

2009 SENATE FINANCE AND TAXATION

SB 2036

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2036

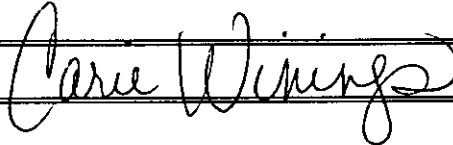
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 01/13/2009

Recorder Job Number: 6883

Committee Clerk Signature



Minutes:

Chairman Cook: Opened hearing on SB 2036.

Senator Rich Wardner, District 37: Testifying in support of the bill. He Proceeds with explaining the purpose of the bill. It is the second bill that came out of the Energy Development and Transmission interim committee. This one moves to a different tax in the coal taxes. There is the coal severance tax and the coal conversion tax. This bill gives and exemption for repowering to include an electrical generation unit that uses beneficiated coal. When we are talking about "repowering", we are talking about redoing it. It is important that our older plants regenerate, renew, repower so that emissions are cleaned up. The lignite industry has been criticized for different particles that they have spewed into the air and the industry has responded by working hard to clean this out of the emissions. All this does is make beneficiated coal like regular coal in exemptions. Lignite coal is an important driver in this state and we want to do everything we can to encourage these companies to make it as efficient as possible, and so that they can compete on the open market.

Senator Triplett: The changes that you are making, are just rewrites by the legislative council to make the language more clear, is that correct?

Senator Rich Wardner: That is correct. I would like to point out that if you look at the fiscal note and where it talks about fiscal impact sections it lays it out there as to what it does.

Tim Dawson, Legislative Council: Neutral testimony to explain the bill draft. Goes through the bill draft and explains that lines 15 through 19 on page one are the meat of this bill.

Al Christianson, Great River Energy: We are here to support this bill. It is a bill that we are going to be able to take advantage of. During our discussions with the tax department it was decided that there were some definitions that need to be clarified, and that is what this bill does.

Sandy Tabor, Vice President of Policy Development, Lignite Energy Council: The council and its members think that this is an important bill and would hope that you would support it.

Senator Triplett: Do you have the knowledge if any of the companies will be doing these conversions within this biennium?

Sandy Tabor: I think Al Christianson can answer that.

Al Christianson: Great River Energy has applied for it already through the tax department. We are in the process to allow them to know that we are doing it at Coal Creek Station. We are in excess of \$300,000,000 for the project which qualifies for the standards and they have accepted that.

Senator Triplett: When will that be online?

Al Christianson: Fall of 2009.

Senator Triplett: We should maybe ask for a new fiscal note.

Al Christianson: We do qualify under the existing definition. It is just a clarification of definition.

Senator Triplett: That explains why, ok.

Chairman Cook: Are you doing that to both units?

Al Christianson: Yes we are.

Senator Miller: Do you beneficiate coal and then burn it for electrical generation?

Al Christianson: Yes, that is what we are doing. We are going to beneficiate all eight million tons of coal that we burn at Coal Creek Station. By doing that we are going to increase the efficiency of Coal Creek Station by 4% because we are raising the BTU's, we are also going to lower our emissions levels as we stated prior on mercury, sulfur and rocks. One of the biggest things for us is that it does allow us to meet some of the requirements for the environmental laws that are going to be in place.

Chairman Cook: Any further testimony in support? (No) opposed? (No) neutral? (No).

Hearing closed on SB 2036.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2036

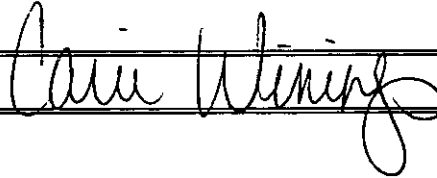
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 01/20/2009

Recorder Job Number: 7324

Committee Clerk Signature



Minutes:

Chairman Cook: Opens discussion on SB 2036.

Senator Triplett: Moved for a DO PASS.

Vice Chairman Miller: Seconded the motion.

Chairman Cook: Any discussion?

Senator Triplett: There is a positive correction to the fiscal note.

Senator Dotzenrod: This is done with the idea that there is an industry out there that we think has some real potential in the future, and we would like to see coal consumers try this and make it work; hopefully reducing Wyoming coal usage.

Chairman Cook: North American coal and their partner are making a very considerable investment that will transform the natural coal to beneficiated coal, and with the intent that they feel they will have something they can market.

Vice Chairman Miller: This is nothing more than clean up the language.

Chairman Cook: It is to assure that they are treated the same.

Senator Triplett: From Al Christianson's perspective they don't think that anything they can do to beneficiated coal can make it 1 for 1 competitive with Wyoming coal, but he is hoping that the assurity of contracts, including rail, and pride of using North Dakota products, and taking

the tax off will make it close enough for people to choose to use North Dakota coal. I think that it is not likely to be successful.

Vice Chairman Miller: When we are dealing with Wyoming coal, our main goal is to give buyers of the Wyoming coal in North Dakota an option, but also to put pressure on the market.

Senator Triplett: Red River Valley will get the most from the rail cost difference.

Senator Anderson: Even if we say we are going to do this, maybe Wyoming will drop their rates, and it would be good for all of us.

A Roll Call vote was taken. Yea: 7, Nay: 0, Absent: 0

Senator Miller will carry the bill.

FISCAL NOTE
Requested by Legislative Council
12/08/2008

Bill/Resolution No.: SB 2036

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

Section 1 of SB 2036 adds beneficiated coal to the definition of "repowering" for the purpose of coal conversion tax treatment. Section 2 re-defines coal conversion "plants" to "units" for purposes of the coal conversion tax exemption allowed for repowering.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 enables beneficiated coal to be used in a repowering project allowing it to be treated the same as coal in its natural state. It is not known if beneficiated coal is expected to be used in any repowering projects in the next biennia. The fiscal impact of this section is unknown.

Section 2 prevents the potential loss of significant coal conversion tax in the possible event of a two-unit plant undertaking a repowering project on just one of it's units. Without this language change, the entire plant would be exempt from the state's share of the conversion tax. This section changes the exemption to only the unit that undertakes the repowering project. The potential positive fiscal impact of this section cannot be determined, but is likely zero in 2009-2011 biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	12/31/2008

Date: 01/20/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 2036

Senate Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Triplet Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller - Vice Chairman	✓		Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Miller

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

REPORT OF STANDING COMMITTEE (410)
January 20, 2009 2:45 p.m.

Module No: SR-11-0610
Carrier: Miller
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2036: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2036 was placed on the Eleventh order on the calendar.

2009 HOUSE NATURAL RESOURCES

SB 2036

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2036

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: 2-26-09

Recorder Job Number: 9779

Committee Clerk Signature

Nancy L. Gerhardt

Minutes:

Chairman Porter – Open the hearing on SB 2036.

Senator Rich Wardner – In many ways it is a house keeping bill. This is for the repowerment – the upgrading of a plant. It should include beneficiated coal. In the original language of the legislation it just talked about coal. Beneficiated coal is upgrading the lignite so it has more BTU's. It is really the same thing, but it has been through a process. It also changes plants to units, in some cases there is more than 1 unit in a plant. Questions?

Tim Dawson - Legislative Council – Section 1 of the bill treats beneficiated coal like regular coal for the purposes of coal conversion taxes. Beneficiated coal is regular coal that has been improved in some manner, usually by drawing to increase its BTU's. Section 2 of the bill is a technical correction that changes plants to units. This is a repowering of a unit; it wouldn't apply to the entire plant. It narrows the focus of the coal conversion tax exemption.

Questions?

Marcy Dickerson – office of state Tax Commissioner – We do support the bill. Questions?

Chairman Porter – Further testimony in favor of SB 2036? Any opposition? Seeing none we will close the hearing on SB 2036.

Rep. DeKrey – Move Do Pass.

Rep. Pinkerton – 2nd

Chairman Porter – We have a motion from Rep. DeKrey for a Do Pass and a 2nd from Rep.

Pinkerton on SB 2036. Discussion? Seeing none the clerk will call the roll on SB 2036.

Yes 9 No 0 Absent 4 Carrier Rep. Pinkerton

Date: 2-26-09
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2036

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By DeKrey Seconded By Pinkerton

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hanson		
Vice Chairman Damschen	✓		Rep Hunsakor	✓	
Rep Clark	✓		Rep Kelsh		
Rep DeKrey	✓		Rep Myxter	✓	
Rep Drovdal			Rep Pinkerton	✓	
Rep Hofstad	✓				
Rep Keiser					
Rep Nottestad	✓				

Total (Yes) 9 No 0

Absent 4

Floor Assignment Pinkerton

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

REPORT OF STANDING COMMITTEE

SB 2036: Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS
(9 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). SB 2036 was placed on the
Fourteenth order on the calendar.