NORTH DAKOTA PETROLEUM COUNCIL
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House Bill 1286

Testimony of Ron Ness

House Finance and Taxation Committee

February 7, 2023

Chairman Headland and members of the Committee, my name is Ron Ness, president of the North Dakota Petroleum Council ("NDPC"). The North Dakota Petroleum Council represents more than 600 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I appear before you today in support of House Bill 1286.

There is much discussion about the future of the Bakken and North Dakota's ability to sustain oil production at more than one million barrels of oil per day for the next decade and beyond. It has also been interesting to watch supporters of bill after bill testify before your Committee for tax exemptions or tax reductions on everything from income tax to property tax to grain bins. As a state, we are extremely fortunate to be in this position with a huge budget surplus. Good for us.

House Bill 1286 is a simple bill. It eliminates the high trigger on the oil extraction tax.

In the past few years, our country has experienced a renaissance in competing shale plays and survived a pandemic that resulted in economic devastation to our industry. Many Bakken producers and service companies filed for bankruptcy and went out of business. Eighteen months later, oil prices shot through the roof as a result of bad federal policy, the Russia/Ukraine war, and an economy that was ready to erupt. Just when Wall Street and financial markets were ready to re-invest in oil exploration and get oil producers back on their feet, North Dakota's version of a windfall profits tax kicked in and the oil extraction tax on North Dakota production was increased by twenty percent overnight. The Bakken has rebounded well, but we did not see the "big bounce" from $100 oil that would usually be expected with such a strong price point. That could be the result of numerous issues, but increasing the tax rate certainly was not helpful. This trigger mechanism makes no sense for the following reasons:

- It is bad tax policy!
- It stymies investment when the market is eager to invest.
- Oil taxes are already indexed to the price of oil. The tax is levied on the gross value of the oil sold, so the state already receives a "windfall" when prices are high.
- The price trigger, although currently indexed to economic inputs, does not reflect the costs of production. As we have heard from the agriculture industry, the price of wheat is up – but so are the prices paid for fertilizer, fuel, labor, and services. Just like agriculture and banking, input costs of the oil and gas sector go up the same or more when inflation hits. The oil and gas industry strives on predictability.
- What other industry has an effective surcharge or twenty percent tax increase tacked on when the price of its commodity increases through world market impacts? Corn, Wheat, Steel, and Wind? – The answer is no, no, no, and no.

North Dakota's oil and natural gas industry and the roughly 150,000 North Dakota mineral and royalty owners are asking for a fair, competitive, and predictable tax structure. Our industry already pays more than half of all the taxes collected by the state in just production taxes alone. When we talk about returning the tax surplus to the people who have paid in, I think we all know who that is. At this time, the Bakken is still competitive and helping drive our economy. We urge this Committee to acknowledge the changes that have occurred in our world and simply eliminate an unnecessary trigger that we would undoubtedly oppose strongly if it were proposed today by the federal government.

Page 2, Section 3 clearly defines that this bill does not override the Tribal-State Oil Tax Agreement, which requires both parties to agree to any tax rate changes before it would impact the oil tax rate on minerals produced from within the Fort Berthold Indian Reservation (FBIR). To strengthen this bill, NDPC supports an amendment making it even more clear that the extraction tax trigger will remain in effect on oil produced within the FBIR, including on-reservation trust and nontrust lands production from straddle wells.

NDPC urges your support for good tax policy and a **Do Pass recommendation** for House Bill 1286. I would be happy to answer any questions.