

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1446

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1446  
January 25, 2011  
13408

☐ Conference Committee

Committee Clerk Signature

*Ellen LeTang*

### Explanation or reason for introduction of bill/resolution:

Provide for an oil refinery incentive grant and loan program; and a contingent appropriation

### Minutes:

**Chairman Keiser:** Opens the hearing on HB 1446.

**Representative Onstad~District 4, Parshall, North Dakota:** (see attached testimony 1).

**Representative Ruby:** You mentioned we wouldn't have to go through EPA approval?

**Representative Onstad:** That's correct.

**Representative Ruby:** For the whole project, doesn't the EPA regulate all environmental issues?

**Representative Onstad:** EPA sets standards and a lot of our current North Dakota health department standards for siting permitting are actually stricter than EPA's current policy. North Dakota Health Department meet all the rules request that all they have to do is team up with another federal agency, I'm not sure what that purpose is but that's correct.

**Representative Ruby:** The 34,000 barrels a day for naphtha that wouldn't add to the capacity to burn in vehicles but for pipelines?

**Representative Onstad:** The 34,000 barrels a day would be the total product that comes in. Approximately half is diesel and the other half is naphtha. That naphtha is used at a dilutant to help move a product. Canada currently takes some of that product. Our studies show that we have room for the diesel, but we don't have room for any additional refined gas in the state of North Dakota. It's looking at the state not sending it anywhere else.

**Representative Ruby:** What do you mean by North Dakota crude is priced equability?

**Representative Onstad:** We are discounted for much of our crude. It's a standard 10% discount because we take it by railroad to Oklahoma and they get number one price for that, a lot of time we get a blended price, therefore it becomes discounted. Tesoro pays top price for that.

**Representative Ruby:** In your testimony you state by doing this, if the state would participate it would take away the risk, I see is at a shift in risk. As I see it is, it shifts from those companies to the tax payers, correct?

**Representative Onstad:** The 50 million from the BND is for construction only. The assistance with the siting and permitting, beneficial to take away increased price for crude for the production companies, if it reduces or increases the amount for the royalty owners, that a benefit and if that refined product in the state of North Dakota can be a little cheaper, that also benefits everybody. For the state of North Dakota to participate and in the end receive some of those benefits, not sure where the risk will be other than dollars up front. The risk will be with the company that looks to do that. The part about the permitting, addressing and assisting with that, then they will feel like starting a project and if the state of North Dakota is behinds us, we will get this done in the two year process that required. Otherwise they are going to start a process, more in the dark, they don't have the blessing of North Dakota or the assistance and ultimately stuck with all of that up front. If they don't get that permitting done, they are out that. It's an incentive to help somebody look at that.

**Representative Vigesaa:** This would not be state owned but a private industry.

**Representative Onstad:** Correct.

**Representative Vigesaa:** I know that there hasn't been a refinery hasn't been built in US in a long time, what have been the impediments and what makes it different that a private industry would look at North Dakota, when nothing has happen in excess of 30 years?

**Representative Onstad:** Some of that refining policy, we are looking at old outdated refineries that are closing up. We are looking at current refineries expanding. The actual total production across the US really hasn't changed a lot. For years, the statement was that EPA will never allow it; I believe that's a myth. If you do your homework up front and design with knowing what your specs are, it will ease that process. The 3 affiliated tribes really lead the way, now there is a blue print to see where they are at that and will ease part of that. We take it from countries that are not always friendly with us and we are developing that. Is that a future concern of ours, I think we have to be noted on that?

**Representative Ruby:** The feasibility studies showed the 34,000 barrels, is it possible to go bigger than that or if the market changes can that be modified? Even if it wasn't and later they decided to modify and expand their refining capacity, could they come back for another grant or is this a onetime deal.

**Representative Onstad:** I assume a onetime deal. I'm not exactly sure on the expansion part. It comes down to if you have the space outside your current refinery to allow you to expand. If you were going to look at another site, I would think there would be some permitting issues. We use a 100,000 barrel model refinery and it was clear to us that we would have a hard time being part of the market share. We looked at, what is the currently the needs of North Dakota? We are short 17,000 barrels of diesel and as moves forward and look at the expansion, there is room for that. It became narrowed down to that point, so we are working off 17, 000 barrels of diesel, so that half barrel of refined product and what are we going to do with the other half? Gas didn't look good to be part of the market

and one of the markets for this byproduct would be this naphtha by this Corvall group who did the study. It seems to fit rather nicely.

**Chairman Keiser:** Is there anyone else here to testify in support of HB 1446?

**Shirley Meyer~District 36-Dickinson.** (See attached testimony 2), (testimony 3) (testimony 4). I wanted to share some of the data from the study.

**Representative Ruby:** Do we know of a group of investors or companies that will apply for this grant?

**Representative Meyer:** There are investors out there that are looking to do this. Refining is a marginal industry and the piece that they are having trouble with is the guarantee on the permitting process. We tried to design the bill to address those concerns so that the money that they would put forward for the permit would not be in vain. Also, if there was something that the state of North Dakota could do as a public/private partnership to mitigate the risk as we look to the future of Western North Dakota, we are going to be producing 700,000 of crude oil a day. The first state to run out of diesel is North Dakota because we are last in the line. Our crude oil is shipped out of here every day and a lot of crude oil sits on site with everything full and they can't move it. There again this hurts your royalty owners and the state of North Dakota. We have to be forward looking. We can get a permit in 18 months to 2 years; we can have a refinery built in 2 years once that permitting process is done. If we were hit with some refineries going down, I guarantee you that North Dakota will be the first out of fuel and that's what has been happening since the fall of 2007. I've had farmers call me and the diesel isn't there. I guess your answer is yes.

**Representative Vigesaa:** You mentioned that pipeline capacity, how would our current restraints of capacity mix in with another refinery? I assuming that there would have to be more pipelines built or would existing pipelines be able to transport the product refined?

**Representative Meyer:** Refined product cannot go on a crude oil pipeline, it's too corrosive. Pipelines will have to be built.

**Representative Vigesaa:** Do you see the private industry building the pipeline and be responsible to move the product?

**Representative Meyer:** Private industry would drive it. I believe that they would. I think the state of North Dakota's role is to help with permitting and the loan guarantee to start it. I would like to see it in pipelines too. The quicker we can get this done with what we are facing, the better off we could be.

**Representative Vigesaa:** The cost of 6 to 7 hundred million that does not include any pipeline?

**Representative Meyer:** Not as far as I know, it's the actual capital cost.

**Chairman Keiser:** Even the citing grant of 5 million, do we have any investors that are will even to proceed there, even with the grant until we resolve the federal issue on fracking and other environmental issues?

**Representative Meyer:** I believe that we do and they have identified themselves to me and others.

**Chairman Keiser:** I understand that they are there, but without fracking, we have no oil, it's over. If the feds come in and they won't make a ruling on this, so we are in limbo, aren't we, until we get some resolution for the president and management team?

**Representative Meyer:** I don't think they view it's as concern. Fracking for oil in shale is a much different process that fracking for shell and natural gas in Pennsylvania.

**Chairman Keiser:** I understand, but they are both lumped together as far as I know at this point.

**Representative Meyer:** That's correct, but visiting with them, they can't worry about it. I don't know.

**Chairman Keiser:** Is there anyone else here to testify in support of HB 1446?

**Senator Ryan Taylor~District 7-Towner:** I wasn't involved with this study. This is an idea that is popular with the people and it makes sense with folks. Why can't we keep this crude here? North Dakota has a long history of quality commodities and products that we often don't get a chance to add value to but we now do have some. North Dakota's light sweet crude is a quality product and we should take advantage of it. I think we have a chance to invest in our future. It will be driven by private industry and it's something that we can do for our next generation that would support the oil industry for many years to come. We can put this carrot out there and North Dakota will benefit in jobs too.

**Chairman Keiser:** Any questions? Is there anyone else here to testify in support of HB 1446?

**Mike Seminary~Representing Kadrmas, Lee & Jackson:** (see attached testimony 5).

**Chairman Keiser:** Is there anyone else here to testify in support of HB 1446?

**Dennis Hill~North Dakota Association of Rural Electric Cooperative, based in Mandan, NDAREC:** (see attached testimony 6).

**Chairman Keiser:** How much was the grant for?

**Dennis Hill:** A 461,000 grant and the consultant fees were in the neighborhood 415,000.

**Chairman Keiser:** How did we get to the 5 million dollar, what that an actual finding and where did it come?

**Dennis Hill:** I will defer.

**Ryan Taylor:** Visiting with Nyles at KLJ and his estimate was brought to 7-14 million, so we picked the middle, 10 million.

**Chairman Keiser:** Is there anyone else here to testify in support, in opposition of HB 1446?

**Ron Day~Tesoro:** As the bill stands today, I had to pick the opposition side of this bill, mainly for the reason, it doesn't include the ability to include expansions of a refinery in that 5 million. That 5 million is pretty accurate of the 50% of any kind of permitting activity for a major expansion of a refinery. In the bill it doesn't define a refinery. There are some gaps in this bill, that maybe we could put together to address those issues. Another thing that came to my mind was, maybe I should start the Ron Day Refinery. If I look at it and all it says is a permit to construct by a qualified applicant. I know I can qualify and then I would start my permitting process. What is a permitting process, its intellectual information gathering and putting forth information to the agencies? Nowhere does it stipulate how big of a refinery do I need to build. With that, I could go out and start that process and retire in 2-3 years with 5 million dollars of the state's money in my pocket. I'm concerned that we need to clean this bill up so it can go out that and do what the state wants it to do. Also, can we expand this bill to where we could expand a refinery? Bottom line is that we want to see more crude refined in North Dakota. That would be an exciting opportunity for Tesoro. The opportunities in Canada from the Corvall Group Study, is what got us real excited. With today's economics, it doesn't pan out to expand. As the field grows, it may. We need to protect North Dakota tax payer's dollars so the third party doesn't walk in and walk away with all the permitting dollars. The other side of it is if the permit is granted and if the third party says, I want to sell that permit now. Who gain in that aspect? I could now sell it for 10 million dollars. I'm up 15 million dollars. Does North Dakota get to recoup that 5 million dollar grant? Not under the way this bill is written.

**Representative M Nelson:** I'm fuzzy on how you are going to walk away with 5 million dollars since it's a dollar for dollar matching grant.

**Ron Day:** What you put together a permit, you are using intellectual knowledge. Based on my billing rate for in intellectual knowledge, how is the state going to say that wasn't the right amount to be billed. This is called front end engineering is a paper work exercise and I spend very little of my resources, but spent my intellectual knowledge.

**Representative Ruby:** You mentioned about selling of the permit, is that transferrable?

**Ron Day:** Yes, you can transfer a permit once it's granted and it increased in value.

**Representative Ruby:** You mentioned that it doesn't address expansion, the language does say that the dollar for dollar, matching grant, permitting process, wouldn't that be broad enough to say permitting process for expansion?

**Ron Day:** That gave us a little wiggle room, it may. I thought it could be more explicit.

**Chairman Keiser:** There has to be somebody who has to approve the transfer, is that correct?

**Ron Day:** You are absolutely correct, it does require the approval of the regulatory agency, but typically that is a miner permit modification just to change the name on a permit.

**Representative Clark:** Is 34,000 barrels big enough to be economically feasible?

**Ron Day:** A 34,000 barrel a day certainly could be feasible in terms of economic feasible; the question is how far away you have to transport your products. There are so many economics variables.

**Representative M Nelson:** You mention about the default and becoming the property of the state of North Dakota, on page 2, line 9, is that insufficient in your mind?

**Ron Day:** I don't understand that legal language means in terms on how that loan is for the 50 million dollars for the building of the facility. It's not for the 5 million permitting process; it's for the 50 million. The way I read it, we are defaulting on this loan, now it's your asset, the Bank of North Dakota; the BND may own 1/5 of that refinery but also own 1/5 of the liability because it isn't paid in full.

**Chairman Keiser:** I noticed that you were on the list of people who participated in the study; did you participate in any way in the development of the legislation conceptually?

**Ron Day:** No I did not.

**Chairman Keiser:** Is there anyone else here to testify in opposition, in neutral of HB 1446?

**Bob Human~Senior Lender of the Bank of North Dakota:** As a citizen I'm about adding value to North Dakota's natural resources, that great. As the senior lender for the bank, I'm concern about the testimony I heard today. One previous speaker mentioned the permitting process is long, expensive and risky. As a lender that concerns me as providing a guarantee. Mr Day mentioned that there is liability associated with the site and that also concerns me. I look at lines 22 & 23; the purpose of the guaranteed loan must be oil refinery construction and development, as a lender that's the riskiest stage of the loan. If Bank of North Dakota is to provide a guarantee to a lender, we are going to be looking for that lender to provide a commitment on the permanent financing on the whole oil refinery. That's the only way I see this working. This is going to be a big bank located outside of North Dakota. If this is going to be an 800,000 million dollar project they are going to have to at least 25% equity which is 200 million dollars. We are talking about 600 million dollar permanent financing. Are we just in the beginning part of that with the 50 million dollars or we a part of the 600 million dollars, I'm confused. We are only in the beginning of it and that's the riskiest part. We would ask for a permanent take out from the permanent lender. We can't originate this kind of loan; we would provide the guarantee of a loan of up to 50 million dollars. There is senate bill 2306 which is 50 million dollars for a fuel production

loan guarantee program. That 50 million dollar has a reserve fund where the dollars are suppose to come from the Land & Mineral's Trust Fund. If for some reason that goes through and the Land & Mineral's Trust Fund doesn't have any money and they ask the bank to provide a 50 million dollar guarantee on their projects, we are talking about 50 million for that bill, 25 million for this bill, we are starting to talk about some big dollars that the bank would be guaranteeing, when we only have 50 million dollars in loan loss in reserve. At the end of the biennium we predict that we will have 350 million dollars of capital, 50 million of that 350 is in our loan loss reserve. This bill also reminds me of our bio space field program.

**Chairman Keiser:** What do you mean a permanent take out on the permanent loan?

**Bob Humann:** It's a permanent take out on the interim loan. I see this as an interim because it's a construction development type loan. We would look for a permanent take out from whomever the permanent loan would be, the permanent debt provider, which would be an out of state lender. There is no bank in North Dakota can handle this type of a request other than the US Bank or Wells Fargo thought their energy divisions.

**Chairman Keiser:** What do you mean by a permanent take out on the interim loan?

**Bob Humann:** It's for purpose of the guaranteed loan, must be for the oil refinery construction and development. That means we are in the deal for a 2 year period of construction and then go into a 15 year repayment. What happens at the end the 2 years? Are we in it remaining 15 years or are we taken out? Most likely we would be taken out the way we read this language, so we would like a commitment from that permanent lender that would insure us that we would be taken out of this permanent construction loan.

**Chairman Keiser:** Further Questions? Anyone else here to testify in a neutral position. Closes the hearing on HB 1446.



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

HB 1446  
February 2, 2011  
13899

☐ Conference Committee

Committee Clerk Signature

*Mary Main*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide for an oil refinery incentive grant program; to provide a contingent appropriation; and to provide an exemption.

## Minutes:

**Chairman Keiser:** Open the hearing on HB 1446.

**Representative Onstad:** After listening to the testimony of some of the parties that had objections or wanted clarification, we've had a visit with those parties and this is where we are at. Reads the amendments (see attached amendment #1 - 01002). We did run this by Ron Day of Tesoro and it met his approval. The Commerce Dept. added there language to the initial part and the Bank of North Dakota is more comfortable with it too.

**Representative Ruby:** Could you explain under F, the postaward monitoring, is that to make sure they started it within the time frame?

**Representative Onstad:** Correct.

**Representative Ruby:** Under G, what information would be considered when deciding the ownership of the information?

**Representative Onstad:** That was to distinguish for example, an entity goes through the process of permitting and then turn around and sell it to someone else. That was the Dept of Commerce's language that said they would be owner of that permitting process. If you complete a permit, it is for this site only. If you move 5 miles, it starts over again.

**Chairman Keiser:** So that would be the intellectual property created during that process that was paid for. The Dept of Commerce would own that if it were not successful.

**Representative N Johnson:** On the back page, section 54-44.1-11, do you know what that refers to.

**Florent Martel:** Reads the Century Code.

**Chairman Keiser:** So it's basically a sunset clause on the grant plus it's excluding it from the Sunset clause.

**Representative N Johnson:** My understanding is that OMB has the authority to cancel something if it's not expended. This one would not be subject to the availability to cancel it.

**Representative Onstad:** In my notes it says it allows unexpended committee funds during the 2011/2013 biennium to carry forward if necessary to continue the necessary permitting process.

**Chairman Keiser:** Where do we get the 5 million?

**Representative Onstad:** The 5 million dollars is coming out of the permanent oil trust fund.

**Chairman Keiser:** Can you show me where it says that?

**Representative Onstad:** In the original bill, Section 3, line 17, page 2.

**Chairman Keiser:** Why does this not have a fiscal note? Is it because it's from the trust fund?

**Representative Sukut:** On 2-A on the amendments, 'must have completed a feasibility analysis and have a viable business plan'. Has any of that been done?

**Representative Onstad:** Any entity that would be going to enter the permitting phase would have covered a lot of their own feasibility. A lot of the information from the feasibility study that we completed as of the DOEs part of that laid a lot of the ground work for any expected company. They could take that information as a basis to say that from that study, we looked at it could be feasible. North Dakota has room for a 34 to 35 thousand barrel a day refinery, 17 thousand for diesel, the rest for naphtha. Their own feasibility study creates that there is room for that. Any company would look at that and they would have to go further before they would start the process.

**Representative Sukut:** We are making the assumption that some company will come forward and they will have all of those things accomplished before they can qualify for this 5 million dollar grant.

**Representative Onstad:** That's the way I understand it to. Correct.

**Representative N Johnson:** Is the Dept of Commerce planning to do this administrative program out of their current budget? I don't see where we're giving them any money to have somebody working on this.

**Representative Onstad:** They did not say that it's going to require another FTE. They currently have their energy position with the Dept. of Commerce. I think it would go under that. They did not say that this would require additional work so I'm assuming they can handle the work.

**Chairman Keiser:** We are in effect providing a planning grant to Tesoro Refinery. When you go through the qualifications A through G, there are very few players that can do it. There may be some external companies interested in coming here but clearly Tesoro can meet everyone of those conditions now. If they wanted to do an expansion, this would give them a planning grant to do that. Is that accurate?

**Representative Onstad:** I know they have some interest and in their current location, they have some major limitations. They did some expansion but only a portion so they are creating more diesel but less asphalt. That's what these co cur processes do. A lot of refineries have increased their output but haven't really created enough. Actual barrels coming in remain the same; it's the type of products going out. I can't speak for Tesoro. They are interested in doing something at a different location. They would have to start that whole permitting process. There is a group in the Trenton area. We have a kind of a western alliance with Montana and North Dakota. The Sidney and Williston area Mayor have formed this energy alliance and creating an energy park. Land has been purchased. They are looking ethanol, the refining of oil, other biomass industry; they are looking at this opportunity to expand that with the addition of other industries. There are benefits because of byproducts that one industry produces that the other can use similar to the Jamestown facility that's been created with Great River Energy and the malting plant. So to say this is just for Tesoro, I know they are interested. I know there are other entities that are interested too.

**Representative Sukut:** The 5 million grant would be used primarily to help a potential business to build an oil refinery get through the permitting process and EPA?

**Representative Onstad:** That's correct.

**Representative Sukut:** How did you come up with the 5 million dollars? Is there a basis for that?

**Representative Onstad:** The 5 million dollars came from Kadrmas, Lee, and Jackson that worked with the permitting process the Three Affiliated Tribes went through. They said that a typical permitting process could cost from 7 to 14 million dollars. We took the average of 10 and because of matching grant and used 5. Our understanding is that's the carat that lowers the risk of a company when they start this. We thought that the EPA was the strangle hold and we found out that it's not. The Three Affiliated Tribes had a choice of using North Dakota Health Dept or the EPA and they chose EPA. They now wish that they would have chosen the Health Dept. Almost all of our restrictions with the Health Dept, and air quality, etc. are tighter than the current EPA standards. The State agency would have to use a Federal agency and that does not have to be EPA. It could be the Corp of Engineers or the Dept. of Interior, someone that they feel confident that they can work with.

**Representative Sukut:** In 2-D, states 'shall establish the availability of one dollar of non state cash matching funds for each one dollar of State funds available'. Are we making an assumption that there might be the possibility of more State funds to come into this project?

**Representative Onstad:** No. The total amount is 5 million dollars. For every dollar that we put in from the States donation, they have to match it with a dollar. It's not in kind, it's cash.

**Representative Frantsovog:** In looking at your amendments, it seems in order to qualify for the grant and do items A through G, you would either have to won a specific piece of property or you would have to have an option on it. You have to be able to identify a specific piece of property. Is that correct?

**Representative Onstad:** That would be correct. We are only aiding in the permitting process and sighting process. In the case of the Williston group, they already have an option to purchase 3000 acres in the Trenton area a currently receive some approvals for an ethanol plant.

**Chairman Keiser:** In Sub item 4, 'a qualified applicant shall begin the permitting process no later than 6 months following the grant approval'. I'm assuming that Kadrmas, Lee & Jackson feels that time is ok? What happens if they don't do it? Why do we want that in there?

**Representative Onstad:** We didn't want somebody to make the application and then wait 2 years and we're out of this biennium and it it sits and holds at that point. Are you legit, are you ready to go, do you have an engineering firm in place? If we didn't put that in, we could tie this up for many years. We have a 2 year window.

**Chairman Keiser:** What happens if they do it in 6, what if its 8?

**Representative Onstad:** If they don't start the process, they won't be part of the matching dollars. The Dept. of Commerce will not put their 5 million first and then wait for the next 5 million. The entity has to establish what their working on and they have to provide documentation to reveal what they're doing. That's what the payment base is on.

**Chairman Keiser:** If you look at subsection 1, the purpose is for permitting and we're going to help fund it. If you meet A through G, I think you get the money, then you're going to do the permitting, then you will hopefully build. If their close to building, I think Commerce looks the other way I would assume.

**Representative Onstad:** If you go to paragraph 5, 'shall distribute awarded grants on a reimbursement basis. Qualified applicants shall provide the department with any documentation required by the department.'

**Chairman Keiser:** Further questions? We have the amendments before us, what are your wishes?

**Representative Gruchalla:** I move the amendments.

**Representative Nelson:** Second.

**Chairman Keiser:** You rarely see the Bank of North Dakota come out of their seat. They were not excited about participating on this project. Representative Onstad has addressed that concern and put the bill to us in a way that it won't be killed in any form.

**Chairman Keiser:** Further discussion? Voice vote taken. Motion carried. The amendments are on the bill and the bill is before us. What are your wishes?

**Representative Nelson:** I move a do pass as amended.

**Representative Gruchalla:** Second.

**Chairman Keiser:** Further discussion? I'm going to oppose this. You do whatever you want. I see this as a planning grant for Tesoro Refinery and they should be making good business decisions and if it's profitable, do it and if it's not, don't do it. I know there was a lot of effort during the interim put in and I know that the Three Affiliated Tribes looked at this. They got some money to look at it extensively. I thought at one time it was a good go and maybe somebody know more about it than I do. It was a no go for them and the only player I see in this market is Tesoro and I think they should be required to . . . . Unless we want to start picking businesses off and giving them grants and if that's the case I would like to be part of this bill.

**Representative Nathe:** I agree with you whole heartedly. I think we should leave it up to the private sector to decide if they want to build an oil refinery or not. I think the purpose behind this bill is noble and interesting but I don't think we should be involved in it. Let it be up to the private market.

**Representative Sukut:** This is more difficult for me to back off of. I know the group from Williston has spent a lot of time and a lot of effort in trying to get something put together. It's such a humongous project. This is high level risky and I can understand your points when you start getting involved in that area. I'd like to see them get a little help so they could get this begin to move this forward or have it die. I'm in a position where I have to support it but I fully understand.

**Chairman Keiser:** I think everyone of us should do what we believe is right on every piece of legislation that comes before us and we respect that. Further discussion? We have a motion for a do pass as amended. Roll call on HB 1446.

**7 Yes    6 No    1 Absent**

**Do Pass as Amended**

**Carrier: Ruby**

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

HB 1446  
February 7, 2011  
14109

☐ Conference Committee

Committee Clerk Signature

*Mary Mair*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide for an oil refinery incentive grant program; to provide a contingent appropriation; and to provide an exemption.

## Minutes:

**Chairman Keiser:** We will take a roll call vote on the reconsideration of HB 1446.

**Representative Amerman:** Can you refresh my memory how the vote went when we passed it.

**Chairman Keiser:** It was 7, 6, 1 absent for a do pass as amended. Before you vote, I would like Representative Johnson to explain the amendment so you have some idea of what she was thinking. I want people to understand the basis for why they might or might not vote for reconsideration.

**Representative Johnson:** The only difference in my amendments to what was passed last week is that I took out for redoing an existing refinery. This would only allow for a new refinery; new construction rather than using the dollars that would go to something existing. I got to thinking about that and since I'm from the western part of the State, the intent was to get something set up close to the oil field. This amendment would take out that part where we amended in so it could be used for an existing facility.

**Chairman Keiser:** We have not adopted the amendment, we are voting first to reconsider. Roll call was taken on a motion to reconsider our action on HB 1446. Motion carried unanimously.

**Representative Johnson:** I would move the amendments 11.0636.01003.

**Representative Kasper:** Second.

**Representative Ruby:** I voted for the reconsideration but I like that part of it. An expansion is beneficial in a lot of ways as a new one. It would be great to have a new one.

**Vice Chairman Kasper:** Is the only change on your amendment on section 1 the word 'new'?

**Representative N Johnson:** No. The original bill had a lot more and had the Bank of North Dakota and all of that came out of the original bill. We had voted for an amendment and it put in for an existing refinery and amended out the Bank of North Dakota stuff. What we had passed was this under 1 it had for an existing refinery. This took out the existing part.

**Representative Kasper:** That was my question, the new language was for a 'new' oil refinery and the old language was for a 'new or expansion of an existing oil refinery'.

**Representative Johnson:** Right. The Corvell study showed that there was a different type of product that would be advantageous to develop in the western part of the State near the oil fields whereas the existing refinery would just expand what it is doing. That's my concern is that there is some other kind of product that would be beneficial out there.

**Representative Amerman:** Have you run this past the sponsors?

**Representative N Johnson:** No I have not.

**Representative M Nelson:** It's true that we'd like a new one but I'm opposed to the amendment from the standpoint of still we have the feasibility study. If it's an expansion, it has to be feasible. They can't be losing money on it. The supply of diesel fuel would be benefited greatly by either an expansion or a new refinery. That's my feelings on it.

**Chairman Keiser:** We'll take the roll to adopt the amendment 01003.

**10 Yes    4 No    0 Absent    To Re-amend**

The amendment is adopted and now we have HB 1446 as re-amended before us. What are the wishes of the committee?

**Representative Kasper:** I move a do not pass as amended. I just don't think we should be in the granting business for that amount and it should be left in the private sector.

**Representative Nathe:** Second.

**Chairman Keiser:** Further discussion?

**Representative Ruby:** I voted against the amendment, I liked the bill a little closer to the way it was. The reason I liked what was there is not that government needs to help big business in all the different ways but I related it to; we assist ethanol, we assist biodiesel, we assist wind, and these don't bring in nearly the revenue that oil does. When I voted for that I thought this is way to assist that industry. I think that it's more likely that the refinery would apply for this more so than a new one because it's not easy to start a new one. I didn't have a problem with that. Now this bill will sit there and do nothing. If the money is there, they will. I'd like to see us subsidizing the other industries less too and let them work in the free market. I will support the motion for do not pass.

**Chairman Keiser:** Further discussion? I will point out that on a do not pass motion there is no re-referral to appropriations because if it carries the bill is going out of committee without the money on it. If it passes on the floor than it would be re-referred to appropriations on the floor.

**8 Yes    6 No    0 Absent**

**Do Not Pass as Amended**

**Carrier: Ruby**



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

HB 1446  
February 7, 2011  
14147

☐ Conference Committee

Committee Clerk Signature

*Mary Main*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide for an oil refinery incentive grant program; to provide a contingent appropriation; and to provide an exemption.

## Minutes:

**Chairman Keiser:** We have a request for a minority report.

**Representative Johnson:** It has to be a roll call vote recorded. A minority report has to have at least 3 members that voted the minority. There has to be at least 4 members that voted the majority that would sign off on it. Have you got the number of the minority report? The minority report would be the original amendment. The one that I brought forward would be the majority report.

**Representative Boe:** I move that we have a minority report on HB 1446.

**Representative Gruchalla:** Second.

**Chairman Keiser:** Further discussion for a minority report?

**Representative Boe:** I make the motion because I had a feeling that from the vote totals the first time, it seems that it had a lot more support before it was amended. After it was amended, we seemed to have lost a little support and I thought that we could provide that information on the floor.

**Representative Kasper:** For those of us who voted for the previous majority report, do we vote against the minority report because we don't want it and if they get 3, they get it anyway. I don't agree. The minority report could become the majority report if it gets the majority of this vote.

**Chairman Keiser:** That's correct. They have the right to divide on the floor. Call the roll for the request for a minority report.

6 Yes    7 No    1 Absent

The Majority Report Holds

Carrier: Ruby

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

HB 1446  
February 8, 2011  
14189

☐ Conference Committee

Committee Clerk Signature

*Mary Mair*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide for an oil refinery incentive grant program; to provide a contingent appropriation; and to provide an exemption.

## Minutes:

**Chairman Keiser:** On this bill HB 1446 where we had a minority report, Representative Boe has asked that we reconsider that bill, which we have to take formal action, for the purposes of removing the minority report request. Then the bill is ready to go out.

**Representative Boe:** I move to reconsider 1446.

**Representative Amerman:** Second.

**Chairman Keiser:** We do have 1446 and all we need to do is remove the request for the minority report.

**Representative Boe:** It was discussed that we wanted a minority report to debate the amendment versus the bill. Overnight we realized this is actually an inappropriate use of the minority report because we can accomplish the same thing by pulling it off the 6<sup>th</sup> order. The minority report should be reserved for debating 2 separate amendments and we would just as soon use them sparingly. With that information, I requested that we would pull the minority report off of this and we will take care of it on the floor.

**Chairman Keiser:** I agree wholeheartedly. When somebody moves for a minority report we grant it but typically a minority report is where there is 2 sides on an issue, not necessary republican versus democrat, submit entirely different amendments on a bill and wish to have both set of amendments considered. This isn't the case. This is a case where they would like to argue the amendments that were placed on the bill relative to the previous bill and so that can be achieved and the carrier, Representative Ruby, will recognize that it will be on the 6<sup>th</sup> order and be pulled on the 6<sup>th</sup> order, discussed, voted on the amendments and be taken to the 11<sup>th</sup> order immediately. Further discussion? Take the roll for removing the minority report on HB 1446.

14 Yes 0 No 0 Absent The Minority Report Is Off the Bill

Carrier: Representative Ruby

VK  
2/3/11  
182

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1446

Page 1, line 1, remove "and loan"

Page 1, line 1, remove the second "and"

Page 1, line 2, after "appropriation" insert "; and to provide an exemption"

Page 1, replace lines 4 through 23 with:

**"SECTION 1. OIL REFINERY INCENTIVE GRANT PROGRAM -  
DEPARTMENT OF COMMERCE.**

1. During the 2011-13 biennium, the department of commerce shall establish and administer a program to provide a matching grant to a qualified applicant for the purpose of assisting the applicant with the costs associated with the oil refinery permitting process for a new or an expansion of an existing oil refinery.
2. In order to qualify for a grant under this section, an applicant:
  - a. Must have completed a feasibility analysis and have a viable business plan;
  - b. Must have the necessary expertise to pursue the project;
  - c. Shall establish the proposed project would have a positive impact on the state, with an anticipated minimum capacity of twenty thousand barrels per day;
  - d. Shall establish the availability of one dollar of nonstate, cash matching funds for each one dollar of state funds available under this program;
  - e. Shall meet the requirements established by the department of commerce;
  - f. Shall agree to postaward monitoring by the department of commerce; and
  - g. Shall agree to the department of commerce's terms relating to ownership of information if the permitting process is not successful.
3. A grant under this program may not exceed five million dollars.
4. A qualified applicant shall begin the permitting process no later than six months following the grant approval.
5. The department of commerce shall distribute awarded grant funds on a reimbursement basis. As a term of distribution of funds under this section, the qualified applicant shall provide the department of commerce with any documentation required by the department."

Page 2, remove lines 1 through 14

Page 2, line 15, after "APPROPRIATION" insert "- EXEMPTION"

Page 2, line 21, after the period insert "The amount appropriated under this section is not subject to section 54-44.1-11."

Renumber accordingly

Date: Feb 2 - 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1446

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0636.01002

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

Motion Made By Rep Gruchalla Seconded By Rep Nelson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Amerman		
Vice Chairman Kasper			Representative Boe		
Representative Clark			Representative Gruchalla		
Representative Frantsvog			Representative M Nelson		
Representative N Johnson					
Representative Kreun					
Representative Nathe					
Representative Ruby					
Representative Sukut					
Representative Vigesaa					

voice vote - motion carried

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: Feb 2 - 2011

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1446

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

Motion Made By Rep Nelson Seconded By Rep Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		✓	Representative Amerman	✓	
Vice Chairman Kasper		✓	Representative Boe	AB	
Representative Clark		✓	Representative Gruchalla	✓	
Representative Frantsvog		✓	Representative M Nelson	✓	
Representative N Johnson	✓				
Representative Kreun	✓				
Representative Nathe		✓			
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa		✓			

Total Yes 7 No 6

Absent 1

Floor Assignment Rep Ruby

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

Refer

Date: Feb 7 - 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1446

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

Motion Made By Rep Johnson Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	/		Representative Amerman	/	
Vice Chairman Kasper	/		Representative Boe	/	
Representative Clark	/		Representative Gruchalla	/	
Representative Frantsvog	/		Representative M Nelson	/	
Representative N Johnson	/				
Representative Kreun	/				
Representative Nathe	/				
Representative Ruby	/				
Representative Sukut	/				
Representative Vigasaa	/				

Reconsideration

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

voice vote taken for reconsideration

VK  
2/8/11  
1062

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1446

Page 1, line 1, remove "and loan"

Page 1, line 1, remove the second "and"

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2. In order to qualify for a grant under this section, an applicant:
  - a. Must have completed a feasibility analysis and have a viable business plan;
  - b. Must have the necessary expertise to pursue the project;
  - c. Shall establish the proposed project would have a positive impact on the state, with an anticipated minimum capacity of twenty thousand barrels per day;
  - d. Shall establish the availability of one dollar of nonstate, cash matching funds for each one dollar of state funds available under this program;
  - e. Shall meet the requirements established by the department of commerce;
  - f. Shall agree to postaward monitoring by the department of commerce; and
  - g. Shall agree to the department of commerce's terms relating to ownership of information if the permitting process is not successful.
3. A grant under this program may not exceed five million dollars.
4. A qualified applicant shall begin the permitting process no later than six months following the grant approval.
5. The department of commerce shall distribute awarded grant funds on a reimbursement basis. As a term of distribution of funds under this section, the qualified applicant shall provide the department of commerce with any documentation required by the department."

Page 2, remove lines 1 through 14

Page 2, line 15, after "APPROPRIATION" insert "- EXEMPTION"



Page 2, line 21, after the period insert "The amount appropriated under this section is not subject to section 54-44.1-11."

Renumber accordingly

Date: Feb 7 - 2011

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1446

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0636.01003 02000

Action Taken: ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

Motion Made By Rep Johnson Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla		✓
Representative Frantsvog	✓		Representative M Nelson		✓
Representative N Johnson	✓				
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby		✓			
Representative Sukut		✓			
Representative Vigesaa	✓				

Total Yes 10 No 4

Absent 0

Floor Assignment \_\_\_\_\_

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

Re-amend

Date: Feb 7, 2011 am

Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1446

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended ☐ Adopt Amendment

Motion Made By Rep Kasper Seconded By Rep Nathe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman		✓
Vice Chairman Kasper	✓		Representative Boe		✓
Representative Clark	✓		Representative Gruchalla		✓
Representative Frantsvog		✓	Representative M Nelson		✓
Representative N Johnson		✓			
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigasaa	✓				

Total Yes 8 No 6

Absent 0

Floor Assignment Rep Ruby

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

Date: Feb 7 - 2011

Roll Call Vote # 1 pm

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1446

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

Motion Made By Rep Boe Seconded By Rep Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		✓	Representative Amerman	✓	
Vice Chairman Kasper		✓	Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog		✓	Representative M Nelson	✓	
Representative N Johnson		✓			
Representative Kreun		✓			
Representative Nathe		✓			
Representative Ruby	<del>✓</del>				
Representative Sukut	✓				
Representative Vigesaa		✓			

Total Yes 6 No 7

Absent 1

Floor Assignment Rep Ruby

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

move for minority report

Date: Feb 8, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1446

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

Motion Made By Rep Boe Seconded By Rep Amerman

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog	✓		Representative M Nelson	✓	
Representative N Johnson	✓				
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Rep Ruby

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

remove request for minority report.

Date: Feb 8, 2011

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1446

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

Motion Made By Rep Boe Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog	✓		Representative M Nelson	✓	
Representative N Johnson	✓				
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Rep Ruby

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

minority report off the bill

**REPORT OF STANDING COMMITTEE**

**HB 1446: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1446 was placed on the Sixth order on the calendar.

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Page 1, line 1, remove the second "and"

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Page 1, replace lines 4 through 23 with:

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2. In order to qualify for a grant under this section, an applicant:
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Page 2, line 21, after the period insert "The amount appropriated under this section is not subject to section 54-44.1-11."

Renumber accordingly



2011 TESTIMONY

HB 1446

HB 1446 Oil Refinery

Chairman Keiser and members of the Industry , Business and Labor committee

Kenton Onstad District 4 Parshall

The State of North Dakota has enjoyed the largest Oil and Gas Development in the United States for the last 5 years now. We are 4<sup>th</sup> in Production and it continues to grow. We continue to build pipelines, railroad loading facilities and gas plants to move our raw products out of the State of North Dakota.

Yet we have the highest gas and Diesel Prices in the nation. We continue to have diesel shortages. Price differences across reflect the number of pipelines entering anyone area. Fargo-Moorhead has 3 pipelines carrying refined product, Northwest North Dakota has 1.

January of 2008 we started a campaign to discuss an oil refinery in North Dakota. That was the result of a diesel shortage in the fall of 2007. Series of meetings were held to discuss the issue. We then had calls for stranded energy. Production companies storing oil because they had no place to take it. Senator Dorgan held a hearing on Stranded Energy and then Asked Department of Energy to support a feasibility study to look at increasing refining Capacity.

At that point, I co-chaired a feasibility study with Senator Rich Wardner to look at increasing our Refining Capacity. The make up of the committee consisted of Petroleum Marketers, Oil refinery representatives, pipeline companies and consumer advocates. In addition we had an advisory group made of up of Legislators of both parties, Petroleum Council, retailers, Department of Commerce, Senator Dorgan's office and the Department of Energy.

As a result of that study, we are here today to offer HB 1446, asking the State of North Dakota to assist with the siting and permitting of an oil refinery in North Dakota. The Feasibility study, completed by Corvall group along with Purvin & Gertz comes to the conclusion a 34,000 B/D naphtha refining project provides the highest rates of return and is the most feasible alternative for additional refining Capacity.

They also concluded to help reduce risk by investors, the State of North Dakota should participate with the citing and permitting of an oil refinery.

The Largest opportunity for reducing capital cost would be to expand an existing refinery instead of build a grass roots facility

Another option that should be explored to reduce capital costs would be to evaluate extensive modular construction opportunities due to the relatively small size of this refinery.

Study was based on a generic location. Based on the selection criteria the next phase of project development would consider more specific site advantages and disadvantage including logistical costs.

The financial Analysis was done assuming that the sponsor would invest its own capital to pay for the construction of the refinery.

It was then determined if one could reduce ones risk in the permitting process the project would look more feasible and provide less risk.

It is that \$10-15 million dollars and not knowing what the end result would be is a major risk. Considering the lack of building a new refinery for many years, if the state would participate in the permitting process would take some risk away.


We can add economic value to North Dakota crude oil in a number of ways:

- Ensure that North Dakota crude is priced equitably, rather than discounted.

- Research all technology available to develop an environmentally sound crude oil refinery

- Develop and expedite permit and citing rules for a refinery business

- Advance Legislation that ensures North Dakota Citizens benefit from our oil resources.



Mr. Chairman, HB 1446 creates an incentive grant program by the Department of commerce. The program may not exceed \$5,000,000. The Department of Commerce shall provide a grant recipient with assistance as a liaison with state agencies involved in the permitting process.

Section 2 provides an incentive loan guarantee program with the Bank of North Dakota. These are programs that BND can currently provide. The purpose is for construction and development.

Proposed cost for a 34,000 B/D refinery would be approximately \$700 million.

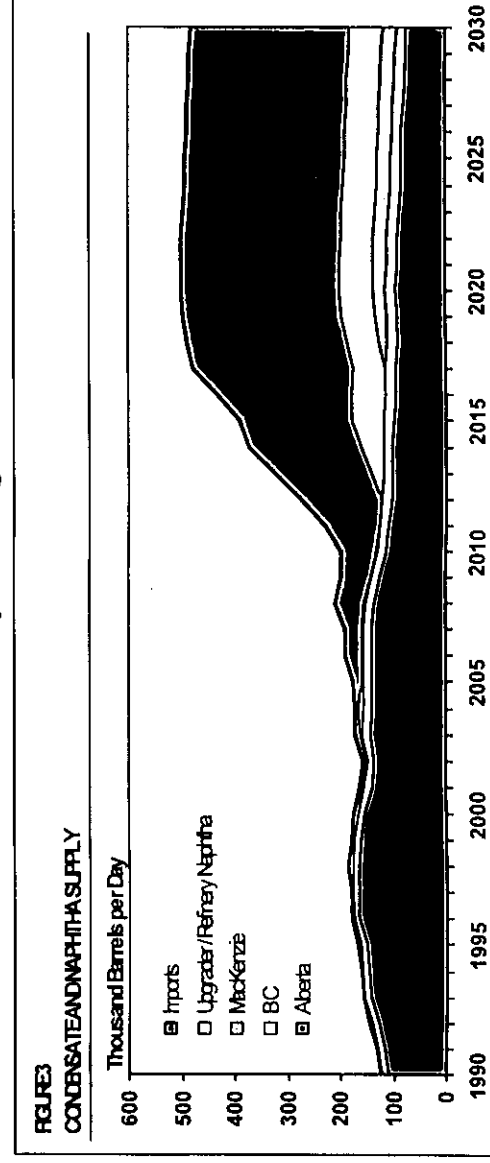
Mr. Chairman and IBL committee members HB 1446 is a step towards an oil refinery, Interests do exist and hope you can give it a do pass.



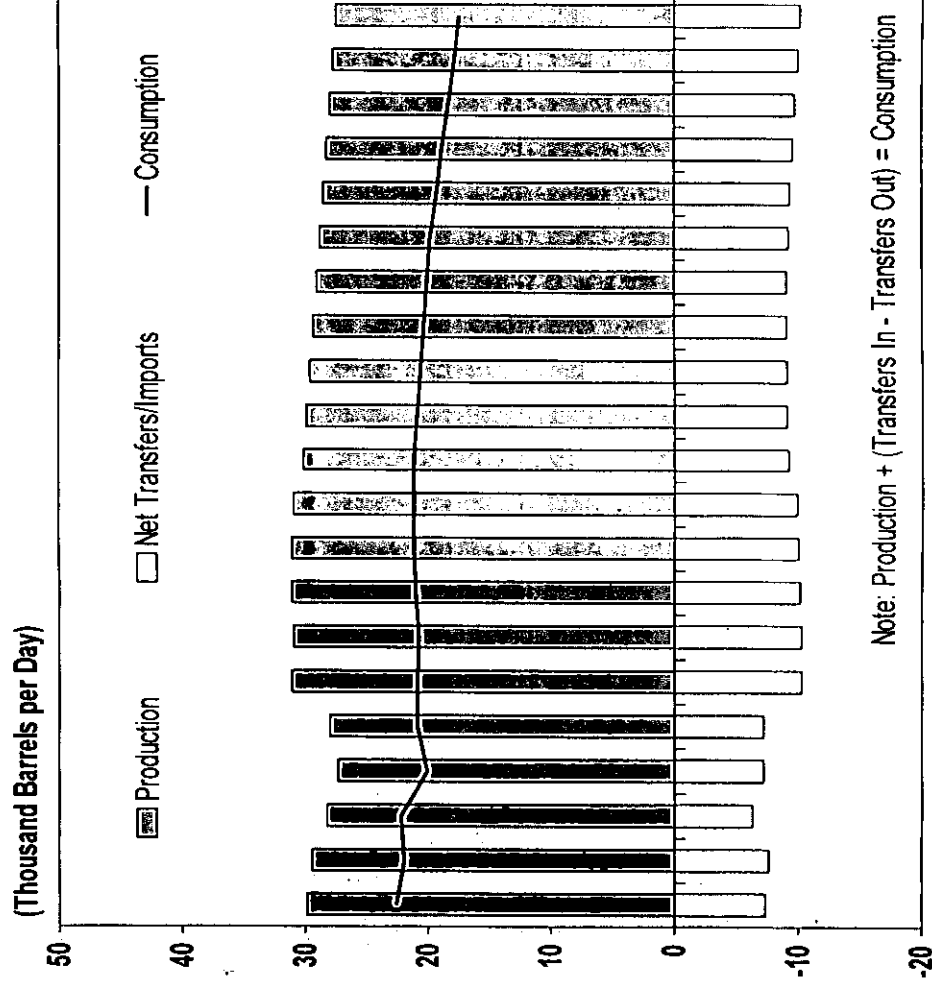
Thank You

# Market Review-Canadian Naphtha/Diluent

- Naphtha is used as a diluent for pipelining Bitumen (heavy crude).
- Growth in the Canadian bitumen production has created a demand for naphtha.
- Canadian import of hydrocarbon streams such as naphtha is the most expedient short term option for increasing the supply of diluent to meet the demand created by the growth in bitumen production.



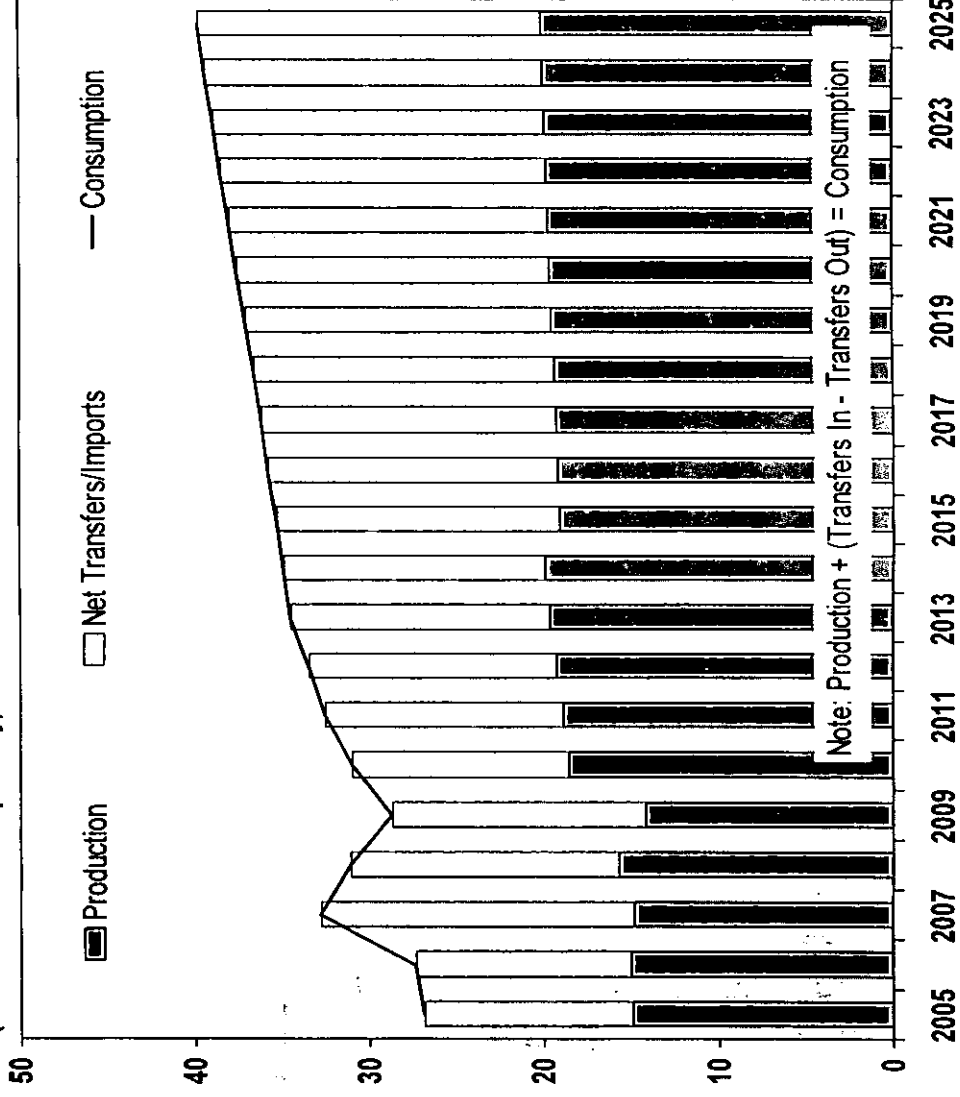
# North Dakota Gasoline Balance



- North Dakota's demand for light refined products represent a small fraction of the overall PADD II total.
- North Dakota is a conventional gasoline market with some ethanol blending.
- The market balances on net transfers out of the state.
- Excludes ethanol

# North Dakota Diesel Balance

(Thousand Barrels per Day)



- The diesel market relies on increasing net transfers into North Dakota.
- Relative consumption of gasoline to diesel is lower than both the overall U.S. and PADD II markets because of the diesel consumption in the agriculture sector.

# Conclusions

- There is a market for naphtha produced in North Dakota created by the growth in bitumen production in Canada.
- The 34,000 BPD diesel and naphtha refinery produces a higher return on investment than the 20,000 BPD refinery producing gasoline and diesel.
- The 34,000 BPD naphtha refining project provides a nominal 9.2 % IRR. Further alternatives could be explored to improve the return on investment.
- The benefits to North Dakota are primarily in the areas of increased state revenues, new employment opportunities and an increased North Dakota production of diesel fuel.



# Benefits to North Dakota

- New refinery capacity would provide employment to:
  - an estimated 75 operations personnel with an average salary of \$80,000
  - an estimated 80 maintenance positions with an average salary of \$75,000
  - an estimated 55 professional and administrative jobs with an average salary of \$85,000
- The personal income from these jobs is estimated to be about \$16.6 million per year.
- Increased economic activity required to provide goods and services to the refinery and would result from the spending of this new personal income.
- 16,000 BPD of diesel fuel supply into the local market would potentially reduce supply disruptions.
- Citizens of the state could realize benefits due to the potentially lower cost diesel fuel.
- During construction of the refinery an estimated \$220-250 million could be paid for labor and some local fabrication work.
- Increased crude netback prices for a period of 3-5 years may positively affect severance taxes and royalty payments.

## PHASE II STUDY CONCLUSIONS

Growth in Canadian bitumen production has created a demand for naphtha. Naphtha is used as a diluent for pipelining bitumen (heavy crude) from Canada to crude markets. Import of hydrocarbon streams such as naphtha is the most expedient short-term option for increasing the supply of diluent to meet the demand created by the growth of bitumen production. Naphtha from new North Dakota refinery capacity may find the diluent market an attractive alternative to the sale of gasoline in a locally oversupplied market.

North Dakota naphtha will receive a premium at Edmonton as determined by the Canadian Association of Petroleum Producers (CAPP) equalization process. Due to the quality of the naphtha from the proposed North Dakota refinery capacity, it is expected to receive a premium when it is comingled with other condensate streams which comprise the aggregated condensate pool in Alberta, Canada.

The price paid for diluent is forecasted to increase through 2015 and continue to increase through 2030 due to increases in demand. Naphtha is comingled with other condensate streams which together comprise the diluent. The price for the Enbridge pooled condensate (CRW), the C5+ price, is forecast to increase in line with overall crude oil prices.

Rail transportation is currently the most expedient short-term option for importing naphtha into Canada from North Dakota. Although the Enbridge Southern Lights pipeline project allows up to 180,000 barrels per day of diluent components to be shipped from Chicago to Edmonton, the current tariffs for uncommitted shippers are not economical compared to unit train transportation.

The 20,000 B/D configuration provides a 92.3% refinery charge yield for gasoline, jet and diesel. The 20,000 B/D refinery configuration is equipped with a hydrocracker and other upgrading units to maximize light product yield. This refinery includes a kerosene/diesel hydrotreater, vacuum gas oil (VGO) hydrocracker, a naphtha hydrotreater, naphtha reformer, hydrogen plant, and benzene saturation and light naphtha isomerization units.

The 34,000 B/D naphtha configuration provides 15,000 B/D naphtha and a 51.6% jet and diesel yield. The 34,000 B/D naphtha configuration is equipped with a VGO hydrocracker, but without naphtha upgrading capability. This refinery includes a distillate hydrotreater and a hydrogen plant.

The capital cost for the refineries are estimated to be \$650 million and \$700 million for the 20,000 B/D and 34,000 B/D refineries, respectively. The capital costs are adjusted for a North Dakota location and have 40% accuracy.

Overall total operating cost per barrel for the 34,000 B/D case are more favorable than the 20,000 B/D case. The fixed and variable costs are similar for each case but the high labor costs for the 20,000 B/D case are the primary difference in the operating cost per barrel. The larger refinery enjoys some economies of scale in its projected operating cost per barrel.

The 34,000 B/D naphtha refining project provides higher rates of return and is the more feasible refinery case. The 20,000 B/D case provides a real IRR of 1.6% and a nominal IRR of 3.7% with a net present value of \$-244.4 million, based on a 15% discount rate. The 34,000 B/D case provides a real IRR of 7% and a nominal IRR of 9.2% with a net present value of \$-156.7 million. Neither refinery case provides a sufficient return for traditional project financing.

The Refinery Analysis describes the 34,000 B/D refinery with process flow diagrams, utility and emission estimate and the layout shown with a conceptual plot plan. The utility analysis is based on the import of electricity, natural gas and water from a well. It is designed to meet Environmental Protection Agency air emissions standards and calculated emissions are consistent with this objective. The plot plan allows for rail and truck transportation of product to local and regional markets.

Site Selection Criteria highlights the important criteria for selecting a site for the refinery. Transportation and logistics considerations along with the ability to attract skilled labor at a competitive cost and obtain utilities at economic rates are primary considerations for selecting a site.

Benefits to North Dakota are primarily in the areas of increased revenues for the state and new employment opportunities and increased supply of diesel fuel. These benefits would become available due to local production of diesel, and employment primarily through direct employment, construction and the increase in the demand for goods and services due to a new refinery being located in North Dakota.

Project Incentives and Barriers identifies alternate approaches to a "green field" refinery that can be explored to reduce the capital cost for and improve the financial prospects of this project. The "green field" approach for a small refinery has the disadvantage of having to bear the cost of the entire infrastructure and all facilities inside and outside of the battery limit.



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## VIII. PROJECT INCENTIVES AND BARRIERS

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This section of the report is intended to outline ideas that may increase the economic return of a project. The sensitivity analysis performed in Phase II of this study identified the contribution margin and the capital cost as the two variables with the largest potential impact on project returns.

The largest opportunity for reducing capital cost would be to expand an existing refinery instead of building a "grass roots" facility which was the basis of this study. An existing refinery may be able to reduce investment in the outside battery limit (OSBL) and infrastructure expenditures by fully utilizing and/or expanding existing facilities rather than by building new equipment.

Another option that should be explored to reduce capital costs would be to evaluate extensive modular construction opportunities due to the relatively small size of this refinery. However, this type of construction would likely take place in another location where the expertise exists, reducing the work done in ND and the economic benefits. Exploring the potential for obtaining, relocating and installing existing process equipment as an alternative to purchasing new equipment may reduce capital costs and improve the overall schedule.

The study was based on a generic North Dakota location. Based on the selection criteria the next phase of project development would consider more specific site advantages and disadvantage including logistical costs. By selecting a specific location, the contribution margin may change due to optimization of logistical cost.

The financial analysis was done assuming that the sponsor would invest its own capital to pay for the construction of the refinery. The returns from the study are based on this equity finance model. Sponsors generally set return on investment guidelines that must be met before they will invest their capital in a project. Depending on the sponsor's cost of capital and other strategic objectives, a project must meet a minimum level of return on investment. An investment that has a higher internal rate of return (IRR) than the minimum level of return will add value to the company.

If the sponsor were able to borrow money at a lower interest rate than the cost of equity then the cost to finance a project would be less and may show a higher IRR on the equity portion of the project. Opportunities for debt financing of the project should be explored in an effort to improve the project return on investment. Due to the potential benefits to North Dakota, the potential to finance part of this project through one of the North Dakota trust funds could be an option.

4. **Oil tax revenue.** The estimated impact on state revenues of a \$1 increase or decrease in the price of a barrel of oil is approximately \$30 million per biennium based on the December 2010 executive budget forecast for oil and gas production and oil extraction tax collections. The following schedule presents general fund and permanent oil tax trust fund revenue collections from oil and gas taxes for the 1999-2001 through 2011-13 bienniums:

Biennium	General Fund		Permanent Oil Tax Trust Fund	
	Actual or Estimated Revenue (In Millions)	Percentage Change From Previous Biennium	Actual or Estimated Revenue (In Millions)	Percentage Change From Previous Biennium
1999-2001	\$62.0 <sup>1</sup>	41.9%	\$13.2	N/A
2001-03	\$62.0 <sup>1</sup>	0.0%	\$7.6	(42.4%)
2003-05	\$71.0 <sup>1</sup>	14.5%	\$49.5	551.3%
2005-07	\$71.0 <sup>1</sup>	0.0%	\$169.8	243.0%
2007-09	\$71.0 <sup>1</sup>	0.0%	\$484.3	185.2%
2009-11 (executive budget estimate)	\$71.0 <sup>1</sup>	0.0%	\$890.2	83.8%
2011-13 (executive budget estimate)	\$71.0 <sup>1</sup>	0.0%	\$607.3 <sup>2,3</sup>	(31.8%)

<sup>1</sup>North Dakota Century Code Section 57-51.1-07.2 limits the oil tax revenue collections deposited in the general fund and provides that the excess be deposited in the permanent oil tax trust fund.

<sup>2</sup>Passage of constitutional measure No. 1 in the November 2010 general election resulted in the creation of a legacy fund. The legacy fund will receive 30 percent of oil and gas gross production and oil extraction taxes beginning July 1, 2011, resulting in \$612.47 million estimated to be deposited in the legacy fund rather than the permanent oil tax trust fund during the 2011-13 biennium.

<sup>3</sup>The 2011-13 executive budget recommends increasing the maximum biennial allocation to the oil and gas impact grant fund from the current level of \$8 million to \$100 million, resulting in \$92 million being deposited in the oil and gas impact grant fund rather than the permanent oil tax trust fund during the 2011-13 biennium.

5. **Oil prices.** The following schedule compares estimates from the 2009 Legislative Assembly revenue forecast to actual oil prices:

Quarter/Month	Estimated Average Price Per Barrel	Actual Average Price Per Barrel <sup>1</sup>	Amount Over (Under) Estimate
January-March 2010	\$47.00	\$69.12	\$22.12
April-June 2010	\$47.00	\$64.83	\$17.83
July-September 2010	\$47.00	\$68.12	\$21.12
October-November 2010	\$48.50	\$75.01	\$26.51

<sup>1</sup>The actual market price per barrel of oil for January through June 2010 is the Tesoro-posted field price for North Dakota sweet crude, including the Montana counties of Sheridan, Roosevelt, and Richland. Beginning in July 2010, the oil prices shown are the Flint Hills posted field prices for North Dakota sweet crude.

6. **Oil production.** The following schedule compares estimates from the 2009 Legislative Assembly revenue forecast to actual oil production:

Quarter/Month	Estimated Average Production (Barrels)		Actual Average Production (Barrels)		Amount Over (Under) Estimate	
	Per Day	Monthly	Per Day	Monthly	Per Day	Monthly
January-March 2010	210,000	6,300,000	258,285	7,745,597	48,285	1,445,597
April-June 2010	210,000	6,370,000	299,157	9,074,138	89,157	2,704,138
July-September 2010	213,333	6,542,212	330,477	10,130,995	117,144	3,588,783

7. **Tobacco settlement payments.** North Dakota has received \$305,399,942 as of December 2010 as a result of the tobacco settlement, including \$265,189,809 under subsection IX(c)(1) of the Master Settlement Agreement and \$40,210,133 under subsection IX(c)(2) of the Master Settlement Agreement. Of the \$305,399,942, \$278,987,538 has been deposited into the tobacco settlement trust fund and \$26,412,404 has been deposited into the tobacco prevention and control trust fund. The tobacco settlement trust fund collections through November 2008 were allocated among the community health trust fund (10 percent), common schools trust fund (45 percent), and water development trust fund (45 percent) pursuant to Section 54-27-25. Additional annual tobacco settlement funds, strategic contribution payments, began in 2008 and continue through 2017 and are based on each state's contribution to litigation or resolution of state tobacco lawsuits. In the November 2008 general election, voters approved initiated measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure provides for a portion of tobacco settlement funds received by the

Data from State land Department					Data from Tax Department					Data from Oil & Gas Division				
State Royalty volumes and values					90% of					Total Oil				
Date	Net Volume	Total paid	Price/bbl	ND Royalty	NYMEX-WTI	NYMEX-WTI	Avg ND Price	ND Differential	Average ND	Tax Revenue	Produced	Royalty	Impact	
							Actual Paid	> 10%	Oil Tax Rate					
7/31/09	37,086	\$2,282,381	\$61.54	\$131,389	\$64.44	\$58.00	\$55.13	\$2.86	10.05%	-\$2,014,091	7,036,379	-\$2,032,128		
8/31/09	68,794	\$4,527,140	\$65.81	\$126,417	\$71.08	\$63.97	\$61.81	\$2.16	9.90%	-\$1,527,880	7,203,004	-\$1,564,920		
9/30/09	76,324	\$4,971,766	\$65.14	\$214,504	\$69.26	\$62.33	\$60.24	\$2.09	9.75%	-\$1,438,327	7,147,953	-\$1,495,860		
10/31/09	81,668	\$5,813,736	\$71.19	\$249,669	\$75.70	\$68.13	\$66.48	\$1.65	9.75%	-\$1,178,056	7,441,151	-\$1,225,179		
11/30/09	79,792	\$5,890,559	\$73.82	\$310,712	\$77.70	\$69.93	\$68.08	\$1.85	9.72%	-\$1,323,038	7,364,252	-\$1,380,207		
12/31/09	81,944	\$5,682,016	\$69.34	\$179,484	\$74.61	\$67.15	\$64.75	\$2.39	9.80%	-\$1,737,769	7,505,304	-\$1,798,059		
1/31/10	78,186	\$5,778,750	\$73.91	\$280,716	\$78.13	\$70.32	\$69.50	\$0.82	9.91%	-\$596,091	7,313,667	-\$609,926		
2/28/10	84,437	\$6,180,890	\$73.20	\$382,568	\$76.30	\$68.67	\$69.21		9.86%		7,312,998	\$0		
3/31/10	91,687	\$7,198,877	\$78.52	\$500,200	\$81.18	\$73.06	\$73.48		9.95%		8,597,299	\$0		
4/30/10	82,225	\$6,591,419	\$80.16	\$332,489	\$84.58	\$76.12	\$75.41	\$0.71	10.07%	-\$605,467	8,531,666	-\$609,676		
5/31/10	86,554	\$5,574,049	\$64.40	(\$231,150)	\$74.52	\$67.07	\$62.91	\$4.15	10.18%	-\$3,811,120	9,189,084	-\$3,796,145		
6/30/10	81,516	\$5,504,149	\$67.52	(\$26,721)	\$75.39	\$67.85	\$64.76	\$3.09	10.12%	-\$2,903,628	9,295,959	-\$2,909,366		
7/31/10	52,862	\$3,671,619	\$69.46	\$47,405	\$76.18	\$68.56	\$66.21	\$2.35	10.19%	-\$2,370,707	9,892,438	-\$2,359,075		
8/31/10	104,981	\$7,251,639	\$69.08	\$13,208	\$76.61	\$68.95	\$66.78	\$2.18	10.19%	-\$2,230,927	10,064,498	-\$2,219,981		
9/30/10	97,693	\$6,664,373	\$68.22	\$30,053	\$75.46	\$67.91	\$65.61	\$2.30	10.16%	-\$2,366,355	10,123,835	-\$2,361,697		
10/31/10	97,408	\$6,976,006	\$71.62	(\$202,964)	\$81.89	\$73.70	\$68.52	\$5.18	10.27%	-\$5,684,873	10,682,215	-\$5,612,913		
11/30/10	59,137	\$4,682,819	\$79.19	\$201,415	\$84.20	\$75.78	\$73.68	\$2.10	10.32%	-\$2,270,988	10,480,901	-\$2,231,378		
				\$2,539,393						-\$32,059,319		-\$32,206,507		

Testimony in Support of HB 1446  
January 25, 2011

On behalf of Kadrmas, Lee & Jackson I would like to testify in favor of HB 1446.

North Dakota will produce crude oil for many years. Today the majority of our crude oil is exported to refineries throughout the US. Our crude oil is light crude and therefore refines into higher value products. We are however located a long way from refineries and therefore our crude oil is discounted despite the fact that on a per barrel basis it contains much more usable high value fuels.

The process of permitting a refinery is long, expensive and risky. The process requires significant work at the federal, state and then local level. Refineries are large and therefore a site must be secured in advance of any permitting. Each individual component of a comprehensive permit requires large studies that often take at least a year to complete. Some of the studies can only occur during a specific time of the year which extends the study period. Refineries are not permitted often and therefore review agencies are not familiar with the impacts. The permitting process will take years to complete and along the way federal, state and even local policy can change resulting in additional studies and additional regulation.

The risks of moving forward with a refinery permitting process are too great for a traditional organization. This proposed legislation provides just enough risk mitigation. The legislation requires a 50% commitment and then only provides a loan guarantee which means that the company would have to move to default before any outlay would be required.

I would suggest that one amendment be considered. If the loan moves into default then all materials produced in support of this permitting process should become the property of the State of North Dakota.

Thank you for this opportunity to support this legislation.

Testimony of Dennis Hill, general manager, NDAREC  
RE: HB 1446  
Before the House Industry Business and Labor Committee  
Tuesday, January 25, 2011

Chairman Keiser and members of the committee, my name is Dennis Hill. I serve as the general manager and executive vice president of the North Dakota Association of Rural Electric Cooperatives, based in Mandan, N.D. NDAREC is the trade association that represents the interests of the 16 electric distribution and 5 generation and transmission cooperatives operating in the state.

In 2009, NDAREC was the recipient of a congressionally directed appropriation to conduct a feasibility study to determine whether a business case could be made to support increased refining capacity in North Dakota. This study picked up where previously conducted studies had left off and used prior learning, if at all possible.

As the grant administrator, NDAREC was responsible for completing the work and filing reports with the National Energy & Technology Lab, a division of the Department of Energy, who was in charge of the federal funding. To oversee the work, we appointed a committee to develop the request for proposals, select a consulting firm and provide due diligence on the study findings. The committee was comprised of industry professionals as well as state legislators and economic development professionals. Co-chairing the committee were Senator Rich Wardner, Dickinson, and Representative Kenton Onstad, Parshall. We are very grateful for the time and expertise this group dedicated to the effort. You'll see from the listing of the committee members I've attached with this testimony that the study benefited from immense industry experience.

The call for proposals attracted interest from 12 consulting groups representing twenty reputable global consulting firms. In fact, one of the firms vying for the work referred to the group as the "who's who" among petroleum consulting firms in the world. Corval Group, partnered with Purvin and Gertz and Mustang Engineering, was selected to conduct the study. They are headquartered in St. Paul with a regional office in Beulah. The team's track record in petroleum consulting, their recognition among committee members for quality work, and their familiarity with the Bakken play, led to their selection as the study consultants.

NDAREC believes the study findings have revealed valid options for refining additional North Dakota crude in our state. We go on record as supporting the incentives proposed in HB 1446, as this bill addresses one of the obstacles identified in the study, that the internal rate of return needs to be improved to attract traditional project financing.

Thank you for your time, Mr. Chairman and members of the committee. I'd be happy to answer any questions you might have.



**Steering committee members**

Co-chair, Representative Kenton Onstad (D), District 4

Co-chair, Senator Rich Wardner (R), District 37

Brad Aman, Continental

Ron Day, Tesoro

Mel Falcon, Northwest Refining

Dennis Hill, NDAREC (Spokesperson)

Terry Kovacevich, Marathon

Dennis Krueger, Farstad

Mike McCann, Tesoro Pipeline

John Paganis, Murex

Rick Ross, Whiting

John Traeger, Cenex

**Advisory committee members**

Gaylon Baker, Stark County Development

Lori Capouch, NDAREC Rural Development

Pat Downs, NDAREC Rural Development

Mike Fladeland, ND Department of Commerce

Robert Harms, Northern Alliance of Independent Producers

Representative Patrick Hatlestad (R), District 1

Lee Kaldor, Deputy State Director for Senator Byron Dorgan

Representative Shirley Meyer (D), District 36

Dr. Frank Mosley, Minot State University

Ron Ness, North Dakota Petroleum Council

Tom Rolfstad, City of Williston Economic Development

Mike Rud, North Dakota Petroleum Marketers Association

John Skurupey, McKenzie Electric Cooperative

Gene Veeder, McKenzie County Jobs Development Authority

Mark Watne, ND Farmers' Union Economic Development