

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1506  
(Representatives Monson, Dahl, S. Kelsh)  
(Senator Erbele)

AN ACT to establish a state renewable and recycled energy objective; to create and enact six new sections to chapter 49-02 of the North Dakota Century Code, relating to renewable and recycled energy; and to amend and reenact sections 49-02-25 and 49-02-26 of the North Dakota Century Code, relating to electricity produced from hydroelectric sources as renewable electricity and recycled energy.

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

**SECTION 1. State renewable and recycled energy objective.** The legislative assembly establishes a state renewable and recycled energy objective that ten percent of all electricity sold at retail within the state by the year 2015 be obtained from renewable energy and recycled energy sources. The objective must be measured by qualifying megawatt hours delivered at retail or by certificates representing credits purchased and retired to offset nonqualifying retail sales. This objective is voluntary and there is no penalty or sanction for a retail provider of electricity that fails to meet this objective. The objective applies to all retail providers of electricity in the state, regardless of the ownership status of the electricity retailer. Municipal and cooperative utilities that receive wholesale electricity through a municipal power agency or generation and transmission cooperative may aggregate their renewable and recycled energy objective resources to meet this objective.

**SECTION 2. AMENDMENT.** Section 49-02-25 of the North Dakota Century Code is amended and reenacted as follows:

**49-02-25. Renewable electricity and recycled energy defined.** As used in section 49-02-24, renewable electricity and recycled energy include electricity generated from facilities using the following sources:

1. Solar, using the sun as the source of energy for producing electricity.
2. Wind, using the wind as the source of energy for producing electricity.
3. Biomass, using agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, and landfill gas as the fuel to produce electricity.
4. Hydroelectric, that uses water as the source of energy to produce electricity.
- ~~5.~~ 5. Geothermal, using energy contained in heat that continuously flows outward from the earth as the source of energy to produce electricity.
- ~~6.~~ 6. Hydrogen, provided that the hydrogen is generated from a source listed in this section.
- ~~6.~~ 7. Recycled energy systems producing electricity from currently unused waste heat resulting from combustion or other processes into electricity and which do not use an additional combustion process. The term does not include any system whose primary purpose is the generation of electricity.

**SECTION 3. AMENDMENT.** Section 49-02-26 of the North Dakota Century Code is amended and reenacted as follows:

**49-02-26. Qualifying for renewable electricity and recycled energy credits - Exception for certain hydroelectric facilities.** ~~For~~ Except as otherwise provided in this section, for purposes of

qualifying for renewable electricity and recycled energy credits, electricity must be generated from a source identified in section 49-02-25. For electricity generated from hydroelectric facilities, the hydroelectric facility must have an inservice date of January 1, 2007, or later, or be new hydroelectric generation obtained from repowering or efficiency improvements to hydroelectric facilities existing on the effective date of this Act.

**SECTION 4.** A new section to chapter 49-02 of the North Dakota Century Code is created and enacted as follows:

**Qualifying for renewable electricity and recycled energy objective.** For purposes of qualifying for the renewable electricity and recycled energy objective contained in section 1 of this Act, electricity, except for electricity generated from a hydroelectric facility with an inservice date before January 1, 2007, and electricity that is not obtained from repowering or efficiency improvements to a hydropower facility existing on the effective date of this Act, regardless of the source's inservice date, qualifies for meeting the statewide objective provided that the source meets the requirements of North Dakota public service commission's rules for tracking, recording, and verifying renewable energy certificates.

**SECTION 5.** A new section to chapter 49-02 of the North Dakota Century Code is created and enacted as follows:

**Application of electricity generated from existing hydroelectric facilities in calculating the renewable objective.** For purposes of calculating the amount of electricity from renewable energy and recycled energy sources needed to meet the renewable and recycled energy objective, a retail provider may deduct from its baseline of total retail sales the proportion of electricity obtained from hydroelectric facilities with an inservice date before January 1, 2007.

**SECTION 6.** A new section to chapter 49-02 of the North Dakota Century Code is created and enacted as follows:

**Purchase and retirement of renewable energy and recycled energy certificates to meet the objective.** A portion or all of the renewable energy and recycled energy objective may be met by the purchase and retirement of renewable energy and recycled energy certificates representing credits from qualified sources and facilities as defined in section 49-02-26 and section 5 of this Act. Renewable energy and recycled energy certificates do not need to be acquired from an in-state facility.

**SECTION 7.** A new section to chapter 49-02 of the North Dakota Century Code is created and enacted as follows:

**Use of renewable and recycled energy - Economic evaluation.** Before using new renewable and recycled energy after August 1, 2007, to meet the objective, the retail provider or its generation supplier shall make an economic evaluation to determine if the use of new renewable and recycled energy is cost-effective considering other electricity alternatives. After evaluating the renewable and recycled energy objective and economic evaluation, the retail provider or its generation supplier may use the electricity alternative that best meets its resource or customer needs.

**SECTION 8.** A new section to chapter 49-02 of the North Dakota Century Code is created and enacted as follows:

**Verification of generation and of purchase of renewable energy and recycled energy certificates.** Electricity generation applied to the renewable energy and recycled energy objective, as well as certificate purchases and certificate retirements, must be independently verified through a third-party credit tracking system selected by the public service commission.

**SECTION 9.** A new section to chapter 49-02 of the North Dakota Century Code is created and enacted as follows:

**Public reporting on progress toward meeting the renewable energy and recycled energy objective.** Commencing on June 30, 2009, retail providers shall report annually on the provider's previous calendar year's energy sales. This report must include information regarding qualifying electricity delivered and renewable energy and recycled energy certificates purchased and retired as a percentage of annual retail sales and a brief narrative report that describes steps taken to meet the objective over time and identifies any challenges or barriers encountered in meeting the objective. The last annual report must be made on June 30, 2016. Retail providers shall report to the public service commission, which shall make data and narrative reports publicly available and accessible electronically on the internet. Distribution cooperatives may aggregate their reporting through generation and transmission cooperatives and municipal utilities may aggregate their reporting through a municipal power agency.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1506.

House Vote:      Yeas    90      Nays    3      Absent    1

Senate Vote:    Yeas    38      Nays    8      Absent    1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State