

15.8199.04000

FISCAL NOTE
Requested by Legislative Council
01/20/2015

Amendment to: SB 2318

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2318 provides a sales and property tax exemption for carbon dioxide capture equipment used in enhanced oil recovery.

- 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.*

The potential fiscal impact of SB 2318, if it is enacted, cannot be computed.

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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/03/2015

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Requested by Legislative Council
01/20/2015

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Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/03/2015

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Bill/Resolution No.: SB 2318

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Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 02/03/2015

2015 SENATE FINANCE AND TAXATION

SB 2318

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB2318
2/4/2015
Job #23161

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Relating to a sales and use tax exemption for carbon dioxide capture equipment used for enhanced oil recovery.

Minutes:

Attachment #1, 2, 3,

Chairman Cook opened the hearing on SB2318.

Senator Dwight Cook, Dist. 34, Mandan

Last December I had a chance to meet some folks that talked about the opportunity to take CO2 from a conversion facility, put it in a pipe and pipe it to the Bakken for enhanced oil recovery. Some companies have partnered and are doing this in Texas. It would be a great thing to be able to do here in North Dakota. They indicated that they were pursuing plans to accomplish that. Part of their plan, of course, is to look at our tax environment and so I said that I would introduce a bill on their behalf. It is a simple bill. It puts the materials used in compressing, gathering, collecting, storing and transporting or injecting carbon dioxide into the chapter where they would be exempt from sales, just as coal conversion facilities are and also puts them into the chapter where they would be exempt from property tax. The key word there is that it is located at a coal conversion facility, which is also exempt from property tax in the same section. It's a green bill. It's a good bill and I would hope that we could give it a favorable passing.

Alan Anderson, Commissioner, North Dakota Dept. of Commerce (Attachment #1)

This bill was one that came up recently. On behalf of EmPower North Dakota. I am here to speak in favor of SB2318. It didn't follow the typical recommendation process through the commission. In other words, we weren't working on it over the last couple of years during the biennium. It was brought forward in front of the commission and approved unanimously by the commission because it is an extremely important bill.

Ryan Kelly, Elite, and I want to introduce to you, Margaret Hodnik, Vice President of Regulatory and Legislative Affairs, Elite and Minnesota Power

Margaret Hodnik, EmPower (Attachment #2)

In support of SB2318. We have representatives of NRG present to answer questions about the technology of the project that is going on in Texas, if you wish. Our technology person is Milton Howard, Vice President, NRG.

Senator Triplett -- Your company's testimony referenced an advanced CO2 capture, if you would just describe the technology and if you are familiar with the technology that is currently being used in North Dakota at our synthetics fuel plant for CO2. Just explain how your technology is different from what is currently being done here.

Milton Howard -- The technology that we are using at our Petro plant in Texas. (The plant is located about 20 miles southwest of Houston.) MHI is the technology provider. It's a technology that has been around since the 30's, stripping out acid from gas. It has an absorber and a regenerator and a compressor to compress the CO2. It's about 98% effective. The reason this is called a new technology is because the scale of it. It will be the largest carbon capture facility in the world. We started in September. The pipeline is about 80 miles long so you need a very large compressor, 26,000hp compressor. The absorber and regenerator is 10 times larger. That's the only difference. The plant up here was an IGCC plant that is a lot more involved, process-wise, in extracting synthetic gas from coal. This is a totally different process from that. Since we take flu gas from the vent stack, condition it, cool it, and then take any existing SO1 out of the flu gas, run it through the absorber which is an amine absorbent. The amine bonds with the CO2 and then we add heat into the regenerator. The oil field, right now in Texas, is producing between 300 to 500 barrels a day. When we are at peak, it will produce 15,000 barrels a day. This is conventional oil. It's not shale. There are conventional oil fields here that have, over time, declined greatly. It's above and below the Bakken and there is significant opportunities in extracting that oil using CO2.

Chairman Cook -- You will be using that oil for enhanced recovery in the conventional wells. Not necessarily the shale wells.

Milton Howard -- Right. That's being looked at by other entities.

Senator Triplett -- Is your company aware of the tax incentives that we already have for enhanced oil recovery in North Dakota? So you think this is necessary in addition to the existing tax incentives to make this work for you?

Milton Howard -- We do. In our project in Texas it was a DOE grant of \$170 million and that was a big incentive for us and it won't be available. This plant is about a billion and that is what we intend to implement up here.

Chairman Cook -- We put the WTI oil on the board up there. You can see it's going up. The trending is right.

Jason Bohrer, President and CEO, Lignite Energy Council (Attachment #3)

We support this bill and believe it provides us with two major opportunities, as well as multiple smaller individual opportunities.

Senator Dotzenrod -- I was going to try to determine some tax implication questions of this bill and wonder if someone from the tax department could get up and answer some questions.

On page 2, lines 18,19 & 20, in the way the tax department operates are you going to have any trouble identifying those things that would meet these terms? Do you have definitions?

Myles Vosberg -- Go back to page 1, lines 13 & 14, which is the general exemption. The reference that you had was the exemption in the use tax law and on lines 13 & 14 it talks about gross receipts from sales of tangible personal property used to construct. It's basically all of the tangible personal property that goes into that facility.

Senator Dotzenrod -- If there was a project in North Dakota that was comparable to the one that we heard described that's in Texas, is there any part of it that you think would be subject to sales tax?

Myles Vosberg -- Based on this definition, probably not. Pretty much that's directly related to this particular project is going to qualify for the exemption which is consistent with a number of the other exemptions in the sales tax law.

Chairman Cook -- Myles, is it consistent with coal conversion facilities?

Myles Vosberg -- In that particular exemption it talks about production equipment and other tangible personal property used in the plant. Most of the newer exemptions that you've seen in the last couple of sessions, like gas gathering collection, compression, liquefied natural gas plants, etc., use this tangible personal property used to construct language.

Senator Dotzenrod -- I'm trying to judge if a project like this came to North Dakota and the project were built and there's no sales tax collected on the construction and building up; the materials itself, the CO2 is not taxed. But outside of that, the net positive for the state wouldn't come from any of the sales tax that we currently would be collecting but would come from income tax and the tax on the production that was enhanced by the project. That is my understanding of how this work as far as state revenues.

Myles Vosberg -- I think that is correct, although I think the additional production that is produced from the enhanced projects, in some cases, qualifies for exemptions. The income tax would be one area, during the construction process all the labor there etc.

Senator Triplett -- Our current tax law is that enhanced oil recovery is completely exempt from the extraction tax but it is subject to the gross production tax. So it would benefit the oil patch but there would not be much benefit for the state as a whole.

No further testimony.

Chairman Cook closed the hearing on SB2318.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB2318
2/9/2015
Job #23481

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Chairman Cook opened the committee work on SB2318.

Just want to see where you are on it and if you have questions, the hearing was on February 4. This is the sales and use tax exemption for the gathering, collecting, storing systems for CO2 capture. And, also moves them into the exempt category for ad valorem taxes. I see in the paper there were discussions on funding a study to figure out how to do this. I was a little bit confused. I thought these folks were already doing it down in Texas,

Senator Triplett -- This is technology that has been used since the 1930's. It's not new technology. There may be some slightly different absorbent materials, but the technology has been around for decades.

Senator Bekkedahl -- As you said in testimony: it's a green bill, it's a good bill and I like what it does for industry on both sides. It could be helpful to the coal industry as well as our oil industry, at some point. The fiscal note says a potential fiscal impact, if it is adopted, cannot be computed, but safe to say, there will be a fiscal impact?

Chairman Cook -- Yes.

Senator Dotzenrod -- I think that the future for using carbon dioxide to enhance recovery creates a lot of question marks in the future. There's never been a carbon dioxide enhancement in the Bakken. Instead of extracting 7% and leaving 93% behind, we could be extracting very high levels of oil. We will probably learn a lot over the next few years and I don't know when the first project will be done in the Bakken. The thing that struck me about this is that if they work like some people think they can work, this could really be a terrific amount of oil. Right now, the way we have it in our law, it's not subject to the extraction tax. I think there is a question, and it may belong in a study, if we are going to just be getting the 5%, essentially it's going to be local money, we're going to have a state program to get this work done and then once it is done, there will be the 5% tax which is primarily local. We could be looking at a tremendous amount of oil that would not be

subject to the 61/2% tax. And there are some questions there about whether the state's interest is being preserved. Is that what we want? The voters approved the 61/2% tax. We, as a legislature, exempted the enhanced recovery. Conceivably it could become a large part of what is taken out of the Bakken. That is the unanswered question that looms in the back of my mind with this. This really only gets us to getting the project built. It doesn't answer the questions about what happens afterwards.

Chairman Cook -- The enhanced oil recovery tax incentive, is it a permanent tax incentive or it is for just so many years?

Senator Dotzenrod -- I was under the assumption that it was a permanent, zero extraction tax without expiration. As long as it's a minority share of the oil that is produced in the state, it really is not a significant issue but I can see the day where if these things work in the way that some study work shows, we could end up with a fairly significant share. Now that oil prices are down, it's not a good time to be getting into that.

Senator Unruh -- I think Senator Dotzenrod brings up a very good point. We do need to remember that that is in the code. But another thing we need to remember is that I wasn't sure that we would ever get to the point where we could have a post-combustion carbon capture project that was economically feasible here in this state and if this bill helps us get there, we need to remember that that oil that would be extracted through this process wouldn't have been recoverable otherwise. That is something that we need to keep in mind as we look at the policy regarding the extraction tax. I think there is a lot of potential here. I think it is a good thing. I like this bill. I'd like to encourage a project that does this. Did you find the extraction tax information?

Chairman Cook -- Exemption is 5 years for secondary and 10 years for tertiary recovery projects. Is that the one?

Senator Dotzenrod -- No that language didn't refer to CO2. Unless secondary recovery is considered a category.

Senator Triplett -- Secondary is water flooding. And CO2 is generally considered to be a tertiary process, although I think most people seem to agree that water flooding is not going to work in the Bakken. I thought there was a very separate and specific one for carbon dioxide.

Chairman Cook -- And this incremental oil, I assume that means the extra oil.

Chairman Cook -- We had Elite and NRG approach me to introduce the bill for them. They are full steam ahead. They seem to be as far as getting something built at the Min-Kota Power Plant in Center they are not looking at Bakken wells, or directional drilling, they are looking at vertical wells. I have tremendous faith in American ingenuity to figure out what to do.

Senator Triplett -- I rather like Senator Dotzenrod's idea of amending a study onto this. We could probably get it done by this afternoon.

Chairman Cook -- A study to study the exemption. Do you want to do that, Senator Triplett?

Senator Triplett -- Yes, I can do that.

Chairman Cook closed the meeting.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2318
2/10/2015
Job #23553

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Attachment #1

Chairman Cook opens the committee work on SB2318.

Senator Triplett -- You were reading from the red book, and it looked like it was a 10 year but it isn't. Our recollection is correct, it is permanent. The statutory cite is 57-51.1-03 titled is exemptions from the oil extraction tax and if you go to subsection 5b, the first sentence says what you were reading from the red book which is "the incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the Industrial Commission is exempt from any taxes imposed under this chapter for a period of 10 years from the date the incremental project begins". But then the next sentence say "incremental production from a tertiary recovery project that uses carbon dioxide and which has been certified as a qualified project by the Industrial Commission, is exempt from any taxes imposed under this chapter from the date the incremental production begins". The reference to this chapter is just the oil extraction tax. My interpretation of that is that carbon dioxide recovery, specifically, is completely exempt from the oil extraction tax as soon as it is certified by the Industrial Commission for the rest of the life of the well.

Chairman Cook -- Were you suggesting in your comments yesterday that maybe that is something that, if we were going to pass this, we should take a look at and study?

Senator Triplett -- Yes.

Chairman Cook -- I think that would be a good idea. Do you want to write the study up, first, or, you got it?

Senator Triplett -- I haven't yet read this so we'll read it together.

Senator Bekkedahl -- Part of the discussion could be for Legacy Wells -vs- Bakken Three Forks production which are different systems, as well.

Senator Triplett -- And that is something that we could add to this language. Right now it says the study must include consideration of the potential benefits and costs to the industry, the state and the environment of using carbon dioxide enhanced recovery methods. And if you want to make that?

Chairman Cook -- Don't you think it is included?

Senator Triplett -- It is probably generic enough that it could be included.

Senator Bekkedahl -- As long as they have that discussion. I think that is germane to this.

Chairman Cook -- Do you want to move your amendments?

Senator Triplett -- I would move amendment 15.8199.01001. **(Attachment #1)**

Seconded by Senator Laffen

Senator Laffen -- Are we comfortable that this is far enough out?

Chairman Cook -- I am.

Senator Triplett -- The study that KLJ did for us that was reported back to the energy development and transmission committee suggested that enhanced oil recovery for the Bakken was probably at least 5 years out and that was from last August. I think it is still probably timely.

Chairman Cook -- All in favor of amendment 01001 signify by saying aye.

Voice vote carried 6-0.

We have before us SB2318, as amended.

Senator Oehlke -- I would move the do pass recommendation on SB2318, as amended.

Seconded by Senator Laffen.

Roll call vote 7-0-0.

Carrier: Senator Bekkedahl

February 9, 2015

2/10/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2318

Page 1, line 5, after the semicolon insert "to provide for a legislative management study;"

Page 2, after line 30, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - OIL EXTRACTION TAX EXEMPTION FOR CARBON DIOXIDE RECOVERY PROJECTS. During the 2015-16 interim, the legislative management shall study the oil extraction tax exemption available for incremental production from a tertiary recovery project that uses carbon dioxide. The study must include consideration of the potential benefits and costs to industry, the state, and the environment of using carbon dioxide enhanced recovery methods. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifty legislative assembly."

Renumber accordingly

Date: 2-10-15Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2318**

Senate Finance and Taxation Committee☐ SubcommitteeAmendment LC# or Description: 15.8199.01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ Motion CarriedMotion Made By Sen. Triplett Seconded By Sen. Laffenvoice vote unanimous

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Lonnie Laffen			Senator Connie Triplett		
Senator Brad Bekkedahl					
Senator Dave Oehlke					
Senator Jessica Unruh					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2.10.15Roll Call Vote #: 2

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2318**

Senate Finance and Taxation Committee☐ SubcommitteeAmendment LC# or Description: 15.8199.01001 Title .02000

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____Motion Made By Sen Oehlke Seconded By Sen. Laffen

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0Absent 0Floor Assignment Sen. Bekkedahl

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

REPORT OF STANDING COMMITTEE

SB 2318: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2318 was placed on the Sixth order on the calendar.

Page 1, line 5, after the semicolon insert "to provide for a legislative management study;"

Page 2, after line 30, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - OIL EXTRACTION TAX EXEMPTION FOR CARBON DIOXIDE RECOVERY PROJECTS. During the 2015-16 interim, the legislative management shall study the oil extraction tax exemption available for incremental production from a tertiary recovery project that uses carbon dioxide. The study must include consideration of the potential benefits and costs to industry, the state, and the environment of using carbon dioxide enhanced recovery methods. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifty legislative assembly."

Renumber accordingly

2015 HOUSE FINANCE AND TAXATION

SB 2318

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2318

3/4/2015

24318

- ☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

A bill relating to a sales and use tax exemption for carbon dioxide capture equipment used for enhanced oil recovery; relating to ad valorem property tax exemption for carbon dioxide capture equipment used for enhanced oil recovery.

Minutes:

Attachment #1, 2, 3

Chairman Headland: Opened hearing.

Senator Cook: Introduced bill. I think it was last December I got an invite to come and have a cup of coffee at the capital cafeteria where I was introduced to some folks from ALLETE and a company out of Texas called NRG. We heard of their plans of what they are doing in Texas, retro fitting a power plant, capturing CO2 out of a smoke line putting it in a pipeline and taking it an oil field for and enhanced oil recovery. They said they wanted to come to North Dakota to do the same thing at the Milton Young Station and I thought this is a great idea. I pledge them.

Chairman Headland: Is there any support?

Alan Anderson, North Dakota Department of Commerce: Distributed testimony. See attachment #1.

Chairman Headland: Is there any concern that by passing an incentive like this would legitimize policy from the EPA that we tend to disagree with?

Alan Anderson: It would probably be just the opposite. The EPA one of their biggest concerns is greenhouse gas submissions. It's CO2. That's why you have seen what some members would say is a war on coal from some of the regulations. Finding ways to incentivize the use of that CO2 and the capture and the use of it would be right along the EPA's guidelines I would expect.

Chairman Headland: It would be along their guidelines but I have concern that in some way sit might say that we agree with their policy which I don't think many of us do.

Representative Haak: How many of these systems exist right now in North Dakota that would get that exemption? Do any exist or are we looking to bring them here?

Alan Anderson: None exist right now in North Dakota. I would turn to industry, because with DGC we do utilize some CO₂. We move it up to Canada in particular, but this is a little different and hopefully ALLETE can answer it as well.

Representative Steiner: The effective dates on page 3 section 5 are split. Do you know why sections 1 and 2 are effective in 2015 and section 3 is effective in 2014? Does that mean they already started work?

Alan Anderson: I don't know off hand.

Representative Froseth: Would the CO₂ work in increasing production in wells or would it become above the classification of a stripper well?

Alan Anderson: With the intent to move to the secondary or tertiary recovery that could occur much sooner than in the stripper well portion. In other words you could have benefits of increase in that recovery even at wells that are well above the volume rate of the stripper well.

Chairman Headland: Is there further support?

Ryan Kelly, Allete: Introduced president of Clean Energy

Eric Norberg, Allete Clean Energy: Distributed testimony. See attachment #2. Also distributed testimony from Lignite Energy Council. See attachment #3.

Representative Schneider: On the bill itself is that modeled on one that's successfully been already passed in Texas?

Eric Norberg: Yes it is. Many of the provisions for promoting carbon capture legislation is already in place in North Dakota and these are a few additional provisions that are consistent with that.

Representative Haak: How many jobs did that create, permanent or temporary?

Eric Norberg: I believe the NRG rep would be able to answer that.

Milton Howard, NRG: We started this project about 4 or 5 years ago and it is now under construction. It will be the world's largest carbon capture project built to date. It will go into operation in 2016. Peak employment is about 500 people in construction and then we used existing operating staff and also supplemented that with new hires. I would say to operate the carbon capture system we probably have about 25 to 30 fulltime jobs and then we used the existing plant staff to operate.

Chairman Headland: Is this going to be at the same scale as what you are doing in Texas?

Milton Howard: Yes. It will be at least that size. It's a 240 megawatt project. The carbon capture system is a bit different than the DGC plant and that its post combustion, meaning we are just taking the flue gas from the exhaust stack and basically treating it, removing the CO2 and then sending it to a pipe line for enhanced oil recovery. The project size will be well over a billion dollars and it will take us anywhere from not to about 4 to 5 years to complete. We are actively looking at oil fields in North Dakota. There is a DOE study that was done a few years ago but there was about 9 billion barrels of oil that is trapped in the Williston basin. There are 1,600 fields in the Williston basin and North Dakota has 555 fields. That is conventional oil not the Bakken shale. The way an oil well is typically drilled is you have a primary production and then you come back with water flooding, which is a secondary production, and then the third production is CO2. Without CO2 it doesn't happen so its trapped energy.

Representative Kading: Would this project be profitable if you didn't get the sales tax exemption?

Milton Howard: We definitely need the exemptions to make this happen. A lot of it depends on oil prices. If the oil prices stay as low as they are right now it is not profitable even with the exemptions.

Chairman Headland: Part of the beauty in what you're trying to do in North Dakota is we have the existing coal right next to the existing oil which really makes it a project that has a lot of merit.

Representative Trottier: What percentage of the CO2 does it recover?

Milton Howard: We recover about 90 percent.

Representative Froseth: Is it possible to capture CO2 and put it in an old abandoned well and hold it there just to get rid of the CO2?

Milton Howard: Yes, it depends on the formations.

Representative Froseth: There would be a charge for the CO2 gas for an oil company to put it into their well to make it produce more?

Milton Howard: That would be a very expensive process but feasible.

Representative Froseth: Would the benefit of capturing that CO2 to meet federal requirements of cleaning up coal plants would that offset the cost that might be involved in capturing it and getting rid of it?

Milton Howard: Yes it should.

Representative Haak: In your handout that you offered it said that it increased production from about 500 barrels per day to 15,000 barrels per day peaking at 30,000, would you see that same kind of increase here in North Dakota?

Milton Howard: That's exactly what we're looking at. The carbonate reservoir, the mission cannon formation, the lodge pole and the Charles formation are all these conventional carbonated highly porous permeable reservoir that's in some case are greater than what we are seeing in the south.

Representative Hatlestad: Are there any plants of any size anywhere in the world that is doing what the Texas plant is projected to do?

Milton Howard: There is a project in Canada that is in operation now that is I believe 140 megawatts of flue gas not the 240 megawatts but it will be the largest.

Chairman Headland: How does the revenue to support this? Who pays?

Milton Howard: The real benefit is if you take like our Petra Nova Plant, the oil field there went from 50,000 barrels a day in 1940's and they went to 500 barrels a day over time. The estimated reserves of reservoirs were 2 million barrels. When we are complete with the flooding that 2 million goes to 60 million, that's where the value is and we end up partnering with the oil field operator. The money is from the oil.

Chairman Headland: We're trying to figure how that is all going to work. You say you're going to enter a partnership with the oil company in the particular field that you are moving the CO2 and you'll share in the profits from that expanded oil production.

Milton Howard: Yes sir.

Chairman Headland: Is there further support

Dale Niezwaag, Basin Electric: We do support the bill, we think it is a good bill. The question Representative Haak had on what we are doing at Dakota Gas; at Dakota Gas we are gasifying coal so we are more or less cooking the coal that contains vessels and that allows us to really control the emissions that come off and separate the CO2. The party they are looking at here is a power plant where you crush the coal, burn it and then you have the emissions go out of a large stack. So the capture method is completely different from what we are doing at DGC. We looked at a similar type project in 2012 to do. We were looking at a slip frame. We turned back the 100 million dollar grant and put the project on hold because I just wasn't feasible at the time to get it done. As far as the production from the field what we do with Dakota Gas, CO2 we send it to Canada and it is put in to a traditional oil field. They have seen a similar type production get a 300 percent increase. EERC is also doing work with the Bakken. They are doing studies and determined that the Bakken shale will interact with CO2 and you can significantly increase the production out of that. The problem that you have with the traditional field with the vertical holes, you simply put CO2 around the edges and force the oil to wells. So the problem that we have with the Bakken is how do you pressurize wells that are horizontal and so long, because you have to get the CO2 in there, pressurize it and then liquefy it and get it out. That work is ongoing. The industry is convinced that the EPA and the administration are not going to help us in this endeavor. The other thing that we need to do is once we find all this out we still have to convince the oil companies that this is a good

thing. They understand that all they do is drill out a hole in the Bakken and they get production so in order for them to go to a CO2 type flood it is an expensive proposition and something we really have to justify on that.

Representative Froseth: If you exempt extraction tax on CO2 use on these wells we are going to lose a lot of revenue. We are going to be in the same predicament we are now with the trigger price going on the production. I think that section 4 would cause quite a bit of concern.

Dale Niezwaag: I don't have an opinion on it at this point. I was unaware that the extraction tax was not paid when CO2 extracted oil. I was unaware of that at that point.

Chairman Headland: Can we assume the if this technology is moved forward that this will be a technology that the EPA will expect in some of their standards that they are putting forth for CO2 capture or what is allowed to be put out to the atmosphere.

Dale Niezwaag: That's the million dollar question. This would address the CO2. We think that just stuffing it in the ground is not a solution.

Representative Hatlestad: Are you in a partnership now with this company or do you just pay them to clean your stack gas?

Dale Niezwaag: We have no involvement in this project at all. The project that we tried in 2012 we put on the shelf and have not pursued it at this point. We have no interest with this current project at all. The only thing is we love to see it work and if it works we will look at it for our power plants.

Chairman Headland: Is there further support? Is there any opposition?

Representative Froseth: I don't know at this point if there is any information he can give us. If you lose extraction tax on millions of barrels of oils it's going to leave us in the same situation as we are right now with the possibility of losing that 6.5 percent and cutting all the budgets all the way around. This section 4 says that management shall study it so they have to do the study if this passes.

Chairman Headland: There's an easy solution by taking the study out of the bill.

Representative Froseth: We could but maybe the study would bring out some of those concerns too.

Representative Klein: What was the reasoning for the two different effective dates.

Myles Vosberg, Tax Commissioner's Office: The reason there are two different effective dates is because we have sales tax and then we have section 3 that deals with the ad valorem property tax. Anything property tax related is done on a calendar year basis.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2318
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25686

- ☐ Subcommittee
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Mary Brucker

Minutes:

Attachment #1

John Walstad, Legislative Council: Distributed proposed amendments 15.8199.02002; see attachment #1. This amendment was prepared at the request of the Chairman Headland. The house killed a bill for a pipelines exemption from property tax that this should not be a bill that grants sales and use tax exemption for pipelines. The language in here talks about property used to construct or expand a system to compress, gather, collect, store, transport, or inject carbon dioxide for enhanced recovery. There are a bunch of words in there about what kind of property might be included. The most suspicious one on the list applying to pipelines is transport. The amendment knocks that out so it would not apply to property used to transport carbon dioxide. Because the other words on the list could be argued about like gather, store, collect, and inject so I put in specifically the exemption in this section cannot be interpreted to apply the tangible personal property incorporated as a component part of a pipeline. That should make it clear what the intention is. The next change is deleting the references to "transport" or "transporting." There's an addition in the use tax law where the exemption is provided taking out "transporting" and adding that sentence again that none of those other words can be interpreted to be a component part of a pipeline. Section 3 is added to the bill. I pulled in only the part of the exemption law that relates to incremental production from a tertiary recovery using carbon dioxide. The part being changed is the second sentence which is an exemption for incremental production from tertiary recovery using carbon dioxide. A two year moratorium is inserted on the incremental exemption for production from carbon dioxide flooding in a tertiary project from July 1, 2015 through June 30, 2017. There is some question about whether such projects might even happen but if something does happen this provides that exemption does not apply to production through the end of the biennium. After that moratorium period the exemption comes back into play either for a new well, new incremental production or for existing incremental production in case somebody begins a tertiary recovery with carbon dioxide before the end of the biennium. Beginning on July 1, 2017 the exemption would apply to incremental production from that well.

Chairman Headland: When I asked for this amendment we talked about the moratorium specific only to the Bakken pool.

John Walstad: Oh, the horizontal Bakken. That's right; I forgot to include that language.

Chairman Headland: I didn't want to stop any project that may be in somebody's plans today.

Representative Schneider: Can you elaborate on that? What would not be in the Bakken pool and not fall under this?

John Walstad: Is it Cedar Creek?

Chairman Headland: It's Red River Pool.

John Walstad: Lynn Helms suggested that rather than trying to list the operations where it would still apply we limit this moratorium to horizontal wells in the Bakken.

Chairman Headland: It was Cedar Hills because there was a plan to bring the CO2 from Wyoming for that project in the works. We didn't want to prohibit that from moving forward. The technology isn't there yet for Bakken Pool for horizontal flooding. We thought it would be wise we have a moratorium during the time that we're studying tertiary. We didn't want to mess with the total policy of exempting tertiary recovery.

Representative Steiner: When you say it is exempt from any taxes imposed under this chapter, is that the extraction tax?

John Walstad: Yes, at six and a half. It's a pretty substantial state incentive.

Representative Steiner: The traditional incentive was a reduction though.

John Walstad: Not on secondary and tertiary. The extraction tax has all kinds of things with different dates and triggers. Subsection 4 and 5 of this section are not triggered. The first part of this provision in here, not using carbon dioxide, the incremental oil is exempt for ten years. There is no limit to the exemption using carbon dioxide for tertiary recovery; it's just exempt. The incremental oil is exempt forever. It's a pretty substantial commitment of assistance from the state.

Chairman Headland: How long will it take you to fix this amendment?

John Walstad: We can fix this. In your amendment where it has the language about exempt or not exempt from July 1, 2015 through June 30, 2017, right after the comma following 2017 insert "for horizontal wells in the Bakken formation."

Chairman Headland: That would be inclusive of Three Forks then?

John Walstad: Lynn Helms said if we say Bakken then that includes Three Forks because it lies right under it. Since we're not absolutely sure let's say "Bakken or Three Forks formation."

Representative Steiner: I think we should tag on a study of the exemptions because there is such a mess.

Chairman Headland: It's on here.

John Walstad: It's section 6 in the bill with this amendment.

Chairman Headland: It's section 4 of the original bill and section 6 of the bill with the amendment.

Representative Steiner: This is just one small piece; we should study all of them not just tertiary. A lot of our extraction tax incentives started in 1987 and they don't match up that well anymore. It was to spur activity and I would say that when you have what we had you had activity and then they were supposed to go away. Now you're giving another exemption that has no sunset and we'll have no idea in ten years where we're going to be. It's almost like we're repeating the past.

Chairman Headland: We're giving another exemption?

Representative Steiner: Ten years from now, once you get it going do you always want to give that incentive or do you want to, at some point, pull it back?

Chairman Headland: That's the reason we're going to study the tertiary recovery. I understand what you're talking about but I don't think it fits this bill.

Representative Hatlestad: Why do we have an open-ended exemption? We just turn them loose forever?

John Walstad: No termination.

Chairman Headland: Because the legislature passed that in the 2009 session.

John Walstad: I believe this one is considerably older than that.

Chairman Headland: Are you talking about the pipeline?

John Walstad: No, I was talking about the carbon dioxide tertiary recovery that is for the life of the well any incremental production forever is exempt.

Chairman Headland: We didn't pass that in 2009?

John Walstad: Oh no, it's been here a long time. When that was put in law there was not even a suggestion that someone might doing that. Nobody is doing it now.

Representative Froseth: The only wells that use that now are vertical wells. Could you tell us what the repealers are?

John Walstad: Pipeline exemption for the gasification plant on the pipeline to Canada. It was a ten year exemption that has run out.

Chairman Headland: That has run out. The state was paying that for ten years.

John Walstad: I think that expired in 2005. The period that was available has passed.

Chairman Headland: I'm hearing the committee would be more comfortable with a marked up version with the change.

John Walstad: Sure.

Chairman Headland: We'll recess until we can get that from John later this morning.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee

Fort Totten Room, State Capitol

SB 2318

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Mary Bruden

Minutes:

No attachments.

Chairman Headland: I've got some information on the amount of property taxes the state paid on the existing Basin pipeline; it looks like it's about a half million dollars a year and it goes up a little each year. We have some people here if anyone has any questions. I don't have the amendment. It has to be re-written because it went way further than I had intended.

Representative Schneider: Why the amendment? What's behind the motivation to amend this bill because I thought it was a good bill to begin with?

Chairman Headland: I questioned why there is the wide open extraction tax exemption for tertiary recovery. My thoughts were to direct that piece and have it available for this project but not to further something that could potentially impact oil production everywhere in the state and have a dramatic impact on state revenues.

Representative Schneider: Do we have an idea of the impact on state revenues?

Chairman Headland: We don't because the technology for CO2 recovery in horizontal well isn't available today. We could ask that question.

Vice Chairman Owens: I believe we have a gentleman from EERC that would be able to answer your question about CO2.

Chairman Headland: How far down the road are we from looking at available technology?

Tom Erickson, Director of Energy and Environmental Research Center at the University of North Dakota: There have been a handful of field tests done to date on utilizing CO2 for enhanced oil recovery in the Bakken. They have been very instructive but I don't think they would be called technical and economic successes. We are a ways down the path before we will see the application. We hope this summer we will be doing a new field study utilizing the things that have been learned from the previous tests and some of the ideas and concept we have in theories about why they didn't work and how to improve them. We don't have a formal commitment to have that project started this summer but we are very hopeful that we will have at least one field test beginning this summer.

Vice Chairman Owens: You're talking about using CO2 for oil recovery.

Tom Erickson: Correct.

Vice Chairman Owens: We currently send CO2 to Canada. Additionally, on the coal side they are looking at new technology in Texas that somehow takes the coal and extracts the CO2 from it without any energy loss or carbon dioxide emissions. Is that true?

Tom Erickson: I think you're referring to the Allam Cycle and that is a new way of converting once you take coal and gasify it then you convert that gas to a relatively pure CO2 stream and run a turbine on that CO2 stream. It's another way of gasifying and combusting coal but it allows you to have much higher efficiency and in the end come up with a CO2 product without having to spend a lot of additional capital. It shows great promise but it has a ways to go before it's ready for primetime. The CO2 that goes up to the Weyburn Field in the neighbors north of us is being used in a conventional reservoir. CO2 for enhanced oil recovery is used today and is relatively well understood on both a technical basis as well as an economic basis for conventional reservoirs. The Bakken is not a conventional reservoir. When you try and take things that work in other applications and then bring them to the Bakken they commonly don't work. That's the reason why the handful of field tests done to date have not shown great technical and economic promise for utilizing CO2 for enhanced oil recovery although they have been very instructive in guiding us to what will work.

Chairman Headland: There are several older oil fields where this would work very well too. Let's not confuse this project with Allam Cycle because it is not the same. Is this a pretty descriptive look at the total project? If I went up to the tax department and said under existing law what pieces here are already covered? Could they pick out pieces that are not?

Ryan Kelly, ALLETE: The tax department used that sheet as a supplement about the project to craft the original bill you have before you today.

Chairman Headland: We are still at a standstill.

Vice Chairman Owens: When we were going through this it looked to me that they were just adding verbiage on the original bill. Each coal conversion facility must be classified as personal property and exempt for all ad valorem except for taxes on the land which the facility is located. That along with the carbon dioxide pipeline exemption payment in lieu of taxes. Are we duplicating law here? Do we already have in place what we need here except maybe this first part where it's the gross receipt of sales?

Ryan Kelly: When we checked with the tax department it was their opinion that there would be new components that weren't already recovered under the coal plant exemptions as well as the well head exemptions that would exist. There's a compressor and a few other components that would be located off the well head and off the site used to compress the gas that falls under the intent of the original policy but to be safe we wanted to clarify it

was included. It wasn't the intent of the original bill to make permanent property tax exemptions for the pipeline.

Vice Chairman Owens: When you talk about the compressor and the stuff outside the well head because if it's at the well head it can still be part of the exemption for the oil production. Are you talking about additional property tax or sales and use tax exemption for that compressor and equipment?

Ryan Kelly: I believe it was both.

Chairman Headland: Currently in the code 56-60.06 there is that exempted ad lorem tax language already for a coal plant. I think your language expands it from the plant to the complete project.

Ryan Kelly: That's what we were trying to do. There was basically little gap in the exemptions; you had the stuff at the well head that was covered under existing policy at the coal plant and there were new components necessary for the project's completion and success that we were looking to extend for clarification of some new technologies this would bring.

Representative Froseth: If this bill passes and someday CO2 gas might be used for secondary productions on horizontal wells all that new production, if it increases production per day, will be exempt from the extraction tax. As a result of this bill we are dealing with another issue completely.

Chairman Headland: You're right. We'll stand at ease until we have something further to discuss.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee

Fort Totten Room, State Capitol

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Mary Brucker

Minutes:

Attachment #1, 2

Chairman Headland: Distributed the new draft of the amendment. See attachment #1 for the amendment and #2 for the marked up version of the bill. This amendment is attempting to provide the language allowed for property tax exemption on a CO2 line which is a ten year exemption. We're also clarifying that this exemption from the extraction tax is going to be specific to non-Bakken wells. We're going to have a two year moratorium on the exemption for Bakken wells while we go through the study of tertiary recovery. The language in section four is what I was referring. I'm confused about section three; I don't know where the ten year reference is so we need to have John Walstad come down and explain this.

Representative Schneider: Could you tell me whether it's 57-51.1 or something else on the ten year provision?

Chairman Headland: It is and that's what we're just discovering. That's what the current law is; there's already a ten year period if it's not CO2.

Representative Dockter: Are we just adding that in?

Chairman Headland: No. We're putting new language in. John, could you walk us through the amendment?

John Walstad, Legislative Council: Explained the amendments. The first section of the bill relates to a sales tax exemption. This morning it did not allow that exemption to apply to pipelines but now it does.

Chairman Headland: Like the original draft?

John Walstad: Like the original bill. This morning the language for sales tax exemption for carbon dioxide property used in enhanced recovery said it did not apply to pipelines so all that new language is removed and it's back to where it was, it does exempt pipelines. In section three is our extraction tax exemption. I worded it a bit differently to make it very

clear that we don't get confused on the kinds of CO2 tertiary recovery that are addressed. The first part of sentence two in subsection b takes care of any wells not horizontal Bakken. The exemption would continue to apply to them just as it does today. The second sentence on the top of page three states incremental production from a tertiary recovery project that uses carbon dioxide for a horizontal well in the Bakken or Three Forks formation and which has been certified as a qualified project by the industrial commission is not exempt from July 1, 2015 through June 30, 2017. Those would become exempt incremental production as well from July 1, 2017 or when the incremental production begins, whichever is later. The reason it's worded that way is if a horizontal Bakken well starts using carbon dioxide for incremental production prior to July 1, 2017 that exemption wouldn't apply to them but beginning July 1 it would kick in for those wells. In section four it is different than what we were looking at earlier today. This relates to the possibility of dueling property tax exemptions for carbon dioxide pipeline. This is part of the coal conversion tax. The facility and the carbon dioxide capture system at the facility and anything used directly in enhanced recovery is exempt from ad valorem taxes; it is treated like personal property where no property tax applies. The exemption under this section in the new language is not interpreted to apply to tangible personal property incorporated as a component part of a carbon dioxide pipeline for purposes of this law which provides permanent property tax exemption. Carbon dioxide pipeline property does not qualify for that permanent exemption but it is eligible under 57-06.17.1 which was repealed but is not repealed now. It is a section that provides a ten year property tax exemption specifically for carbon dioxide pipeline property.

Chairman Headland: I think we're at where I tried to get with this amendment. Committee, what are your thoughts?

Representative Dockter: Made a motion to adopt the amendment 15.8199.02003.

Representative Strinden: Second.

Representative Steiner: How does the coal extraction tax apply? You said that it's not to be interpreted as personal property so are coal taxes still applied and in which way are they applied? They are producing CO2 to some extent or is it considered a byproduct and it's not applied?

John Walstad: The provisions of this bill do not affect how the coal conversion tax applies. If carbon dioxide is considered a byproduct that has a value now then that would be subject to some tax. I guess if carbon dioxide has a value then it probably has a negative in front of it.

Representative Steiner: I don't think it's considered a product to be taxed.

John Walstad: This does not relate to coal taxes at all. The provision in the conversion tax is related to the exemption of the coal conversion facility from property taxes; the structure. It's considered personal property and is not subject to property taxes. It pays a generation tax in lieu of property tax. The provision here in the conversion tax law relates to that kind of exemption for the property on those facilities and whether property tax is applied. The only issue here is if there's carbon dioxide capture property brought on site it

isn't covered by the existing exemption for structure because it's not put there to convert coal into electricity; it's there for a different purpose. This would provide that it gets treated the same way; it's personal property not assessed by the assessor.

Vice Chairman Owens: In this section it refers to byproducts and then it goes on to define carbon dioxide captured so that tells me that it's not considered a byproduct; it's considered something other than a byproduct out of the coal conversion process.

Representative Schneider: The CO2 pipeline has a ten year time limit on it. We know the CO2 pipeline has a ten year limit. There's another section that says non-carbon dioxide tertiary production also has a ten year limit on it but carbon dioxide does not. Is that right?

John Walstad: That's true. You're looking at time limits but different kinds of taxes. The ten year limit on property tax application to a pipeline is one component. The second thing you mentioned is not a property tax exemption; it is a ten year exemption from the oil extraction tax.

Representative Schneider: None of the CO2 projects have a limit on the oil extraction time limit?

John Walstad: That can go on until you stop getting incremental oil out of the ground. If you don't use carbon dioxide those are limited to ten years and they do have a cutoff.

Chairman Headland: Current statute that really isn't part of this bill.

Representative Mitskog: What projects are planning to take advantage of this?

John Walstad: Nothing right now but I've heard a rumor there is a project in some stage of discussion to bring carbon dioxide from Wyoming into one of the vertical well fields in the southwestern part of the state. I have no knowledge of a CO2 pipeline in play to bring carbon dioxide into the Bakken and Three Forks formation.

Representative Mitskog: We've heard that the technology isn't quite there yet.

Chairman Headland: Are you referring to horizontal wells?

Representative Mitskog: That might be it.

John Walstad: My understanding is this method of increasing oil production is in its infancy or less than infancy.

Representative Hatlestad: On the top of page 3 at the elimination of the Bakken and Three Forks formation, can you explain why we do that?

Chairman Headland: I'm not sure that it is necessary but some of us get nervous with a full blown exemption that's on the books.

Vice Chairman Owens: If I'm going to build this project and this bill passes I've got the oil extraction tax for ten years and the pipeline under coal conversion along with the stuff that I put at the coal conversion site as personal property so I eliminated ad valorem tax there; what taxes am I paying? What's left?

John Walstad: Income and a substantial amount of sales tax. There are a lot of other parts of that process that are subject to sales tax. There is a significant amount of income tax from employment gain. Also the operator will have to dig deep in their pockets to get this done.

Vice Chairman Owens: Didn't I read that there is a 20% income tax credit as well?

John Walstad: I don't recall that.

Chairman Headland: Are there any concerns with the amendment?

Representative Klein: I think this is before it's time; there are too many unknowns here.

Chairman Headland: Is there any other discussion?

Representative Steiner: I think we have the 2017 session to look at it and we'll have the study going on. It's only 10% of the wells. We'll know more in two years.

Chairman Headland: That would be the intention.

Voice vote: Motion carried to adopt the amendment.

Representative Trotter: I agree that we are dealing with something before it's time.
Made a motion for a do not pass as amended.

Representative Klein: Second.

Chairman Headland: I am going to vote against the do not pass. I think this bill needs to move forward. We've tried to answer some questions and concerns with the amendment. I think this is an important bill that needs to move forward.

Vice Chairman Owens: I still have questions. There's something in my gut that doesn't feel right but I can't put my finger on it. I'm going to support the do not pass.

Representative Strinden: I think the amendment makes the bill substantially better but I also am going to support the do not pass.

Roll call vote: 6 yes 6 no 2 absent

Chairman Headland: We have a tie so we need to find another representative and vote.

Representative Froseth: I think this is an important bill too. I can agree that it's probably a little bit before it's time and nothing is going to happen with companies coming in and

taking advantage of this in the next two years. I think the study is important. I have a lot of questions too yet but I think we should pass it and get into a conference committee with the senate. **Made a motion for a do pass as amended.**

Representative Dockter: Second.

Representative Trottier: I don't have anything against the bill but I think we're ahead of our time. If it encourages carbon dioxide movement and development then I don't have a problem with it. I just thought we were passing a bill that wasn't needed yet.

Representative Steiner: I appreciate everybody giving this a chance. If it goes into conference it may just go out as a study. The lignite industry is facing the issue with the CO2 and the regional haze so if we find a home for CO2 and it benefits the oil industry, keeping people employed, plus preserves our lignite industry I think it ends up being a win-win. I think we should move it forward.

Chairman Headland: My thoughts exactly. We passed legislation that's going to provide an interim committee to take a look at these exemptions and exceptions that we're passing to see if they are effective. This will get looked at. If nothing happens between now and then things could change.

Representative Schneider: I like this concept and I'm excited about the prospect of having the CO2 used in this way with the benefit to both the coal and petroleum projects. It's just so open ended.

Roll call vote: 7 yes 5 no 2 absent

Motion carries for a do pass as amended.

Chairman Headland will carry this bill.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2318
4/8/2015
25911

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Mary Brucker

Minutes:

Attachment #1.

Chairman Headland: Opened hearing. It's been brought to my attention that there have been some unintended consequences with the actions we took so I'm asking the committee to reconsider our actions.

Vice Chairman Owens: Made a motion to reconsider our actions.

Representative Hatlestad: Second.

Voice vote: Motion carried.

Chairman Headland: We have SB 2318 before us. I'm going to ask that we reconsider our action on the prior amendment.

Representative Dockter: Made a motion to reconsider the amendment 15.8199.02003.

Representative Steiner: Second.

Voice vote: Motion carried.

Chairman Headland: Distributed proposed amendments 15.8199.02004; see attachment #1. This amendment addresses some of the concerns from the last amendment. It will cover all parties involved. The first portion of the amendment is the language from the last amendment that speaks to the ten year property tax exemption; page two lines twenty-eight of century code 57.06-17.1. The new portion is the next paragraph where we will add language to the study to address some of the concerns about the Bakken and Three Forks Formation.

Representative Strinden: Could you give us a rundown of the unintended consequences from the previous amendment?

Chairman Headland: There were concerns brought to us by the petroleum and coal industry in how the language with the moratorium may send the wrong signal for investment purposes to investors. That may stop a project such as this dead in its tracks and we certainly don't want anything like that to be caused by the work of this committee.

Representative Steiner: It was mentioned before that this was open-ended but this doesn't really close the end. This is still open-ended but we don't expect any projects to occur.

Chairman Headland: We had the gentleman from the EERC explain to us that the technology is not close yet so we feel this will cover us. This will start the discussion of the consequences of the exemption for the political subdivisions as well as the state in the study.

Representative Mitskog: Would there be any harm in putting a sunset on this given that the technology isn't quite there yet and there are no projects ready to go?

Chairman Headland: The legislature has the ability to revisit every two years. We passed a bill, SB 2057, whereby we are going to study all economic development incentives in statute today. At some point in the next six years this and every other incentive is going to get looked at and if it's not being used or it's not effective I'm certain the legislature is going to get rid of anything outdated or not being used. On projects of this size and scope sunsets send bad messages. There are appropriate times for sunsets and I don't believe this particular project is appropriate because this is a long term project and will take a lot of time for it to come to fruition.

Representative Steiner: I think we should make it known that it isn't our intention to take the oil tax to 5% with this legislation; it is our intention to incentivize this particular project so there's not a misunderstanding when we come back in 2017.

Chairman Headland: I agree with you and I think that message is fairly clear. This project in its design is for the old vertical fields today and that's how this project will proceed. Most all involved understand that point.

Representative Dockter: Made a motion to adopt the amendment 02004.

Representative Toman: Second.

Voice vote: Motion carried.

Chairman Headland: We have amended bill 2318 before us.

Representative Dockter: Made a motion for a do pass as amended.

Representative Strinden: Second.

Vice Chairman Owens: This change seems to correct the issue before with 57.06-17.1 and this was open-ended anyway; it was a ten year exemption regardless of when you did

it even though people keep saying it's expired but it hasn't expired. I want that to be clear that the way the law is written right now if somebody used that section now they would still get the ten year tax credit. This seems to adjudicate the issue we had before with that and I like the additional language in the study that clarified what they wanted to do.

Roll call vote: 12 yes 1 no 1 absent

Motion carried for a do pass as amended.

Chairman Headland will carry the bill.

8/1/15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2318

Page 1, line 4, after "reenact" insert "subdivision b of subsection 5 of section 57-51.1-03 and"

Page 1, line 4, after "to" insert "suspension of an oil extraction tax exemption for tertiary recovery projects using carbon dioxide and an"

Page 2, after line 20, insert

"SECTION 3. AMENDMENT. Subdivision b of subsection 5 of section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- b. The incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins. Incremental production from a tertiary recovery project that uses carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter from the date the incremental production begins. However, incremental production from a tertiary recovery project that uses carbon dioxide for a horizontal well in the Bakken or Three Forks formation and which has been certified as a qualified project by the industrial commission is not exempt from July 1, 2015, through June 30, 2017, and is thereafter exempt from any taxes imposed under this chapter from July 1, 2017, or the date the incremental production begins, whichever is later.

Page 2, line 28, after the period insert "The exemption provided by this section may not be interpreted to apply to tangible personal property incorporated as a component part of a carbon dioxide pipeline but this restriction does not affect eligibility of such a pipeline for the exemption under section 57-06-17.1."

Page 3, line 10, replace "Section" with "Sections"

Page 3, line 10, after "3" insert "and 4"

Page 3, line 10, replace "is" with "are"

ReNUMBER accordingly

8/2
4/8/15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2318

Page 2, line 28, after the period insert "The exemption provided by this section may not be interpreted to apply to tangible personal property incorporated as a component part of a carbon dioxide pipeline but this restriction does not affect eligibility of such a pipeline for the exemption under section 57-06-17.1."

Page 3, line 6, after the period insert "The legislative management shall secure assistance from the energy and environmental research center to analyze potential future usage of carbon dioxide in oil recovery operations in the Bakken and Three Forks formations, the potential production and environmental benefits of that usage for energy industries in this state, the economic conditions in which that usage is feasible for oil producers, and the estimated fiscal effect of that usage for the state and political subdivisions."

Renumber accordingly

Date: 4-1-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2318

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 15.8199.02003

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Dockter Seconded By Rep. Strinden

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND			REP HAAK		
VICE CHAIRMAN OWENS			REP STRINDEN		
REP DOCKTER			REP MITSKOG		
REP TOMAN			REP SCHNEIDER		
REP FROSETH					
REP STEINER					
REP HATLESTAD					
REP KLEIN					
REP KADING					
REP TROTTIER					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote - Motion carries.

Date: 4-1-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2318

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 15.8199.02003

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Trottier Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND		✓	REP HAAK	A	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	✓	
REP DOCKTER		✓	REP MITSKOG	✓	
REP TOMAN		✓	REP SCHNEIDER	✓	
REP FROSETH		✓			
REP STEINER		✓			
REP HATLESTAD		✓			
REP KLEIN	✓				
REP KADING	A				
REP TROTTIER	✓				

Total (Yes) 6 No 6

Absent 2

Floor Assignment Rep.

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

Date: 4-1-15
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2318

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 15.8199.02003

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Rep. Froseth Seconded By Rep. Darter

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	A	
VICE CHAIRMAN OWENS		✓	REP STRINDEN		✓
REP DOCKTER	✓		REP MITSKOG		✓
REP TOMAN	✓		REP SCHNEIDER		✓
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD	✓				
REP KLEIN		✓			
REP KADING	A				
REP TROTTIER	✓				

Total (Yes) 7 No 5

Absent 2

Floor Assignment Rep. Headland

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

Date: 4-8-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2318

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider ☐ _____
actions of Do Pass as amended.

Motion Made By Rep. Owens Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND			REP HAAK		
VICE CHAIRMAN OWENS			REP STRINDEN		
REP DOCKTER			REP MITSKOG		
REP TOMAN			REP SCHNEIDER		
REP FROSETH					
REP STEINER					
REP HATLESTAD					
REP KLEIN					
REP KADING					
REP TROTTIER					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote = Motion carries.

Date: 4-8-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2318

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider Amendment ☐ 15.8199.02003

Motion Made By Rep. Datter Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND			REP HAAK		
VICE CHAIRMAN OWENS			REP STRINDEN		
REP DOCKTER			REP MITSKOG		
REP TOMAN			REP SCHNEIDER		
REP FROSETH					
REP STEINER					
REP HATLESTAD					
REP KLEIN					
REP KADING					
REP TROTTIER					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote = Motion carries.

Date: 4-8-15
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2318

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 15.8199.02004

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Dockter Seconded By Rep. Toman

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND			REP HAAK		
VICE CHAIRMAN OWENS			REP STRINDEN		
REP DOCKTER			REP MITSKOG		
REP TOMAN			REP SCHNEIDER		
REP FROSETH					
REP STEINER					
REP HATLESTAD					
REP KLEIN					
REP KADING					
REP TROTTIER					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote = Motion carries

Date: 4-8-15
Roll Call Vote #: 4

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2318

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 15.8199.02004

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Darter Seconded By Rep. Strinden

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	✓	
REP DOCKTER	✓		REP MITSKOG	✓	
REP TOMAN	✓		REP SCHNEIDER	AB	
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD	✓				
REP KLEIN	✓				
REP KADING		✓			
REP TROTTIER	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. Headland

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

REPORT OF STANDING COMMITTEE

SB 2318, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2318 was placed on the Sixth order on the calendar.

Page 2, line 28, after the period insert "The exemption provided by this section may not be interpreted to apply to tangible personal property incorporated as a component part of a carbon dioxide pipeline but this restriction does not affect eligibility of such a pipeline for the exemption under section 57-06-17.1."

Page 3, line 6, after the period insert "The legislative management shall secure assistance from the energy and environmental research center to analyze potential future usage of carbon dioxide in oil recovery operations in the Bakken and Three Forks formations, the potential production and environmental benefits of that usage for energy industries in this state, the economic conditions in which that usage is feasible for oil producers, and the estimated fiscal effect of that usage for the state and political subdivisions."

Renumber accordingly

2015 TESTIMONY

SB 2318



DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2318

FEBRUARY 4, 2015, 9:00 A.M.

SENATE FINANCE AND TAXATION COMMITTEE

SENATOR DWIGHT COOK, CHAIRMAN

ALAN ANDERSON – COMMISSION, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Alan Anderson and I serve as the Commissioner for the North Dakota Department of Commerce, as well as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2318. This bill follows a recommendation put forward by the Commission, but was not one of the bills drafted by the Commission and approved by the interim Energy Development and Transmission committee. The Commission has reviewed the bill and is in unanimous support. A complete list of bills recommended and supported by the Commission is below:

- Senate Bill No. 2032 – Oil and Gas Development Strategic Planning Authority.
- Senate Bill No. 2033 – Oil & Gas Tax Trigger Mechanism.
- Senate Bill No. 2034 – Oil Gathering Pipelines Sales Tax Exemption.
- Senate Bill No. 2035 – Value-Added Energy Facility Sales Tax Exemption.
- Senate Bill No. 2036 – Coal Beneficiation.
- Senate Bill No. 2037 – Wind Energy Incentives & New Coal Mine Sales Tax Exemption.
- Senate Bill No. 2318 – Carbon Dioxide Capture Equipment Used for Enhanced Oil Recovery.

The issue of carbon dioxide capture is an important one for our energy industries within the state and the potential use of captured carbon dioxide for enhanced oil recovery provides a significant opportunity. That is why the EmPower ND Commission recommended that the legislature “support incentivizing or enhance CO₂ capture, storage and enhanced oil recovery opportunities.”

The incentives provided in SB 2318 are similar to incentives provided to other aspects of the energy industries, namely sales and use tax exemption and exempting the equipment from property taxes. The EmPower ND Commission supports these incentives as a way to promote solutions for CO₂ capture as well as enhanced oil recovery.

Mr. Chairman and members of the Finance and Taxation Committee, I respectfully request your favorable consideration of Senate Bill 2318. That concludes my testimony and I am happy to entertain any questions.

Senate Bill 2318 Testimony
Before the Senate Finance & Taxation Committee
February 4, 2015

Thank you, Chairman Cook and Committee Members, for the opportunity to appear before you, and thank you Commissioner Anderson for your introduction to our bill.

My name is Margaret Hodnik. I am a member of the EmPower Commission and I am VP Regulatory and Legislative Affairs at Minnesota Power (MP). MP is a division of ALLETE. ALLETE is a diversified energy company that owns utilities in Minnesota and Wisconsin, the Bismarck-based BNI coal mine, the 500MW Bison Wind energy farm near Center and Allete Clean Energy or ACE which develops non-regulated energy projects. ACE has been working with NRG out of Houston Texas to develop an advanced CO2 capture for EOR project in North Dakota and it is this project that led us to request the legislation before you today.

We have identified minor modifications to existing North Dakota tax statutes dealing with CO2 capture and utilization that would help to facilitate the development of a CO2 for EOR project using state of the art technology at existing lignite plants. NRG is building a project like this near Houston, Texas as I speak. We believe utilization of this technology in North Dakota can help to make CO2 a useful commodity versus an emission burden at lignite plants. This would benefit both lignite generating units and the lignite mining industry and help North Dakota contend with emerging CO2 regulation.

The legislation would provide for a sales tax exemption on CO2 pipelines and EOR equipment. It would also clarify that CO2 capture or enhanced oil recovery equipment is defined as personal property and not subject to property tax. These tax incentives would aid the economics of developing a CO2 for EOR project in North Dakota using state of the art technology.

Again, we appreciate the opportunity to bring our request forward to this committee. We thank the EmPower Commission for its consideration and support of this bill which is beneficial to the lignite industry. I will also note that we have representatives of NRG present if the committee has questions about the CO2 for EOR technology and I note that the Tax Commissioner is present if there are questions about tax application. With that, I would be happy to answer any questions.

Contact Information:

Margaret Hodnik
Vice President-Regulatory and Legislative Affairs
Minnesota Power/ALLETE
Office Phone: 218-723-3966
Cell Phone: 218-591-8623
Email: mhodnik@allete.com





Lignite Energy Council
PO Box 2277
Bismarck, ND 58502
Telephone: (701) 258-7117
Fax: (701) 258-2755

Testimony on SB 2318
Jason Bohrer, President and CEO, Lignite Energy Council
Presented before the Senate Finance & Taxation Committee
February 4, 2015

Good morning. My name is Jason Bohrer, and I am the President of the Lignite Energy Council. I come before you today in support of 2318. I am also a member of the Empower Commission, and supported it in that capacity as well. But as President of the Lignite Energy Council, we support this bill because we believe it provides us with two major opportunities, as well as multiple smaller individual opportunities.

The first major opportunity is the potential to extend the life of our current plants. EPA regulations are making it more and more likely that the future of North Dakota will be carbon constrained. This bill adapts our tax law to this new reality, allowing a certain finance structure going forward that is critical to our future.

The second major advantage is the "first mover" advantage. As these EPA regulations move forward, the whole national energy industry will have to capture and transport CO₂, and much of the rest of the world is moving in this direction as well.

These proposed tax changes make it more likely that North Dakota will be the test bed for the whole nation. The most recent budget submitted by President Obama contains \$2B for clean coal technologies, and this bill makes it more likely that we can compete and be awarded a portion of that money.

There are also multiple individual opportunities for our members from this bill as well. Projects such as the ALLETE/NRG project you've heard about will add value to their assets. These projects won't just be for regulatory compliance, but will also serve as a revenue generating asset.

In conclusion, we support this bill because it solves a problem we must deal with--helping us build out an infrastructure that captures and transports CO₂. That infrastructure then allows for two major opportunities, including the critical value of extending the life of our plants. And because this change allows immediate benefits for individual projects like ALLETE/NRG to move forward, this is the perfect time to make these necessary changes.

February 9, 2015

#1
2.10.15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2318

Page 1, line 5, after the semicolon insert "to provide for a legislative management study;"

Page 2, after line 30, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - OIL EXTRACTION TAX EXEMPTION FOR CARBON DIOXIDE RECOVERY PROJECTS. During the 2015-16 interim, the legislative management shall study the oil extraction tax exemption available for incremental production from a tertiary recovery project that uses carbon dioxide. The study must include consideration of the potential benefits and costs to industry, the state, and the environment of using carbon dioxide enhanced recovery methods. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifty legislative assembly."

Renumber accordingly



SB 2318
3-4-15
#1

DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2318

MARCH 4, 2015, 10:30 A.M.

HOUSE FINANCE AND TAXATION COMMITTEE

REPRESENTATIVE CRAIG HEADLAND, CHAIRMAN

ALAN ANDERSON – COMMISSION, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Alan Anderson and I serve as the Commissioner for the North Dakota Department of Commerce, as well as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2318. This bill follows a recommendation put forward by the Commission, but was not one of the bills drafted by the Commission and approved by the interim Energy Development and Transmission committee. The Commission has reviewed the bill and is in unanimous support. A list of the bills the House of Representatives will be seeing that has been recommended and supported by the Commission is below:

- Senate Bill No. 2034 – Oil Gathering Pipelines Sales Tax Exemption.
- Senate Bill No. 2035 – Value-Added Energy Facility Sales Tax Exemption.
- Senate Bill No. 2036 – Coal Beneficiation.
- Senate Bill No. 2037 – Wind Energy Incentives.
- Senate Bill No. 2318 – Carbon Dioxide Capture Equipment Used for Enhanced Oil Recovery.

The issue of carbon dioxide capture is an important one for our energy industries within the state and the potential use of captured carbon dioxide for enhanced oil recovery provides a significant opportunity. That is why the EmPower ND Commission recommended that the legislature “support incentivizing or enhance CO₂ capture, storage and enhanced oil recovery opportunities.”

The incentives provided in SB 2318 are similar to incentives provided to other aspects of the energy industries, namely sales and use tax exemption and exempting the equipment from property taxes. The EmPower ND Commission supports these incentives as a way to promote solutions for CO₂ capture as well as enhanced oil recovery.

Mr. Chairman and members of the Finance and Taxation Committee, I respectfully request your favorable consideration of Senate Bill 2318. That concludes my testimony and I am happy to entertain any questions.

SB2318
3-4-15
2 p. 1

Senate Bill 2318 Testimony
Before the House Finance & Taxation Committee
March 4, 2015

Thank you, Chairman Headland and Committee Members, for the opportunity to appear before you, and thank you Commissioner Anderson for your introduction to our bill.

My name is Eric Norberg. I am pleased to be able to testify today on behalf of ALLETE Clean Energy (ACE) and our parent company ALLETE, based in Duluth Minnesota. My colleague, Margaret Hodnik, Vice President of Regulatory and Legislative Affairs for Minnesota Power, a division of ALLETE, who many some of you may know, was unable to be here today – she is dealing with some challenging regulatory issues before the Public Utilities Commission in Minnesota. I can assure you she would have much preferred to be in Bismarck today! As a member of the Empower Commission, Margaret wanted to me personally thank you for your interest and attention to this important legislation, as well as, share some brief remarks about our company and the project this legislation will benefit.

As our CEO Al, Hodnik is known to remark, ALLETE is a, “all of the above” diversified energy solutions company that owns utilities in Minnesota and Wisconsin, the Bismarck-based BNI coal mine, the 500MW Bison Wind energy farm near Center and Allete Clean Energy or ACE, the division of the company I am honored to lead, which develops non-regulated energy projects.

ACE has been working with NRG out of Houston Texas to develop an advanced CO2 capture for EOR project in North Dakota and it is this project that led us to request the legislation before you today.

Together, ACE and NRG have identified minor modifications to existing North Dakota tax statutes dealing with CO2 capture and utilization that would help to facilitate the development of a CO2 for EOR project using state of the art technology at existing lignite plants. NRG is building a project like this near Houston, Texas as I speak. We believe utilization of this technology in North Dakota can help to make CO2 a useful commodity versus an emission burden at lignite plants. This would benefit both lignite generating units and the lignite mining industry and help North Dakota contend with emerging CO2 regulation.

The legislation would provide for a sales tax exemption on CO2 pipelines and EOR equipment. It would also clarify that CO2 capture or enhanced oil recovery equipment is defined as personal property and not subject to property tax. These tax incentives would aid the economics of developing a CO2 for EOR project in North Dakota using state of the art technology. Again, we appreciate the opportunity to bring our request forward to this committee. We thank the EmPower Commission for its consideration and support of this bill which is beneficial to the lignite industry. I will also note that we have representatives of NRG present if the committee has questions about the CO2 for EOR technology and I note that the Tax Commissioner is present if there are questions about tax application. With that, I would be happy to answer any questions.

Contact Information:
Eric Norberg, President
ALLETE Clean Energy
218-723-3988
Email: enorberg@alletecleanenergy.com

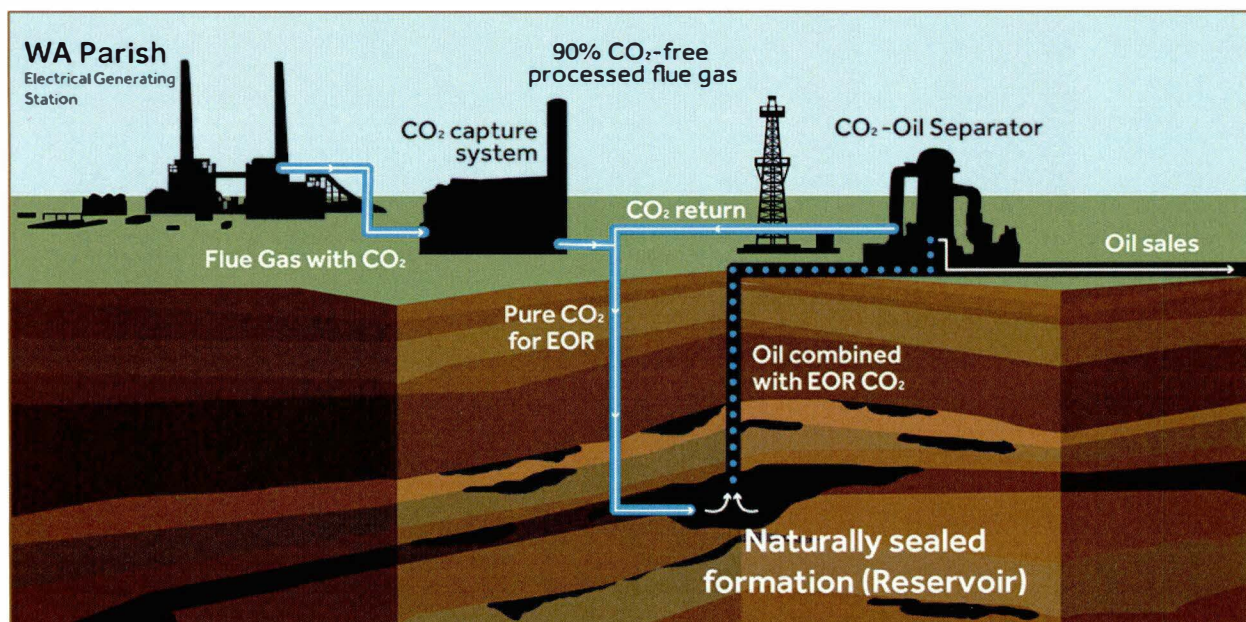
NRG Carbon 360 and ALLETE Clean Energy are jointly developing a carbon capture, utilization and sequestration project in North Dakota. The project is expected to capture carbon dioxide (CO₂) from an existing North Dakota lignite-fired power plant. The CO₂ will then be compressed and transported via pipeline along ALLETE's energy corridor to oil fields in North Dakota and used for Enhanced Oil Recovery (EOR). *This legislation has been endorsed by the Empower Commission and Lignite Energy Council.*

The project is modeled on NRG's Petra Nova project in Texas. Using proven technology, the Petra Nova project will be a commercial-scale carbon capture system that is expected to capture 90 percent of the carbon dioxide (CO₂) in the processed flue gas from an existing coal unit at the WA Parish plant southwest of Houston. When complete in 2016, the project is projected to be the world's largest post-combustion carbon capture facility installed on an existing coal plant. Through EOR, the captured CO₂ is expected to increase oil production from around 500 barrels per day to approximately 15,000 barrels per day, peaking at 30,000 barrels a day.

Through successful development of a similar project in North Dakota, NRG Carbon 360 and ALLETE Clean Energy can make a positive impact to the State by enhancing the value of local lignite resources, virtually eliminating sulfur emissions from the flue gas, transforming the CO₂ emissions landscape, preserving the value of state electric generating units, and unlocking the value of North Dakota oil production.

What S.B. 2318 does:

- 1) Provides for a sales tax exemption on CO₂ pipelines and EOR equipment. (Coal plant equipment is already exempt.)
- 2) Clarifies the coal conversion tax section of code so that both the CO₂ capture and EOR equipment is defined as personal property and not subject to the property tax. This exemption is needed as the facilities will be located at the well location and not the individual well head (where they would be already be exempt as personal property). Examples include the separation and water disposal equipment, injection pumps and associated piping. *Personal property is already exempt under current law.*





SB 2318
3-4-15 # 3

Lignite Energy Council
PO Box 2277
Bismarck, ND 58502
Telephone: (701) 258-7117
Fax: (701) 258-2755

Testimony in support of SB 2318
Submitted by the Lignite Energy Council before the House Finance & Taxation Committee
March 4, 2015

Mr. Chairman, members of the committee, please accept these comments for the record on behalf of the Lignite Energy Council (LEC) in support of Senate Bill 2318. The LEC supports this bill because we believe it provides us with two major opportunities, as well as smaller individual opportunities.

The first major opportunity is the potential to extend the life of our current plants. EPA regulations are making it more and more likely that the future of North Dakota will be carbon-constrained. This bill adapts our tax law to this new reality, allowing a certain finance structure going forward that is critical to our future.

The second major advantage is that of the "first mover." As these EPA regulations move forward, the national energy industry will have to capture and transport carbon dioxide, and much of the rest of the world is moving in this direction as well.

These proposed tax changes make it more likely that North Dakota will be the test bed for the whole nation. The most recent budget submitted by President Obama contains \$2 billion for clean coal technologies, and this bill makes it more likely that we can compete and be awarded a portion of that money.

There are also many individual opportunities for our members from this bill as well. Projects such as the ALLETE/NRG project you've heard about will add value to their assets. These projects will not just be for regulatory compliance, but will also serve as a revenue generating asset.

In conclusion, we support this bill because it solves a problem we must deal with--helping us build out an infrastructure that captures and transports carbon dioxide. That infrastructure then allows for two major opportunities, including the critical value of extending the life of our plants. And because this change allows immediate benefits for individual projects like ALLETE/NRG to move forward, this is the perfect time to make these necessary changes.

The LEC urges your favorable consideration of Senate Bill 2318.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2318

Page 1, line 4, after "reenact" insert "subdivision b of subsection 5 of section 57-51.1-03 and"

Page 1, line 4, after "to" insert "suspension of an oil extraction tax exemption for tertiary recovery projects using carbon dioxide and an"

Page 1, line 5, after the semicolon insert "to repeal sections 57-06-17.1 and 57-06-17.2 of the North Dakota Century Code, relating to property tax exemptions and payments in lieu of taxes for certain carbon dioxide pipeline property;"

Page 1, line 11, remove "transporting."

Page 1, line 14, remove "transport."

Page 1, line 17, remove "transport."

Page 1, line 18, after the underscored period insert "The exemption provided by this section may not be interpreted to apply to tangible personal property incorporated as a component part of a pipeline."

Page 1, line 19, remove "transport."

Page 1, line 24, remove "transporting."

Page 2, line 3, remove "transport."

Page 2, line 9, remove "transporting."

Page 2, line 18, remove "transporting."

Page 2, line 20, after the first underscored period insert "The exemption provided by this subsection may not be interpreted to apply to tangible personal property incorporated as a component part of a pipeline."

SECTION 3. AMENDMENT. Subdivision b of subsection 5 of section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- b. The incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins. Incremental production from a tertiary recovery project that uses carbon dioxide and which has been certified as a qualified project by the industrial commission is not exempt from July 1, 2015, through June 30, 2017, and is thereafter exempt from any taxes imposed under this chapter from July 1, 2017, or the date the incremental production begins, whichever is later."

Page 2, line 28, after the period insert "The exemption provided by this section may not be interpreted to apply to tangible personal property incorporated as a component part of a pipeline."

Page 2, after line 30, insert:

"SECTION 5. REPEAL. Sections 57-06-17.1 and 57-06-17.2 of the North Dakota Century Code are repealed."

Page 3, line 10, replace "Section" with "Sections"

Page 3, line 10, after "3" insert ", 4, and 5"

Page 3, line 10, replace "is" with "are"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2318

Page 1, line 4, after "reenact" insert "subdivision b of subsection 5 of section 57-51.1-03 and"

Page 1, line 4, after "to" insert "suspension of an oil extraction tax exemption for tertiary recovery projects using carbon dioxide and an"

Page 2, after line 20, insert

"SECTION 3. AMENDMENT. Subdivision b of subsection 5 of section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- b. The incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins. Incremental production from a tertiary recovery project that uses carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter from the date the incremental production begins. However, incremental production from a tertiary recovery project that uses carbon dioxide for a horizontal well in the Bakken or Three Forks formation and which has been certified as a qualified project by the industrial commission is not exempt from July 1, 2015, through June 30, 2017, and is thereafter exempt from any taxes imposed under this chapter from July 1, 2017, or the date the incremental production begins, whichever is later.

Page 2, line 28, after the period insert "The exemption provided by this section may not be interpreted to apply to tangible personal property incorporated as a component part of a carbon dioxide pipeline but this restriction does not affect eligibility of such a pipeline for the exemption under section 57-06-17.1."

Page 3, line 10, replace "Section" with "Sections"

Page 3, line 10, after "3" insert "and 4"

Page 3, line 10, replace "is" with "are"

Renumber accordingly

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2318

SB 2318
4-1-15 (3)
#2 p. 1

Introduced by

Senator Cook

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 and a new subdivision to
2 subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales and
3 use tax exemption for carbon dioxide capture equipment used for enhanced oil recovery; to
4 amend and reenact subdivision b of subsection 5 of section 57-51.1-03 and section 57-60-06 of
5 the North Dakota Century Code, relating to suspension of an oil extraction tax exemption for
6 tertiary recovery projects using carbon dioxide and an ad valorem property tax exemption for
7 carbon dioxide capture equipment used for enhanced oil recovery; to provide for a legislative
8 management study; and to provide an effective date.

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

10 **SECTION 1.** A new section to chapter 57-39.2 of the North Dakota Century Code is created
11 and enacted as follows:

12 **Sales and use tax exemption for materials used in compressing, gathering,**
13 **collecting, storing, transporting, or injecting carbon dioxide for use in enhanced**
14 **recovery of oil or natural gas.**

- 15 1. Gross receipts from sales of tangible personal property used to construct or expand a
16 system used to compress, gather, collect, store, transport, or inject carbon dioxide for
17 use in enhanced recovery of oil or natural gas in this state are exempt from taxes
18 under this chapter. To be exempt, the tangible personal property must be incorporated
19 into a system used to compress, gather, collect, store, transport, or inject carbon
20 dioxide for use in enhanced recovery of oil or natural gas. Tangible personal property
21 used to replace an existing system to compress, gather, collect, store, transport, or
22 inject carbon dioxide for use in enhanced recovery of oil or natural gas does not
23 qualify for exemption under this section unless the replacement creates an expansion
24 of the system.

- 1 2. To receive the exemption under this section at the time of purchase, the owner of the
2 gas compressing, gathering, collecting, storing, transporting, or injecting system must
3 receive from the tax commissioner a certificate that the tangible personal property
4 used to construct or expand a system used to compress, gather, collect, store,
5 transport, or inject carbon dioxide for use in enhanced recovery of oil or natural gas
6 qualifies for the exemption. If a certificate is not received before the purchase, the
7 owner shall pay the applicable tax imposed by this chapter and apply to the tax
8 commissioner for a refund.
- 9 3. If the tangible personal property is purchased or installed by a contractor subject to the
10 tax imposed by this chapter, the owner of the gas compressing, gathering, collecting,
11 storing, transporting, or injecting system may apply to the tax commissioner for a
12 refund of the difference between the amount remitted by the contractor and the
13 exemption imposed or allowed by this section. Application for a refund must be made
14 at the time and in the manner directed by the tax commissioner and must include
15 sufficient information to permit the tax commissioner to verify the sales and use taxes
16 paid and the exempt status of the sale or use.
- 17 4. This chapter and chapter 57-40.2 apply to the exemption under this section.

18 **SECTION 2.** A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota
19 Century Code is created and enacted as follows:

20 Materials used in compressing, gathering, collecting, storing, transporting, or
21 injecting carbon dioxide for use in enhanced recovery of oil or natural gas as
22 provided in section 1 of this Act.

23 **SECTION 3. AMENDMENT.** Subdivision b of subsection 5 of section 57-51.1-03 of the
24 North Dakota Century Code is amended and reenacted as follows:

- 25 b. The incremental production from a tertiary recovery project that does not use
26 carbon dioxide and which has been certified as a qualified project by the
27 industrial commission is exempt from any taxes imposed under this chapter for a
28 period of ten years from the date the incremental production begins. Incremental
29 production from a tertiary recovery project that uses carbon dioxide and which
30 has been certified as a qualified project by the industrial commission is exempt
31 from any taxes imposed under this chapter from the date the incremental

production begins. However, incremental production from a tertiary recovery project that uses carbon dioxide for a horizontal well in the Bakken or Three Forks formation and which has been certified as a qualified project by the industrial commission is not exempt from July 1, 2015, through June 30, 2017, and is thereafter exempt from any taxes imposed under this chapter from July 1, 2017, or the date the incremental production begins, whichever is later.

SECTION 4. AMENDMENT. Section 57-60-06 of the North Dakota Century Code is amended and reenacted as follows:

57-60-06. Property classified and exempted from ad valorem taxes - In lieu of certain other taxes - Credit for certain other taxes.

Each coal conversion facility and any carbon dioxide capture system located at the coal conversion facility, and any equipment directly used for enhanced recovery of oil or natural gas must be classified as personal property and is exempt from all ad valorem taxes except for taxes on the land on which ~~such~~the facility, capture system, or equipment is located. The exemption provided by this section may not be interpreted to apply to tangible personal property incorporated as a component part of a carbon dioxide pipeline but this restriction does not affect eligibility of such a pipeline for the exemption under section 57-06-17.1. The taxes imposed by this chapter are in lieu of ad valorem taxes on the property so classified as personal property.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY - OIL EXTRACTION TAX EXEMPTION FOR CARBON DIOXIDE RECOVERY PROJECTS. During the 2015-16 interim, the legislative management shall study the oil extraction tax exemption available for incremental production from a tertiary recovery project that uses carbon dioxide. The study must include consideration of the potential benefits and costs to industry, the state, and the environment of using carbon dioxide enhanced recovery methods. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 6. EFFECTIVE DATE. Sections 1 and 2 of this Act are effective for tax periods beginning after June 30, 2015. ~~Section~~Sections 3 and 4 of this Act ~~is~~are effective for taxable years beginning after December 31, 2014.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2318

Page 2, line 28, after the period insert "The exemption provided by this section may not be interpreted to apply to tangible personal property incorporated as a component part of a carbon dioxide pipeline but this restriction does not affect eligibility of such a pipeline for the exemption under section 57-06-17.1."

Page 3, line 6, after the period insert "The legislative management shall secure assistance from the energy and environmental research center to analyze potential future usage of carbon dioxide in oil recovery operations in the Bakken and Three Forks formations, the potential production and environmental benefits of that usage for energy industries in this state, the economic conditions in which that usage is feasible for oil producers, and the estimated fiscal effect of that usage for the state and political subdivisions."

Renumber accordingly