Lignite Energy Council
LEADING THROUGH ADVOCACY AND INNOVATION

February 3, 2025

Chairman Headland and Members of the House Finance and Taxation Committee,

I appreciate the opportunity to testify in support of HB1279, which seeks to provide essential tax relief to North Dakota's lignite industry. This legislation is necessary to help offset the economic, regulatory, and political challenges facing our coal-based power generation. Without this support, the ability to provide affordable, reliable electricity for North Dakotans and maintain a strong rural economy is at risk.

The financial landscape for coal-fired power plants has dramatically shifted over the past five years due to Environmental, Social, and Governance (ESG) policies and coordinated efforts by well-funded anti-coal organizations. ESG-driven financial restrictions have severely limited access to capital and insurance, significantly increasing operational costs. In North Dakota, one coal mine has seen a 350% increase in insurance premiums, despite having no major claims. At the same time, the Sierra Club's Beyond Coal initiative, backed by over a billion dollars, continues to target coal plants through litigation, regulatory pressure, and aggressive federal and state-level activism, contributing to the push for Green New Deal-style policies. These coordinated attacks are not shutting down coal plants due to market forces but rather through intentional political and financial pressure, threatening grid reliability, affordable electricity, and thousands of high-paying jobs.

The federal government's tax policy has further distorted electricity markets, creating an uneven playing field. From 2008 to 2023, wind energy alone received $38.9 billion in Production Tax Credits (PTC), and with the passage of the Inflation Reduction Act (IRA), an additional $39.3 billion will be allocated to wind subsidies from 2023 to 2027. This means that in just five years, wind will receive the same level of subsidy that it took 15 years to accumulate previously. These policies allow intermittent energy sources to undercut baseload power, forcing coal plants to operate under severe economic constraints, despite their critical role in grid stability.

The Midcontinent Independent System Operator (MISO) and federal energy regulators (NERC & FERC) have repeatedly warned about growing risks to grid reliability, particularly due to premature coal plant retirements. The increasing reliance on intermittent resources has made the grid more vulnerable to extreme weather events. Winter Storms Uri and Elliott exposed these vulnerabilities, leading to rolling blackouts in other regions. Unlike wind and solar, lignite power plants operate at over 90% capacity and can provide reliable, 24/7 baseload power, ensuring grid stability when it's needed most.

Beyond market distortions and reliability concerns, federal regulations have placed a heavy burden on North Dakota's coal industry. The EPA and Bureau of Land Management (BLM) have imposed numerous costly rules, including the EPA Greenhouse Gas Rule, Coal Combustion Residuals Rule, Regional Haze Rule, MATS (Mercury) Rule, and the BLM Resource Management Plan. These policies raise compliance

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costs and force operators into costly legal battles, with industry members spending over $5 million in just the past two years to defend against these unnecessary regulations.

Additionally, inflation and supply chain disruptions have further increased costs for power plant operations. Major maintenance outages, which occur every two to three years, now cost tens of millions of dollars, with rising costs for materials, labor, and equipment. These financial pressures make it more difficult for plants to stay online, impacting electricity affordability and reliability.

Despite these challenges, North Dakota's lignite industry remains a cornerstone of the state's economy. With an 800-year supply of lignite—the second-largest deposit in the world—our mine-mouth operations continue to provide some of the most affordable electricity in the country. North Dakota consistently ranks among the top three states with the lowest residential electricity rates, ensuring cost savings for families and businesses. The industry supports 12,000 high-wage jobs, particularly in Oliver, Mercer, and McLean Counties, where average wages rank among the highest in the state.

**Furthermore, the lignite industry will continue to generate approximately $100 million in annual tax revenue—regardless of whether this bill passes—supporting state, county, and local governments**. **Importantly, this bill does not reduce coal conversion tax revenue allocated to counties, ensuring they remain financially whole.**

Looking forward, North Dakota has major opportunities in energy and technology, including data centers, carbon capture and enhanced oil recovery (EOR), critical mineral production, and new uses for lignite in building materials and agricultural products. However, coal plants must survive the next decade for these opportunities to materialize.

HB 1279 is a crucial investment in North Dakota's energy future. This bill extends the current coal conversion tax relief from the state general fund for ten years and helps level the playing field for coal in the face of federal regulations and activist-driven financial challenges. Supporting this legislation means safeguarding grid reliability, preserving high-paying jobs, and fostering long-term economic stability. I urge you to give HB 1279 a "Do Pass" recommendation to keep North Dakota's energy industry strong.

Thank you for your consideration,

Jonathan Fortner
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