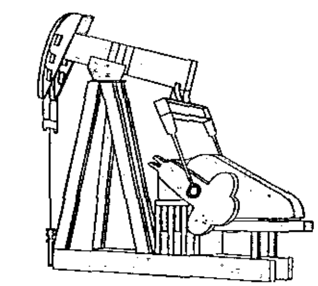
NORTH DAKOTA OIL & GAS INDUSTRY

FACTS & FIGURES



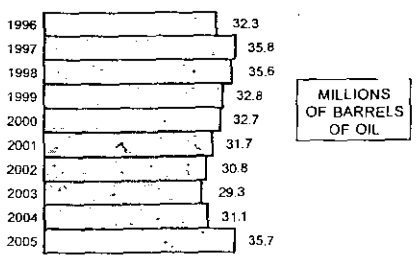
2006 Edition

North Dakota Petroleum Council

North Dakota's Oil Patch Stats for 2005

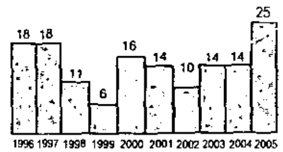
- North Dakota is the ninth largest oil prod[illegible] state. The state produced nearly 98,000 barrels of oil per day in 2005, totaling 35.6 million barrels for the year.
- All-time production of crude oil in North Dakota amounts to more than 1.5 billion barrels.
- At the end of 2005, there were 3,908 wells capable of producing oil and gas in North Dakota. The average North Dakota well produced approximately 25 barrels per day.
- During 2005, 58.1 billion cubic feet of natural gas was produced and 50.7 billion cubic feet of natural gas was processed in North Dakota.
- The state's oil production increased in 2005. Total oil production for the year was 35,673,181 barrels, up 4,519,688 barrels from the previous year.

ANNUAL CRUDE OIL PRODUCTION
(BARRELS)
IN NORTH DAKOTA



- The drilling rig count, which is a prime barometer for measuring new oil and gas activity, averaged 25 rigs a day in 2005. The peak year for drilling rigs was 1981, with an average monthly rig count of 119. The all-time high was in October of 1981 with 146 rigs operating.

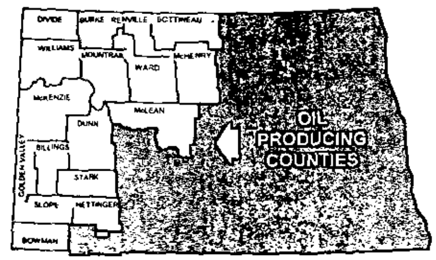
Average Number of Drilling Rigs



- There were 348 drilling permits issued during 2005, compared to 216 the previous year. Approximately 173 wells were completed during the year.
- Horizontal, or directional, drilling accounted for 72% of the new wells drilled in 2005 and accounted for 55% of the state's total oil production.
- The success ratio for wells in existing fields in 2005 was 95% and for wildcat wells it was 63%. Horizontal wells were successful 96% of the time. The overall industry success rate in North Dakota for 2005 was 90%. A wildcat well is a new well drilled at least one mile from existing production.
- The deepest vertical well drilled last year in North Dakota was 14,775 feet. The average depth for a North Dakota well in 2005 was 12,449 feet compared to 6,219 feet nationwide. The deepest horizontal well drilled last year in North Dakota was 19,500 feet.
- The average cost of completing an oil well in North Dakota was approximately $3.1 million during 2005. The average cost of completing a well in the U.S. in 2004 was nearly $2 million.

Where The Oil Comes From

- There are 17 counties in the state with commercial oil production. Oil and gas exploration has occurred at some point in every county in the state except Traill County.
- Bowman County was the top-producing county in 2005 accounting for 36.4% of the state's oil production. The other top-producing counties were McKenzie, Billings, Williams and Stark.

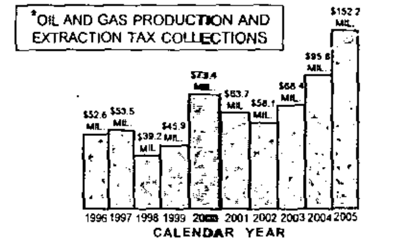


Oil Patch Employment

- The state averaged 4,200 North Dakotans at work in the oil patch in 2005. Peak oil field employment occurred in late 1981, when more than 10,000 people were working in the oil patch.
- Each drilling rig results in approximately 120 direct and indirect jobs.
- Other sectors of the petroleum industry include refineries, gas plants, pipelines, retail gasoline stations, wholesalers, and transporters. The industry altogether employed approximately 12,900 people in North D[illegible] in 2005.
- Job Service North Dakota reports that in 2004 the average yearly wage in the oil and gas extraction industry was $55,679. That wage is 92% above the statewide average wage of $28,971!

Oil Tax Revenues High in 2005

- Higher crude oil prices in 2005 led to huge tax collections for the State of North Dakota. Counties, schools, and cities benefited from increased oil and gas tax collections as well. Tax revenues for 2005 were $152.8 million representing 63% increase from 2004.



* Total collections reflect all revenue paid by the industry, including the counties' share of the 5% production tax and the trust fund portion of the 6.5% extraction tax.

- All-time oil tax revenues to the state have exceeded $2 billion.
- The average production and extraction tax paid on crude oil in 2005 was 8.35%. The tax rate on crude oil varies between 5% and 11.5% depending upon the type of well.
- The oil and gas industry generated $6.5 million in taxable sales and purchases in 2005, up 8% from 2004.
- The tax on natural gas in 2005 was eight cents per thousand cubic feet (mcf). In 2005, the state collected more than $5.3 million in natural gas taxes.
- Over the past 54 years, the State of North Dakota has received more than $496 million from oil and gas leases, bonuses, royalties and rentals on state land. During 2005, more than $6 million went to the Lands and Minerals Trust and over $29.3 million to the Board of University and School Lands Trust.
- U.S. Forest Service administered lands in the Little Missouri National Grasslands provided oil and gas revenues of $40.7 million during fiscal year 2005. Of that amount, one-fourth, or $10.2 million was returned to McKenzie, Billings, Golden Valley and Slope Counties for schools and roads. In addition, Bureau of Land Management administered land produced more than $26.5 million during fiscal year 2005. Half of that amount, $13.3 million, was returned to the state's general fund and is the first money expended for education statewide.

#4

Northern Alliance
of INDEPENDENT PRODUCERS

Industry Business and Labor Committee
North Dakota House of Representatives
January 16, 2007
HB 1128

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 (Bakken wells often exceed $5 million) that represents a capital outlay of $900 million annually.

We support HB 1128 which creates a pipeline authority that was modeled after the transmission authority you approved in 2005. The pipeline authority should be another step in capitalizing on our energy sector that the Governor spoke of in the State of the State address. I'd like to discuss the oil industry with you for just a moment.

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 (from wage earners and bonus or royalty payments to people across the state), or sales taxes, or State royalty and lease bonus income, new jobs and other sources of revenue generated by the oil and gas industry. In fact our current ending fund balance is largely a result of oil revenue.

The reason I mention these numbers is to help demonstrate how important the industry and oil is to our state and our financial well being. We enjoy a vibrant oil economy, but there are problems within the industry that we need to address.

For example, the Bakken play in North Dakota (which you will hear a lot about during the session) struggles to find financial success. At present our records show that only 15% of the wells drilled in the Bakken are economic, meaning they will not reach pay out (return of capital) 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 traditional exploration, so even though oil may be found, it may cost more to drill, develop and operate the well than the oil will pay for---even at today's prices.)

The "Bakken formation" represents a potentially huge resource for the State. The U.S. Geological Survey is conducting a study that will assess what part of the resource is "technically recoverable" which will be completed in March, 2008. The "Bakken" represents one of those areas where the Governor stressed the potential for growth in North Dakota where we might not only meet, but could exceed the national average income. But, the industry faces challenges in the Bakken and elsewhere in North Dakota, including:

- high prices (drilling costs are up dramatically)

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

- high taxes (2^{nd} or 3^{rd} in nation), at present 11.5% on gross revenues (even if you loose money)

- and price differentials as high as $31 per barrel.

HB 1128 is a step towards resolving the "price differential" resulting from an inadequate pipeline system, growth in American oil production and huge imports of Canadian crude oil, all of which resulted in North Dakota producers getting as much as $31 less than the posted price on the New York Mercantile Exchange (NYMEX). In other words, when oil was selling for $75 @ barrel on the NYMEX, many of our producers (and ND mineral owners) were getting much less than the quoted price. In fact the State itself lost $14 million in royalties in the first 5 months of 2006. (The industry, surrounding states and even the federal government, have responded in a number of ways to begin addressing this complex problem—a key solution being the construction of new pipeline capacity. A pipeline authority was proposed as part of the solution (similar legislation is being considered in neighboring states as well.)

The pipeline authority would join a host of agencies under the North Dakota Industrial Commission, including the transmission authority that this committee worked on in the last session. (Other NDIC agencies include BND, State Mill, HFA, Building Authority, Lignite Research, Oil and Gas Research, Transmission Authority, Geological Survey, Oil and Gas Division, Student Loan Trust and the Public Finance Authority)

HB 1128 won't solve the price differential and lack of pipeline infrastructure tomorrow. But it is a step in the right direction and another tool that is available to the State and the industry to help meet the price differential challenges we will undoubtedly face in the coming years. It will serve as a catalyst to encourage private investment, can help with needs assessments, may create coalitions among companies to commit the huge capital necessary for infrastructure build out, and can access low cost public financing (and possible tax exempt financing) that might otherwise be unavailable.

One final point, the bill is not just an oil and gas bill, but is written in a way that builds on synergies that many components of our energy sector (oil and gas, coal and renewables) can build upon, where we see the utilization of CO_2 in secondary recovery projects, use in coal to liquid projects, common rights of way for raw and refined products and similar benefits that may evolve from HB 1128.

Mr. Chairman, members of the Committee for these reasons we support HB 1128, are pleased with its structure and ask for a DO PASS recommendation from your Committee.

Robert W. Harms
President, Northern Alliance of Independent Producers
Box 2422
Bismarck, North Dakota 58502

#5

House Bill 1128

Industry, Business & Labor Committee

January 16, 2007

TESORO

Tesoro Refining and Marketing Company
Northern Great Plains Region
900 Old Red Trail NE
Mandan, ND 58554-1589
701 667 2400
701 667 2419 Fax

Mr. Chairman and members of the Committee, my name is Ron Day, I'm the Manager of Health, Safety, and Environment at the Tesoro Mandan Refinery. The Tesoro Mandan Refinery processes approximately 60,000 barrels per day of Williston Basin Crude and employs approximately 225 employees. I appear before you today in support of House Bill 1128.

As Tesoro and other energy commodity industries in North Dakota look to grow and expand, the process of getting our products to the consumer becomes one of the major hurdles to overcome. The issues associated with the exporting of North Dakota's vast energy resources must be solved in order to continue and achieve ustainability of the growth we have seen in North Dakota's energy industry. The passage of House Bill 1128 is one means the State of North Dakota can continue to help facilitate the development opportunities in the State's energy industry.

The creation of the North Dakota pipeline authority and the enhancement in the Oil and Gas research funding, as outlined in House Bill 1128 are positive measures to which the State of North Dakota can ensure that when growth opportunities arise or new technologies are needed, we will have the means to seize those opportunities and to expand North Dakota's energy industry.

House Bill 1128 will provide the State's energy industry with a partner (the North Dakota pipeline authority) and the commitment (the Oil and Gas research fund) to help solve issues associated with exporting North Dakota's wealth of energy to the Nation.

On behalf of the Tesoro Mandan Refinery and its employees who provide North Dakota citizens and North Dakota businesses with high quality and reliable fuels, I urge your support for this bill. Thank you for owing me to provide this testimony and I would be happy to answer any questions.

#6.

House Bill 1128
House Natural Resources Committee
January 16, 2007

Chairman Keiser and members of the committee, my name is Edward N. Steadman. I am here to testify in support of HB 1128, the "Energy Commodities Pipeline Authority Bill." I am a Senior Research Advisor at the Energy & Environmental Research Center (EERC) at the University of North Dakota (UND). I manage the Plains CO_2 Reduction (PCOR) Partnership.

The proposed pipeline authority will support the development of infrastructure required to extend the life of North Dakota's oil fields. In so doing, it will also support the State's lignite industry's efforts to develop new power plants. Without the pipeline authority, and increased funding for the Oil and Gas Research Council (OGRC), it will be more difficult for North Dakota's critical fossil fuel industry to prepare for, and compete on, the domestic energy playing field.

The PCOR Partnership is a diverse group of public- and private-sector stakeholders working together to better understand the technical and economic feasibility of capturing and storing carbon dioxide (CO_2) emissions (referred to as CO_2 sequestration) from stationary sources in the central interior of North America. The PCOR Partnership is one of seven regional partnerships funded by the U.S. Department of Energy (DOE) Regional Carbon Sequestration Partnership Program and by a broad range of project sponsors. The OGRC has been a critical partner in supporting the PCOR Partnership. The OGRC has provided matching funds that have been used to secure more than 22 million dollars of federal and industry funding in Phase II and will be critical to allowing North Dakota to secure the 84 million dollars of funding to be provided in Phase III. In all, more than 100 million dollars of funding will have been secured in our State to support the region's energy industry with the support of the OGRC.

With growing concern over global warming and the potential causal role that anthropogenic greenhouse gas emissions may play, carbon management is likely to become a fact of life for industries in the near future. Along with our partners, the PCOR Partnership has developed a vision of the role that CO_2 sequestration may play in a carbon-managed future.

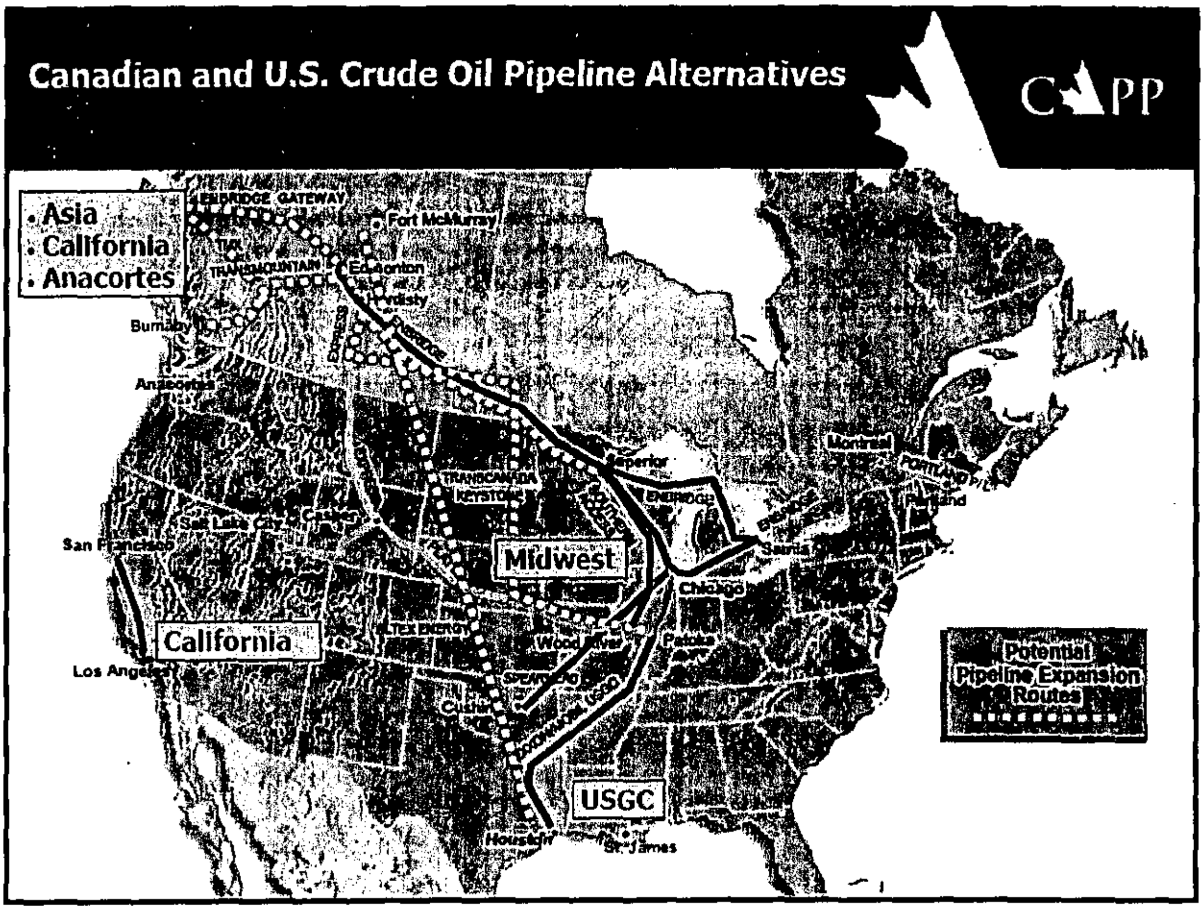
The PCOR Partnership vision for our region includes a network of CO_2 pipelines that connects major sources and sinks. We anticipate that the initial legs of this pipeline system will be developed for enhanced oil recovery (EOR) projects and that they will be used for saline formation injection after the EOR opportunities have been depleted. In our vision, the CO_2 sources that are first adopters will benefit from the revenues produced through the commercial sale of CO_2. Once carbon markets fully develop, the economics of carbon credit trading will become a major factor in the development of sequestration opportunities.

Our region, and North Dakota's Williston Basin in particular, is perfectly positioned to be a world leader in carbon sequestration and EOR. This is because the deep, seismically stable rocks of the Williston Basin are among the world's best places to store CO_2, and many of the Williston Basin oil fields are good candidates for CO_2-based EOR. Since many areas of the country do not have the Williston Basin's beneficial geology, federal legislation that requires carbon management may well provide a competitive advantage to our state because we have opportunities to develop sequestration projects that other regions do not have. Therefore, our vibrant and critical lignite coal and oil and gas industries are poised to develop commercially viable carbon management strategies that benefit both the environment and North Dakota's economy.

The opportunities for EOR are particularly compelling. The PCOR Partnership has estimated that the amount of additional oil recovery that CO_2 flooding could provide in North Dakota would be approximately 260 million barrels. At $40 per barrel, revenues of about $10 billion would result. Further, the CO_2-based EOR has the potential to extend the commercially productive life of Williston Basin oil fields where it is applied by as much as 30 years. With the further development of carbon capture and separation technologies, North Dakota's lignite-fired electrical generation facilities may well see new revenue streams from the sale of CO_2 for EOR.

The proposed pipeline authority will greatly facilitate the development of the pipeline infrastructure required to make the PCOR Partnership vision a reality. This vision will extend the life of North Dakota's oil fields and benefit the State's lignite industry as well. CO_2 management is a key to new power plant development. The Pipeline Authority and OGRC activities are critical in supporting the PCOR Partnership efforts to keep our energy industry strong. Without the pipeline authority, and increased support of the OGRC, we may miss a huge opportunity to boost North Dakota's critical role in supplying domestic energy sources to the country.

#1


Canadian and U.S. Crude Oil Pipeline Alternatives
CAPP
Asia
California
Anacortes
ENBRIDGE GATEWAY
Fort McMurray
TRANSMOUNTAIN
Edmonton
Hardisty
Burnaby
Anacortes
Superior
TRANSCANADA
KEYSTONE
ENBRIDGE
Montreal
PORTLAND
Portland
Sarnia
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Patoka
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Potential
Pipeline Expansion
Routes
USGC
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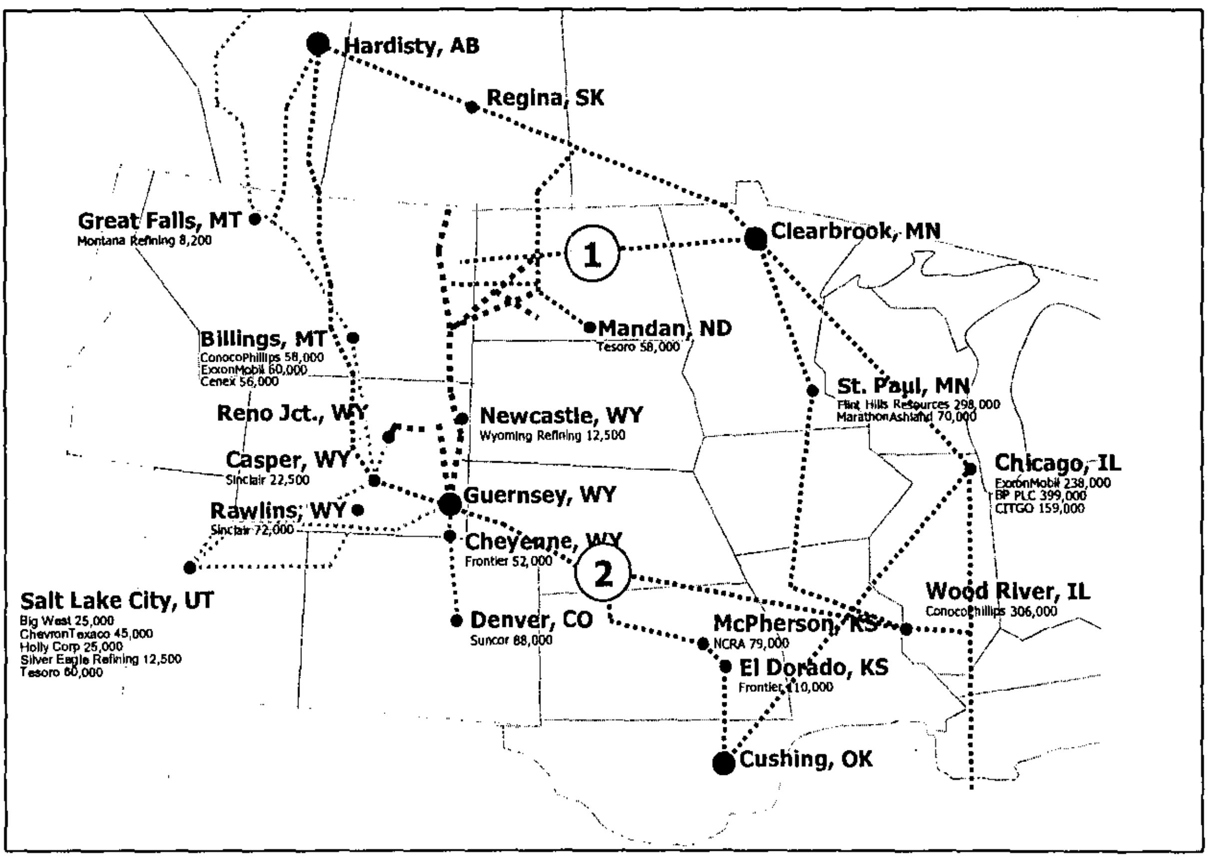
Hardisty, AB
Regina, SK
Great Falls, MT
Montana Refining 8,200
1
Clearbrook, MN
Mandan, ND
Tesoro 58,000
Billings, MT
ConocoPhillips 58,000
ExxonMobil 60,000
Cenex 56,000
St. Paul, MN
Flint Hills Resources 298,000
MarathonAshland 70,000
Reno Jct., WY
Newcastle, WY
Wyoming Refining 12,500
Casper, WY
Sinclair 22,500
Chicago, IL
ExxonMobil 238,000
BP PLC 399,000
CITGO 159,000
Guernsey, WY
Rawlins, WY
Sinclair 72,000
Cheyenne, WY
Frontier 52,000
2
Salt Lake City, UT
Big West 25,000
ChevronTexaco 45,000
Holly Corp 25,000
Silver Eagle Refining 12,500
Tesoro 60,000
Wood River, IL
ConocoPhillips 306,000
Denver, CO
Suncor 88,000
McPherson, KS
NCRA 79,000
El Dorado, KS
Frontier 110,000
Cushing, OK

Attach. 2

NORTH DAKOTA PETROLEUM COUNCIL

Ron Ness
President
Marsha Reimnitz
Office Manager

120 N. 3rd Street • Suite 225 • P.O. Box 1395 • Bismarck, ND 58502-1395
Phone: 701-223-6380 • Fax: 701-222-0006 • Email: ndpc@ndoil.org

House Bill 1128

House Appropriations Committee

February 1, 2007

Chairman Svedjan and Members of the Committee, my name is Ron Ness. I am the President of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents 130 companies involved in all aspects of the oil and gas industry including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain Region. Petroleum Council members produced 80% of the nearly 36 million barrels of oil produced in North Dakota in 2006. I appear before you today in support of House Bill 1128.

OIL INDUSTRY FACTS:

- **North Dakota ranks 9th among the nation's oil producing states**
- **North Dakota produces 113,000 barrels of oil per day**
- **There are currently 42 rigs drilling new wells**
- **Industry produced 36 million barrels of oil last year**
- **Currently, there are more than 3,600 producing oil wells in the state**
- **Average production per well is about 30 barrels per day**
- **160 oil companies own and operate wells in North Dakota**
- **Industry has added an estimated 2,500 jobs in the past 30 months**

OIL AND GAS INDUSTRY TAX REVENUES:

- **$152 million in 2005 in oil and gas production taxes**
- **A 63% increase in oil tax revenues from 2004**
- **3rd largest source of revenue to the general fund behind sales and income taxes**
- **$102 million to Permanent Oil Tax Trust Fund through December 31, 2006**
- **$167 million in oil tax collection in fiscal year 2006**

What can be done to help sustain this incredible economic growth and help expand our state's oil production to 150,000 or 200,000 barrels of oil per day?

The impact of that type of growth in North Dakota's oil industry would drive the state's economy for decades. There are a number of challenges facing industry today that hold back that type of growth. Commodities prices and economics drive investment in this business. High prices have made it possible to invest in new technology which makes developing a resource like the Bakken play possible. New technology and positive economics will continue to be important; however, other solutions, like having a trained workforce, along with a fair tax and regulatory climate in the state and an expanded infrastructure to produce, transport, and refine our oil and gas resources are critical.

House Bill 1128 is designed to allow the state an opportunity to facilitate pipeline projects for North Dakota's energy industry. The intent is not to have the state own or operate transportation facilities, but to help gather information and remove potential roadblocks on energy transportation projects and help pave the way for industry to make the investment. As indicated, oil industry investment is driven by price and economics. North Dakota competes with the rest of the nation and the world to attract investment. Currently, the state's oil patch has become a hotbed in the United States for interest and investment and our economy is certainly seeing the benefits. However, oil company executives tell me that the inability to sell oil or market oil at a fair price will shut down the investment and surge in oil activity faster than any other challenge facing industry. For the past year, North Dakota oil producers have been faced with an issue we didn't see coming. Increased production of oil in the state and region along with imports into regional pipelines have put great pressure on oil markets and negatively impacted oil prices in North Dakota. This imbalance of supply and demand for export capacity has resulted in the industry, mineral owners, and the state of North Dakota losing millions of dollars and the problem has the potential to significantly impact future oil activity in the state. We know that additional infrastructure to export our oil or expand regional refining capacity is likely the answer; however, major investments such as these take time and research. HB 1128 can help move these projects along.

Estimated Financial Impacts of the Pipeline Bottleneck:

The average ND differential (basis) from NYMEX for the past four years prior to 2006 as reported by the ND Tax Department was $4.11. The 2006 basis was $10.50 for every barrel sold in the state. The differential has grown $6.39 per barrel in the past year.

36 million barrels x $6.39 = $230+ million in lost revenue to producers and royalty owners

$230 million x 8.35% = $19+ million in lost tax revenue to the state of North Dakota

Industry is working diligently to address the problems related to exporting Williston Basin crude oil. Over the past year, the Petroleum Council, industry, and state officials have been investigating every possible alternative to address this issue. Each company is looking at their situation and seeking solutions. Enbridge Pipelines (ND) is investing millions to upgrade their pipeline facilities that will add up to 45,000 barrels a day export capacity by 2008. HB 1128 will not solve this problem alone, but it is one of the many identified steps that presents a potential solution. Through the Pipeline Authority, the state can provide an important role in facilitating pipeline projects. The oil industry is extremely competitive and companies are often reluctant to discuss future development plans. The Pipeline Authority can gather information and work to eliminate roadblocks on behalf of all parties considering new projects. The Wyoming Natural Gas Pipeline Authority has shown success in addressing gas bottlenecks in that region in recent years. A new gas pipeline was constructed in Wyoming with the assistance of the Pipeline Authority.

I urge your support for HB 1128. I would be happy to answer any questions. Thank you.

IOGCC

– Gov Hoeven

Rep [illegible]

att #1

INDUSTRIAL COMMISSION OF NORTH DAKOTA

John Hoeven	Wayne Stenehjem	Roger Johnson
Governor	Attorney General	Agriculture Commissioner

Same testimony given Senate Appropriations

Testimony on Engrossed House Bill No. 1128
By Karlene Fine
Executive Director and Secretary
Industrial Commission of North Dakota
March 8, 2007 – Political Subdivisions Committee

Mr. Chairman and members of the Political Subdivisions Committee, my name is Karlene Fine and I serve as Executive Director and Secretary for the Industrial Commission. Last session the Industrial Commission introduced and you established the North Dakota Transmission Authority which put in place a state entity to assist with resolving the constraints that face the electric generation industry in moving electricity to our customers. Today the Industrial Commission is asking for your support in establishing the North Dakota Pipeline Authority to assist in resolving the transportation issues we are facing in moving energy-related commodities through pipelines.

This legislation will look very familiar to you as it was drafted based on the North Dakota Transmission Authority Act and the Wyoming Pipeline Authority law.

As we drafted this legislation we designed it to provide flexibility, provide for checks and balances and to limit state ownership—no more than necessary; no longer than necessary and require an exit strategy.

A brief review of the bill:

Section 1 provides for an exemption from the Administrative Practices Act similar to what we have in place for the Transmission Authority.

Section 2:

54-17.7-01 creates the Authority and that it will be governed by the Industrial Commission.

54-17.7-02 provides definitions that are needed. Please note the definition of energy-related commodities. Included are not only oil and gas but renewable energy, coal, carbon dioxide, etc.

54-17.7-03 states the purposes for the Pipeline Authority.

54-17.7-04 outlines the powers of the Pipeline Authority – these powers have been drafted to provide flexibility as the Authority works to diversify and expand the State's economy by the development of pipeline facilities as they relate to energy-related commodities. This section allows for the planning and development of pipeline facilities, contracting with others, serving as an alternative source of financing, consultation with the Public Service Commission, other interested persons and parties including regional organizations, federal entities, etc. Note on the top of Page 3 lines 3 through 10 permits the Pipeline Authority to

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www.nd.gov

acquire the right to capacity in any pipeline system. This is a provision that was useful in the State of Wyoming and Lynn Helms will comment further on that specific provision. The House amended this portion of the bill to include some limitations on the amount of obligations the State could enter into if acquiring or purchasing capacity on a pipeline.

54-17.7-05 provides that the Authority would be the Builder of Last Resort.

54-17.7-06 allows the Authority to be a partner or an investor in a pipeline project.

54-17.7-07 allows the Authority to issue revenue bonds.

54-17.7-08 provides that the Public Service Commission will continue to have siting and pipeline safety authority. However, in regard to rate setting, the Pipeline Authority rates would be exempt from Public Service Commission authority. Interstate pipeline rates would be subject to FERC jurisdiction.

54-17.7-09 declares the bonds of the Pipeline Authority as legal investments and permits the Investment Board to invest in the bonds if they so determine.

54-17.7-10 relates to the Authority being the Builder of Last Resort and only for that period of time needed.

54-17.7-11 establishes a separate Pipeline Authority Fund to deposit revenues and from which to make expenditures.

54-17.7-12 provides for confidentiality of materials provided to the Authority.

Section 5 provides for a property tax exemption of Pipeline Authority property for ten years with payments in lieu of property taxes provided to the counties.

There are three provisions in this legislation that relate to the Oil and Gas Research Program.

Section 3 provides that the Oil and Gas Research Program and the Pipeline Authority are exempt from the State's procurement law. The specialized expertise needed for the analysis of projects limits the number of entities that could provide the services required.

Section 4 would provide an exemption for the Oil and Gas Research Program from 54-50.1-01 of the North Dakota Century Code which deals with accountability similar to the Lignite Research Program. In regards to the Pipeline Authority we have included a requirement for the filing of annual and biennial reports.

Current law provides that 2% of the State's share of the oil and gas taxes up to $1.3 million be transferred to the Oil and Gas Research Fund. Section 6 increases the limitation of the amount of funding coming into the Oil and Gas Research Fund from $1.3 million a biennium to $3 million a biennium. HB 1128 also provides that any interest earned on the Oil and Gas Research Fund stays within the Fund. In addition to the demands for research on the Oil and Gas Research Program, there will be costs for hiring consultants and doing studies/analysis in regards to the Pipeline Authority. Costs of the Pipeline Authority would come from the Oil and Gas Research Fund.

We have proposed that this be an emergency measure. Pipeline capacity is at a maximum and even with the best efforts of the industry there is a need to move forward as quickly as possible in entering into discussions with potential partners. CO_2 issues and the Coal to Liquids project are moving forward now and it is important for the State to indicate its support for resolving the pipeline constraints we are currently seeing.

You may ask why a Transmission Authority and now a Pipeline Authority—why can't they be combined? We did consider this option and after considering the expertise that would be needed to do the work, the regulatory structure for the different commodities (transmission lines involve a national grid and a complex cost/price allocation; involvement by a regional organization—MISO); and the different groups that you need to work with, we came to the conclusion that combining the two Authorities wouldn't work. However, by placing both entities under the Industrial Commission we would be able to identify opportunities that could be beneficial to both Authorities.

With your permission, Mr. Chairman, I would ask Lynn Helms, Director of the Department of Mineral Resources to follow me. This past year, on behalf of the Industrial Commission, he served as the point person to define the transportation crisis in North Dakota and to outline methods for resolving that crisis. He, along with Ron Ness of the North Dakota Petroleum Council, developed a white paper on this matter and I have attached a copy of that paper for your information.

On behalf of the Industrial Commission we ask for your support of Engrossed House Bill 1128.

Att. #3

NORTH DAKOTA PETROLEUM COUNCIL

Ron Ness
President
Marsha Reimnitz
Office Manager

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Phone: 701-223-6380 • Fax: 701-222-0006 • Email: ndpc@ndoil.org

House Bill 1128

Senate Political SubDivisions Committee

March 8, 2007

Chairman Cook and Members of the Committee, my name is Ron Ness. I am President of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents 130 companies involved in all aspects of the oil and gas industry including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain Region. Petroleum Council members produced 80% of the nearly 36 million barrels of oil produced in North Dakota in 2006. I appear before you today in support of House Bill 1128 and we support the Emergency Clause.

OIL INDUSTRY FACTS:

- **North Dakota ranks 9th among the nation's oil producing states**
- **North Dakota produces more than 114,000 barrels of oil per day**
- **There are currently 37 rigs drilling new wells**
- **Industry produced 36 million barrels of oil last year**
- **Currently, there are more than 3,600 producing oil wells in the state**
- **Average production per well is about 30 barrels per day**
- **160 oil companies own and operate wells in North Dakota**
- **Industry has added an estimated 2,500 jobs in the past 30 months**
- **A recent study indicates the industry needs to hire more than 3,000 new employees each of the next four years**

OIL AND GAS INDUSTRY TAX REVENUES:

- **$180.5 million in 2006 in oil and gas production taxes, a 19% increase in from 2005**
- **$112 million to Permanent Oil Tax Trust Fund through January 31, 2007**
- **$7.3 million from Mineral Leasing Fees to the General fund through January 31, 2007**
- **4th largest source of revenue to the general fund behind sales, individual, and corporate income taxes**

What can be done to help sustain this incredible economic growth and expand our state's oil production to 150,000 or 200,000 barrels of oil per day and tax collections to more than $400 million per biennium?

The impact of that type of growth in North Dakota's oil industry would drive the state's economy for decades. There are a number of challenges facing industry today that hold back that type of growth. Commodities prices and economics drive investment in this business. High prices have made it possible to invest in new technology which makes developing a resource like the Bakken play possible. New technology and positive economics will continue to be important; however, other solutions, like having a trained workforce, along with a fair tax and regulatory climate in the state and an expanded infrastructure to produce, transport, and refine our oil and gas resources are critical. The state can work to address several of these concerns and you are likely to see numerous bills this session that will have a positive or negative impact on these issues.

House Bill 1128 is designed to allow the state an opportunity to facilitate pipeline projects for North Dakota's energy industry. The intent is not to have the state own or operate transportation facilities, but to help gather information and remove potential roadblocks on energy transportation projects and help pave the way for industry to make the investment. As indicated, oil industry investment is driven by price and economics. North Dakota competes with the rest of the nation and the world to attract investment. Currently, the state's oil patch has become a hotbed in the United States for interest and investment and our economy is certainly seeing the benefits. However, oil company executives tell me that the inability to sell oil or market oil at a fair price will shut down the investment and surge in oil activity faster than any other challenge facing industry. For the past year, North Dakota oil producers have been faced with an issue we didn't see coming. Increased production of oil in the state and region along with imports into regional pipelines have put great pressure on oil markets and negatively impacted oil prices in North Dakota. This imbalance of supply and demand for export capacity has resulted in the industry, mineral owners, and the state of North Dakota losing

millions of dollars and the problem has the potential to significantly impact future oil activity in the state. We know that additional infrastructure to export our oil or expand regional refining capacity is likely the answer; however, major investments such as these take time and research. HB 1128 can help move these projects along.

Estimated Financial Impacts of the Pipeline Bottleneck:

The average ND differential (basis) from NYMEX for the past four years prior to 2006 as reported by the ND Tax Department was $4.11. The 2006 basis was $10.50 for every barrel sold in the state. The differential has grown $6.39 per barrel in the past year.

36 million barrels x $6.39 = $230+ million in lost revenue to producers and royalty owners
$230 million x 8.35% = $19+ million in lost tax revenue to the state of North Dakota

Industry is working diligently to address the problems related to exporting Williston Basin crude oil. Over the past year, the Petroleum Council, industry, and state officials have been investigating every possible alternative to address this issue. Each company is looking at their situation and seeking solutions. Enbridge Pipelines (ND) is investing millions to upgrade their pipeline facilities that will add up to 45,000 barrels a day export capacity by 2008. HB 1128 will not solve this problem alone, but it is one of the many identified steps that presents a potential solution. Through the Pipeline Authority, the state can provide an important role in facilitating pipeline projects. The oil industry is extremely competitive and companies are often reluctant to discuss future development plans. The Pipeline Authority can gather information and work to eliminate roadblocks on behalf of all parties considering new projects. The Wyoming Natural Gas Pipeline Authority has shown success in addressing gas bottlenecks in that region in recent years. A new gas pipeline was constructed in Wyoming with the assistance of the Pipeline Authority.

I urge your support for HB 1128. I would be happy to answer any questions. Thank you.

Att #5

H. B. 1128

Presented by: **Illona Jeffcoat-Sacco**
Public Service Commission

Before: **Senate Political Subdivisions Committee**
Honorable Dwight C. Cook, Chairman

Date: **March 8, 2007**

TESTIMONY

Chairman Cook and committee members, my name is Illona Jeffcoat-Sacco. I am the Executive Director of the Public Service Commission and the Commission's Public Utilities Director. The Public Service Commission asked me to appear here today to request a very minor amendment to the engrossed bill.

We appreciate being invited to participate on the House side as this bill was amended and our request there was incorporated into the engrossed bill. However, during that process, we inadvertently left out one statutory reference that we should have included. We included the statutory reference that gives the Commission pipeline safety jurisdiction, but we did not include the statutory reference that provides a penalty for pipeline safety violations. Attached is a proposed amendment to the engrossed bill to incorporate the penalty provision now. Thank you for your consideration of our request.

This completes my testimony. I will be happy to answer any questions you may have.

PREPARED BY PUBLIC SERVICE COMMISSION
March 8, 2007

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1128

Page 8, line 3, replace "section" with "sections"

Page 8, line 3, after "49-02-01.2" insert "and 49-07-05.1"

Renumber accordingly

(3)

NORTH DAKOTA
PETROLEUM
COUNCIL

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Marsha Reimnitz
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House Bill 1128

Senate Appropriations Committee

March 16, 2007

Chairman Holmberg and Members of the Committee, my name is Ron Ness. I am the President of the North Dakota Petroleum Council. I appear before you today in support of House Bill 1128 and we support the Emergency Clause.

House Bill 1128 is designed to allow the state an opportunity to facilitate pipeline projects for North Dakota's energy industry. The intent is not to have the state own or operate transportation facilities, but to help gather information and remove potential roadblocks on energy transportation projects and help pave the way for industry to make the investment. As indicated, oil industry investment is driven by price and economics. North Dakota competes with the rest of the nation and the world to attract investment. Currently, the state's oil patch has become a hotbed in the United States for interest and investment and our economy is certainly seeing the benefits. However, oil company executives tell me that the inability to sell oil or market oil at a fair price will shut down the investment and surge in oil activity faster than any other challenge facing industry. For the past year, North Dakota oil producers have been faced with an issue we didn't see coming. Increased production of oil in the state and region along with imports into regional pipelines have put great pressure on oil markets and negatively impacted oil prices in North Dakota. This imbalance of supply and demand for export capacity has resulted in the industry, mineral owners, and the state of North Dakota losing

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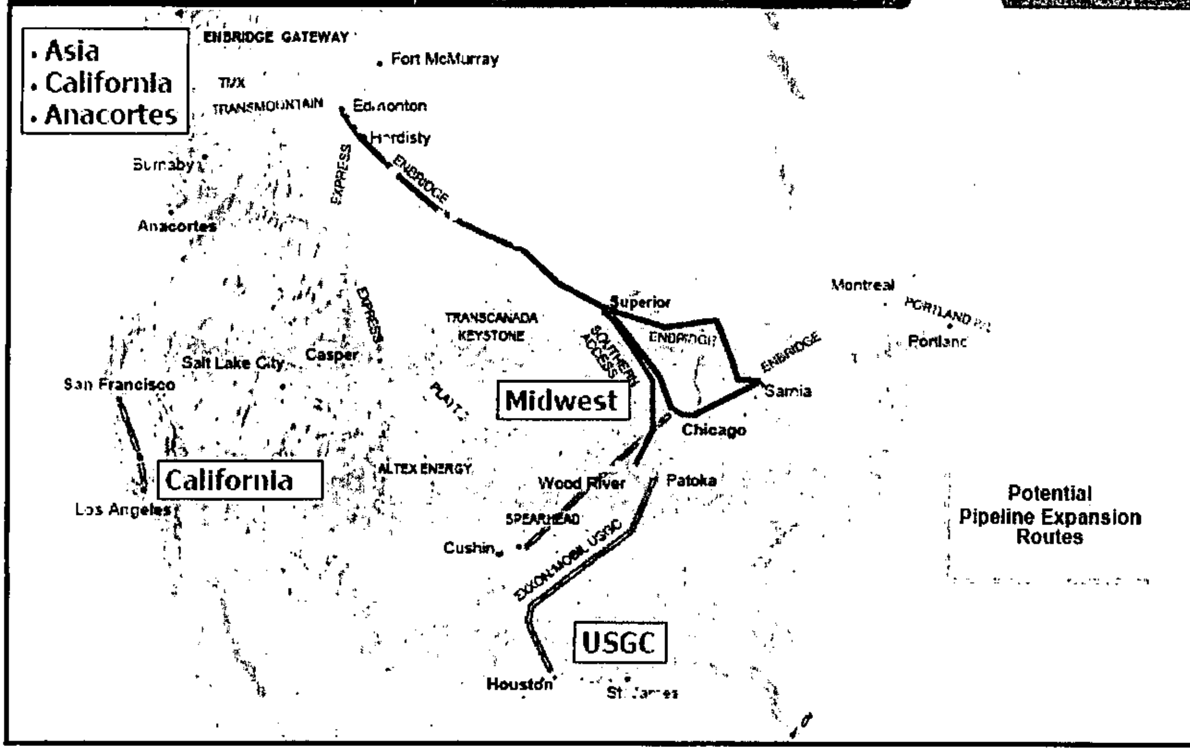
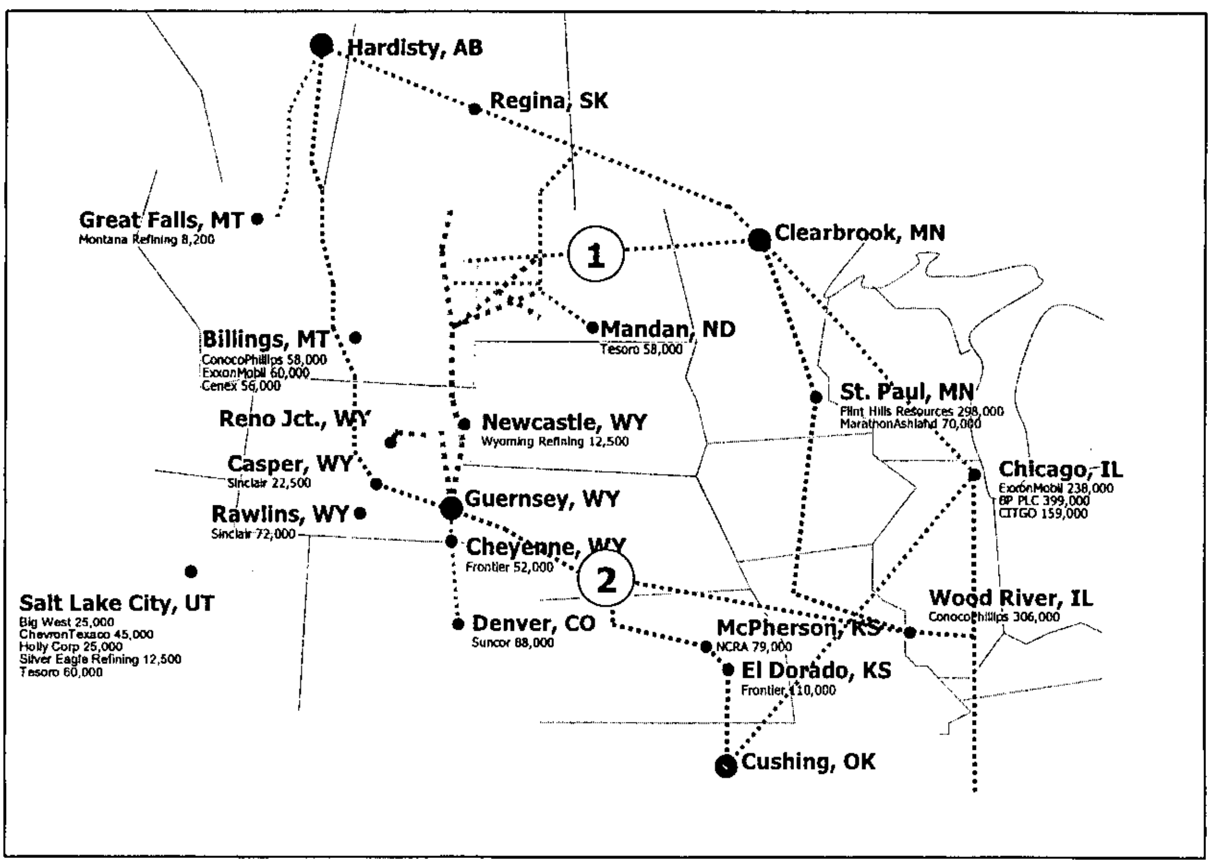
Canadian and U.S. Crude Oil Pipeline Alternatives





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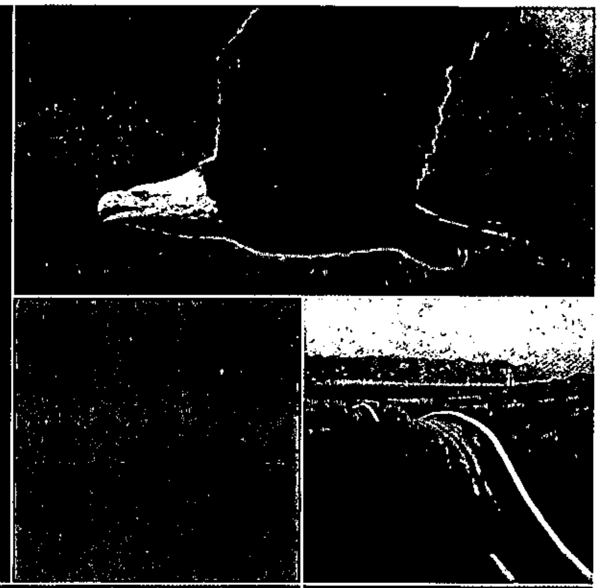
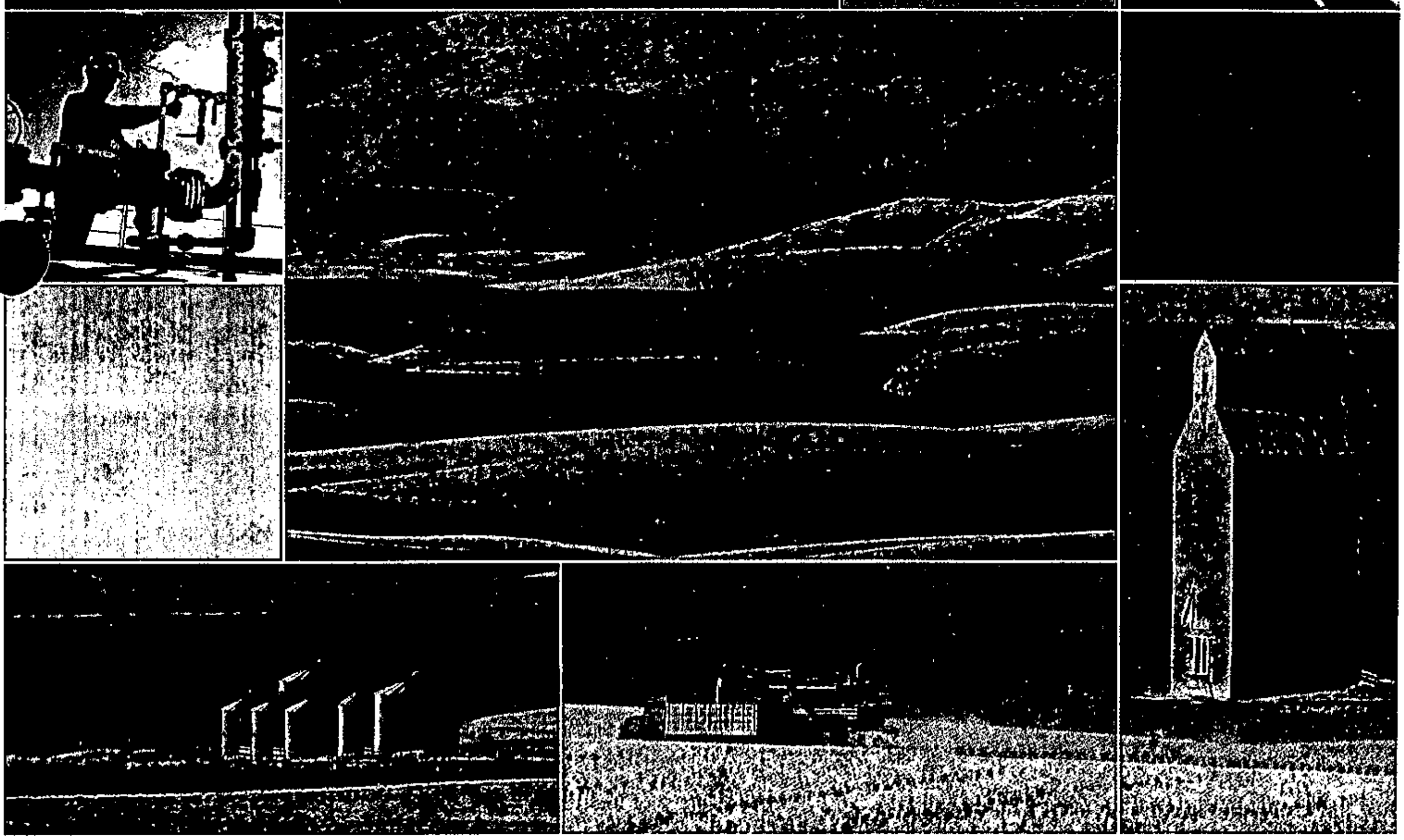
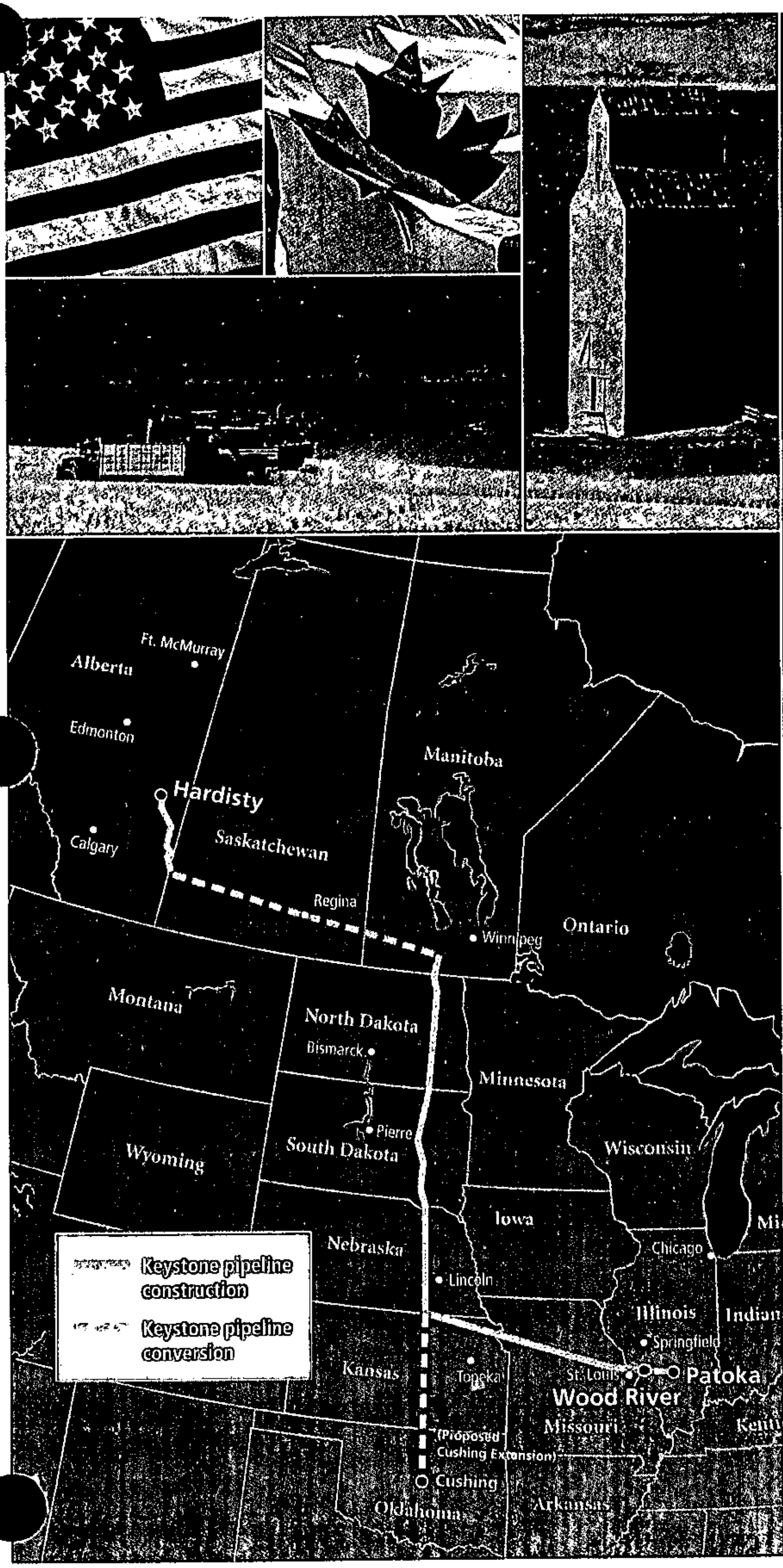


The TransCanada
Keystone Oil Pipeline Project



TransCanada
In business to deliver

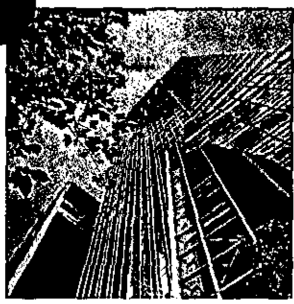
The TransCanada **Keystone Oil Pipeline Project**

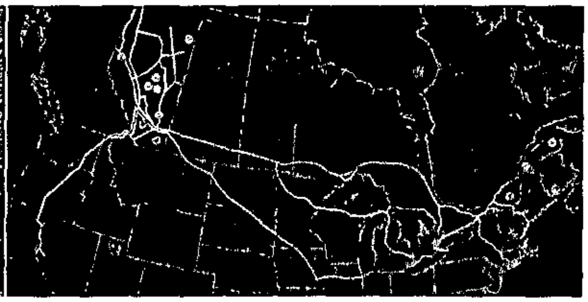


Our company, TransCanada, is proposing to transport approximately 435,000 barrels per day of crude oil from an oil-supply hub near Hardisty, Alberta to Wood River and Patoka, Illinois through an approximate 1,830 mile pipeline system. Nearly 1,070 miles of new pipeline will be constructed in the United States. The pipeline will run on a north-south path through eastern North Dakota, South Dakota and Nebraska. At the Nebraska-Kansas border, the proposed route turns in a south-easterly direction through Kansas, Missouri and Illinois. Approximately 23 new pump stations will also be required in the United States to transport the crude oil.

In addition to the new pipeline construction in the United States, the Canadian portion of the proposed project includes the construction of approximately 230 miles of new pipeline and the conversion of approximately 530 miles of existing TransCanada pipeline facilities from natural gas to crude oil transmission.

In response to interest from customers, TransCanada is also considering the possible extension of the Keystone project south through Kansas to Cushing, Oklahoma.





Who is TransCanada?

TransCanada is a leader in the responsible development and reliable operation of North American energy infrastructure. TransCanada's network of approximately 42,000 kilometres (26,000 miles) of pipeline transports the majority of Western Canada's natural gas production to key Canadian and U.S. markets. A growing independent power producer, TransCanada owns, or has interests in, approximately 7,700 megawatts of power generation in Canada and the United States.

Design and Construction

The proposed pipeline will be 30 inches in diameter except for the 55 miles downstream of the Wood River refinery interconnection heading in an easterly direction to Patoka where the diameter would be 24 inches. The pipeline will be buried, with a minimum depth of cover of four feet in agricultural areas. The permanent right-of-way easements, the strips of land set aside to construct and operate a pipeline, will measure approximately 50 feet in width, although additional temporary workspace will be required during construction of the pipeline. We will use advanced materials, technology, and construction methods to ensure the pipeline is built safely and efficiently, in a way that minimizes its impact on people, land and the environment.

Your Safety, Our Integrity

The safety of the public and our employees is TransCanada's top priority. We have more than 50 years of experience building and operating one of the largest underground pipeline systems in North America. We meet or exceed industry and government standards that have been designed to ensure public safety. Our commitment is reflected in the design and construction of our facilities, as well as in our operating and maintenance practices.

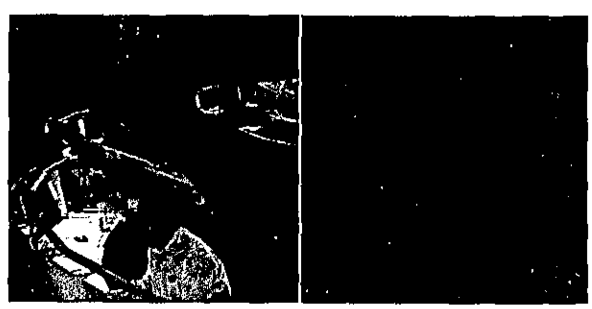
When designing facilities, TransCanada uses high quality steel and specialized welding techniques developed specifically for high pressure pipelines. All pipe is delivered from the manufacturer with a corrosion resistant protective coating. During construction, we use non-destructive examination equipment to inspect all welds, and then apply a coating to the weld to help protect it from corrosion. Additionally, all new pipeline sections are pressure tested with water up to at least 125 percent of the pipeline's maximum allowable operating pressure prior to being placed into operation.

Our pipeline maintenance activities include regular aerial patrols, pipeline leak detection, in-line (internal pipeline) inspection using specialized electronic inspection tools and corrosion protection system monitoring and adjustment.

We maintain an ongoing public awareness program to keep the lines of communication open with our neighbors about our facilities and how to live and work safely around pipelines. As part of this program, we involve local emergency response agencies to ensure there is an understanding about the specifics of our pipeline, which will lead to the safe and effective response in the unlikely event of an incident involving a TransCanada facility.

Commitment to Consultation

We recognize the importance of incorporating public input into our proposed project plans. We believe that through consultation with impacted landowners, communities, and other interested stakeholders, we can ensure that questions and concerns are addressed, and important public input can be integrated into our project plans. We will be sharing project information and gathering input throughout this planning phase and will be incorporating feedback into our project design and implementation as appropriate. Specifically, we will seek to address landowner concerns prior to construction activities and landowners will be compensated for the right-of-way easement, as well as resulting damages associated with construction activities.



The TransCanada **Keystone Oil Pipeline Project**

Respecting the Environment

TransCanada conducts its business to meet or exceed all applicable laws and regulations and minimize risks to our employees, the public and the environment. We respect the diverse environments and culture in which we operate. TransCanada goes to great lengths to ensure all our facilities are designed, constructed and operated to minimize impact on the natural environment. Our goal is to conserve environmental resources by avoiding or lessening certain activities and by re-establishing the essential physical, chemical and biological characteristics of the environment. The proposed pipeline route will traverse primarily agricultural lands; therefore, considerable focus will be placed on the handling, conservation and reclamation of the soils and vegetation to ensure the land's equivalent capability is sustained. Great care and planning will be taken to minimize and avoid impacting rare or endangered species, habitat and significant water crossings.

By using existing TransCanada facilities for the majority of the proposed project in Canada, and by utilizing existing corridors as much as possible for new construction sections in the United States, we will strive to minimize impacts to the environment. TransCanada is proud of its environmental performance and leadership in developing new approaches and techniques to conserve the natural resources encountered on more than 26,000 miles of pipeline right-of-way throughout the last 50 years.

Regulatory Requirements

We will be seeking regulatory approvals from a number of regulatory bodies for this proposed project. In the United States, the project will require federal approvals from agencies such as the U.S. Department of State and the Army Corp of Engineers. State approvals will be required in accordance with state siting acts and/or other applicable legislation. In Canada, this project will be subject to approvals from the National Energy Board (NEB). The project may also require various local and regional approvals.

Project Timeline

- **2005**
  - Project announcement.
  - Begin public consultation with stakeholders.
- **2006**
  - Receive commercial commitments.
  - Prepare and submit major regulatory applications.
  - Begin environmental assessments and field studies along with engineering design.
- **2007**
  - Continue engineering design and material procurement.
  - Receive approvals and licences.
- **2008 and 2009**
  - Construction of new facilities and conversion of existing facilities.
  - System in service and operating.

Contact

For more information, please call our toll free project number (1.866.717.7473) or use our project-specific email address keystone@transcanada.com

Alternatively, you can write attention to:
TransCanada Keystone Pipeline Project
7509 NW Tiffany Springs Parkway
Northpointe Circle II, Suite 200
Kansas City, MO 64153

Project web page:
www.transcanada.com/keystone

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