

FISCAL NOTE
Requested by Legislative Council
12/20/2016

Bill/Resolution No.: SB 2031

- 1 A. **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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(1,200,000)	\$1,200,000		
Expenditures						
Appropriations						

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

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

SB 2031 removes the existing expiration date relating to coal conversion tax distributions to the lignite research fund.

- 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.*

Under current law, five percent of the state general fund share of the coal conversion tax is distributed to the lignite research fund. This provision expires effective for FY 2019 and beyond. SB 2031 removes this expiration date, making permanent the transfer of five percent of the state general fund share of coal conversion tax revenues to the lignite research fund.

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.*

If enacted, SB 2031 is expected to increase revenues to the lignite research fund by \$1.2 million during FY 2019, and decrease the state general fund revenues by the same amount. NOTE: This change is assumed in the executive budget and is contained in the November executive forecast.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

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Date Prepared: 01/03/2017

2017 SENATE FINANCE AND TAXATION

SB 2031

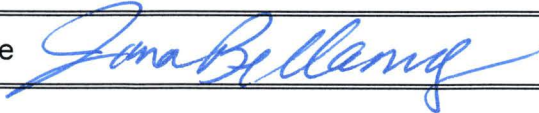
2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2031
1/4/2017
Job # 26550

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 57-60-14 of the North Dakota Century Code, relating to the allocation of coal conversion tax revenue collections; and to provide an effective date.

Minutes:

Attachments 1-2

Chairman Cook: Opened the hearing on SB 2031

Adam Mathiak, Legislative Counsel Fiscal Analyst, Staffed Energy Development and Transmission Committee: Present quick overview of the bill and answer questions. Fiscal note attached. Remove exemption date, allow 5% allocation to continue to the Lignite Research Fund, would be deposited to General Fund otherwise. Expiration date was set for the middle of the biennium. Fiscal impact 1.2 million reduction to general fund reflects second year of biennium. 5% of general fund share goes to the Lignite Research Fund.

Chairman Cook: Does this completely remove the expiration date or just move it back a few years?

Adam Mathiak: Completely removes expiration, would make it permanent going forward if the bill passed. General Fund would receive less money but Lignite Research Fund would receive more. Lignite Research Fund is getting the money this just removes the expiration date.

Chairman Cook: Any other questions?

Senator Dotzenrod: There is language relating to page 1, lines 13, 14, 15, 16 that could be deleted, refer to past rates. Should we take out, or leave them there.

Adam Mathiak: The treasurer's office should be asked, possibly left in for prior period corrections for amended tax returns or things like that, past time could be prudent to remove that. The interim committee focused on the allocation to Lignite Research Fund.

Chairman Cook: This is a lot more talented committee than the interim committee. Any more questions? Further testimony and support of SB 2031?

Jason Bohrer, President & CEO Lignite Energy Council: See attachment #1 in support of the bill. Other smaller projects, including work on rare earth elements, continue to be of interest, carbon dioxide (CO2) work sucks all bandwidth, primary focus maintaining a viable lignite research fund.

Chairman Cook: Questions?

Senator Dotzenrod: Exact purpose, is the number in the fiscal note steady, flat, or declining, going up. How stable is that number?

Jason Bohrer: – It is relatively stable, related to the use of lignite coal, have long term contracts with mines and power plants, very stable, hovers around 30 million tons per year, up a little from the last couple of years.

Chairman Cook: The Great River plant that just shut down, they weren't using North Dakota lignite.

Jason Bohrer: Correct, they were bringing in coal from Powder River Basin, not lignite plant.

Chairman Cook: any other questions? Further testimony and support?

Justin Dever, Co-Deputy Commissioner, North Dakota Department of Commerce, on behalf of the EmPower ND Commission: See attachment #2 in support of the bill.

Chairman Cook: When was the expiration put on and why?

Justin Dever: believe it was put in ten years ago

Senator Laffen: Extending the date, or all the way 2018 when first put on.

Justin Dever – understood always 2018

Chairman Cook: Further questions? When someone carries this bill is somebody in the chamber that knows why it was put on and raise objection to it because of the reason why.

Justin Dever: I don't know, but am unsure.

Chairman Cook: Further testimony and support?

Dale Niezwaag, Basin Electric Power Cooperative and Dakota Gasification Company: In support of the bill, to answer the question; that about the time there was a strong push to look at a carbon tax or type of carbon trading program, wondering if the dollars were put on to help towards funding technology, at that time is when Basin Electric was looking at putting

a slipstream equipment onto Antelope Valley Station (AVS) to test different technologies for capturing CO₂, around that time legislature implemented CO₂ capture credit, as well. They may have come together about the same time.

Chairman Cook: Questions? Further testimony?

Senator Dotzenrod: Questioning of the spending, critic of our spending, what have we gotten for the money? Basic research? How do we identify what the benefits of the money have been, evidence? Is there anything specific or just generally benefitting from the research.

Jason Bohrer: Lignite Research Fund can provide favorable success stories that have come out of the fund, because it's funded from different sources, hard pressed to show how it's going to be "xyz", can show projects and costs, and the magnitude of the justification of the spending.

Senator Dotzenrod: Coal is such a big part of North Dakota, would like to see numbers on where the spending goes for his purposes.

Jason Bohrer: Absolutely, will do that.

Chairman Cook: Closed hearing on SB 2031.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2031
1/4/2017
Job # 26555

- Subcommittee
 Conference Committee

Committee Clerk Signature

Jane Bellamy

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 57-60-14 of the North Dakota Century Code, relating to the allocation of coal conversion tax revenue collections; and to provide an effective date.

Minutes:

No Attachments

Chairman Cook: SB 2031, what are your wishes?

Senator Unruh: Moved a DO PASS, with Rereferral to Appropriations

Vice Chairman Bekkedahl: Seconded.

Roll Call Vote was taken: 6 yeas, 0 nays, 0 absent.

Senator Unruh will carry the bill

Ends at 0:01:20

Job # 26555 continues forward with minutes regarding SB 2127.

1-4-2017

Date: /
Roll Call Vote #: /

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2031

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By S. Unruh Seconded By S. Bekkedahl

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chair Brad Bekkedahl	✓				
Senator Lonnie J. Laffen	✓				
Senator Scott Meyer	✓				
Senator Jessica Unruh	✓				

Total (Yes) 6 No 0

Absent NA

Floor Assignment Senator Unruh

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

REPORT OF STANDING COMMITTEE

SB 2031: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2031 was rereferred to the Appropriations Committee.

2017 SENATE APPROPRIATIONS

SB 2031

2017 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2031
1/23/2017
Job # 27197

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the allocation of coal conversion tax revenue collections.

Minutes:

Testimony Attached # 1 – 2.

Legislative Council: Adam Mathiak
OMB: Stephanie Gullickson

Chairman Holmberg called the committee to order on SB 2031. Roll call was taken. All members were present. He asked if Legislative Management had any comments on this bill?

Adam Mathiak, Legislative Council: I'm not here in support or opposition of the bill, just providing information. I was a stat person for the Interim Energy Development Transmission Committee and this bill was recommended from that committee to Legislative Management and was introduced here during this session. The bill itself is not overly complicated. There is a fiscal note attached to it, so that's why it was referred to the Appropriations Committee. The basic premise is to continue with current allocations, so under the current biennium, 5% of the state's share of coal conversion tax is being allocated to the Lignite Research Fund. This bill just continues that. That effective date had it going through the middle of this next biennium and then after it would have reverted to just going to the general fund so on the fiscal note, you'll see the general fund dollar reduction. As noted, its through 2018 which is halfway through the next biennium. That \$1.2M is just for one fiscal year and would be doubled if you're looking at full biennium amounts. This was a recommendation out of committee and will answer any questions.

Jason Bohrer, President & CEO, Lignite Energy Council.
Testified in favor of SB 2031. Testimony Attached # 1.

(8:17) Got fiscal note - \$1.2M.

Jason Bohrer: \$1.2M as indicated because it's in the middle of a biennium. \$1.2 is for the first year and it would be doubled – or \$2.4M per biennium after that.

Senator Mathern: What specifically would you use this money for if we approved the bill? Not general research, but specifically what type of research and who would get this money. When would it be spent, and what is the planned return on the investment?

Jason Boher: the specific research priorities that we have right now. We have six CO2 related projects going on. These range from the large scale Allam Cycle project to smaller tests that are related to extracting CO2 while enhancing the by-product, maybe fly ash, so that's one of the things that this could specifically be used for. We also have two projects regarding rare earth elements that this type of appropriation would most likely be used for. I didn't get into the rare earth elements the last time I was here, but they are used in the manufacturing high tech electronics, such as batteries, or just about every type of small form electronic that's manufactured today and are using rare earth elements that are coming out of China. The dept. of energy at the federal level has set a priority to identify domestic sources of rare earth elements. We've also received funding from the Dept. of Energy to see how realistic it is to extract these rare earth elements from the Lignite Coal. We know the rare earth elements are there so this research specifically would be saying how can we concentrate those rare earth elements to form an ore that is economically viable to extract. The only other domestic sources of rare earth elements right now in the United States are on federal lands in the west – Utah, Colorado, Nevada, California. They are very expensive and difficult to mine. It's like gold mining in the west so this is a promising way to get a new domestic source.

We also have a project related to expanding and enhancing the work that's done at the Boundary Dam facility in Canada which is a post combustion capture on a lignite coal plant. As that operation has continued, they've learned that it is not as efficient as they thought it would be and they needed it to be so we've got a project that can be used to say 'how can we enhance the ability of the chemicals to extract that CO2 at a more efficient rate' because it's not working as efficiently as they wanted it to. Those are examples of specific projects that we have ongoing that we would direct this money toward and go to phase two of these types of things.

Senator Mathern: Who actually gets the cash? On the street?

Jason Bohrer: A research team is assembled and an example would be our ALLAM Cycle project. A consortium of the people who developed the technology along with the EERC (Energy & Environmental Research Center), and along with two of our major members, Basin Electric and Allete. They all put in their own money to match and the check generally goes out the door to the research consortium which is mainly the folks at the EERC.

Senator Mathern: So UND gets a check?

Jason Bohrer: The EERC does, yes, and whatever research partners they have which may be some of the work at another research facility in the United States. That has happened too, but that's evaluated by the Lignite Research Council to say 'what is the entity applying for it'. These are peer reviewed so you have to make sure it's a viable research facility that they can actually do the work they say they will be able to do.

Senator Wanzek: Why would there have been a sunset clause?

Jason Bohrer: We were asked that question earlier during the interim and we don't know why the sunset was there. There isn't a record that we were able to find explaining why this was done. Any answer I'd provide would just be speculation.

Senator Dever: I think it was the Dept. of Mineral Resources in their testimony, that had a conversation about rare earth elements. Is this a duplication of efforts or are they just cataloging this information coming from others?

Jason Bohrer: They are cataloging these efforts. To the best of my knowledge, they don't have any independent research on rare earth elements. I know they have worked with our researchers on the availability and the potential if our research paid off. Where would be the best sources to extract these rare earth elements?

Senator Bowman: Do you have any information on rare earth elements, like what is in it, where is it found because there's a lot of coal where I come from.

Jason Bohrer: I don't have anything with me. I can certainly get you something because it is an important part of what we are doing. Geologically speaking, the rare earth metals are kind of like gold and quartz. They are formed geologically concurrently. If you have lignite coal, you're going to have some rare earth elements. The question is whether they are more concentrated than average or less concentrated than average. Our research says if you find a high concentration, can you concentrate them enough to be useful.

Senator G. Lee: Could you refresh my memory on the Next Generation Act lawsuit?

Jason Bohrer: That was a law that was enacted by the state of MN. Our state AG sued the State of MN because the belief was that the statute was unconstitutional. Through the Lignite Research fund, we partially funded that lawsuit. In other words, our members contributed directly and we also contributed directly from this fund. There were essentially two separate contributions that were coming from the lignite industry, one of which was partially coming out of this fund.

Senator G. Lee: Do you support that fund on a continuing basis or is it just a one-time lawsuit?

Jason Bohrer: That concluded after the Next Generation Act lawsuit. It will conclude as soon as that lawsuit is terminated. The State of North Dakota has been victorious and essentially we are waiting for the State of MN to reimburse attorney's fees to the State of ND.

Justin Dever, Co-deputy commissioner, North Dakota Department of Commerce.
Testified in favor of SB 2031. Testimony Attached # 2.

Chairman Holmberg: Closed the hearing on SB 2031.

Chairman Holmberg: This is one of those that came through the screen we have because technically, we did not have to hear this bill because it has nothing to do with the appropriation of any agency. We're trying to follow the rules much more closely about the bills we have because in the past, we heard bills because they had a dollar sign attached.

Adam Mathiak: Correct.

Chairman Holmberg: We aren't going to act on this now but may do something this afternoon on the bill.

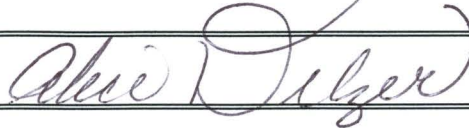
2017 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2031
2/10/2017
JOB # 28182

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A DO PASS on the BILL relating to the allocation of coal conversion tax revenue collections

Minutes:

Chairman Holmberg: called the Committee to order on SB 2031 at 9:30 am in the Harvest Room. We will start with the calling of the roll. Roll call was taken. All committee members were present except Senator Wanzek. Becky Deichert, OMB and Adam Mathiak, Legislative Council were also present. We have a series of bills that we are going to start processing. Everyone should have a summary sheet and a calendar for next week. We will try to push out a bunch of bills just so the number is down in the committee. Go to SB 2031. 2031 is the removal of the sunset clause.

Senator Sorvaag: All it is the lignite Council gets a percentage of the dollars for research out of this bill. All the bill does is removes the sunset clause. **I move the Bill. 2nd by V. Chairman Krebsbach.**

Chairman Holmberg: Discussion: this bill came from Finance and Tax. Call the roll on a Do Pass on 2031.

A Roll Call vote was taken. Yea:13; Nay: 0; Absent: 1. It passes. Senator Unruh will carry the bill. The hearing was closed on SB 2031.

Date: 2-10-17
 Roll Call Vote #: _____

**2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2031**

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Sorvaag Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Mathern	✓	
Vice Chair Krebsbach	✓		Senator Grabinger	✓	
Vice Chair Bowman	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Wanzek	A				
Senator Kilzer	✓				
Senator Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Finance & Tax (Unruh)

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

REPORT OF STANDING COMMITTEE

SB 2031: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2031 was placed on the
Eleventh order on the calendar.

2017 HOUSE FINANCE AND TAXATION

SB 2031

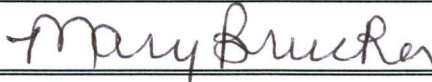
2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2031
3/6/2017
28706

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to the allocation of coal conversion tax revenue collections.

Minutes:

Attachment #1, 2

Chairman Headland: Opened hearing SB 2031.

Adam Mathiak, Fiscal Analyst with Legislative Council: Introduced bill. This bill removes an expiration date and the language associated with the future language that would have continued after that expiration date. It is continuing an allocation of revenue from the general fund portion and continuing to send that to the Lignite Research Fund. At the end of subsection 1 in the first section of the bill it states, "5% of all funds allocated to the state general fund pursuant of this chapter must be allocated to the Lignite Research Fund." This bill continues that allocation into the future. The fiscal note indicates that impact and the estimate is \$1.2 million general fund reduction but the corresponding increase is to the Lignite Research Fund. That was a recommendation from Empower that the Energy Development and Transmission committee took under consideration and incorporated into the recommended bill.

Chairman Headland: How long have we been making this 5% transfer?

Adam Mathiak: I believe it started around 2009.

Chairman Headland: Is there testimony in support of SB 2031?

Justin Dever, Co-Deputy Commissioner, North Dakota Department of Commerce: Provided written testimony in support. See attachment #1. Ended testimony at 4:55.

Representative Schobinger: It seems a lot of these things started in 2008 and has a sunset on them. Do you know why this sunset was placed on this bill? Has that been the case since this was first passed in 2008?

Justin Dever: When this was established it had a 10-year period with the sunset so the legislature would review and determine if it should continue this type of funding. The Empower North Dakota Commission believed it would be appropriate to continue.

Representative Hogan: What is the funding stream for the oil and gas and renewable energy programs that are similar to this?

Justin Dever: The oil and gas research is funded through oil and gas tax dollars so they get a percentage of that with a cap of \$10 million. The renewable energy program is funded through the natural resources trust fund which was established in the early 90s for the purpose of water and energy conservation.

Representative Hogan: Do these research groups work closely together?

Justin Dever: All three of these programs are administered by the State Industrial Commission. The Industrial Commission has advisory bodies; the Oil and Gas Research Council, the Renewable Energy Research Council, and the Lignite Research Council that make recommendations.

Chairman Headland: Is there further testimony in support?

Jason Bohrer, President and CEO of Lignite Energy Council: Distributed written testimony in support. See attachment #2. Ended testimony at 10:03.

Representative Steiner: What is the total dollar amount that the state invests in lignite through all of the different programs?

Jason Bohrer: You're looking at about \$8 million per year or \$16 million per biennium.

Representative Hogan: Is this the group that got the alum projects special funding? What is the status of that?

Jason Bohrer: The Lignite Research Council is the group that got the special funding. Last legislative session the legislature approved a \$5 million one-time transfer from the general fund to the Lignite Research Fund. That funding was administered through the Lignite Research Fund and approved by the Industrial Commission. A grant was approved that went to the EERC to administer that \$5 million program. It has been very successful in answering questions we hoped it would about the alum cycle. That is one of the next generation energy technologies. When we needed that \$5 million during the last session it's one of the things that sparked our interest to make sure we get this extended because those generation technologies are more expensive and more complicated than the traditional things we had been using this Lignite Energy Fund for. We thought we would extend this coal conversion tax and look at ways to address the CO2 challenge for the future. That \$5 million grant last year administered through this program was the beginning of our efforts in that regard.

Representative Hogan: Have you had any other one-time funding for special projects like that or was that unique?

Jason Bohrer: That was unique. That was the only time we had a one-time fund transfer from the general fund into this.

Chairman Headland: Can you give us the status of the project in Houston?

Jason Bohrer: We went to the one that is the precursor to the alum cycle and it continues to be on time and on budget. They expect to have that up and running sometime in the next few quarters. That is examining the alum thermodynamics to see if it works then we could bring it here and build a new coal power plant that didn't emit any carbon dioxide or anything else for that matter. The second project we toured was the Petro NORA facility which was a retro fit technology. We would like to bring this to North Dakota and build on one of our existing power plants such as the Young Station. We believe that would allow us to meet all future environmental regulations regarding CO2 as well as continue to extend the life of those assets. We have billions of dollars in those assets. When we were there they turned that facility on and it's gone essentially without a hiccup ever since. There is nothing they have learned since then that precludes our ability to do that here. We continue to seek out funding opportunities to bring that technology here. It's been going as good as you could hope for.

Representative Ertelt: Are there only three sources through the Lignite Research Fund apart from the coal severance tax to R&D tax then to this?

Jason Bohrer: That is correct. There are a couple areas drawn from the Lignite Research Fund.

Representative Ertelt: What is the percentage of the three?

Jason Bohrer: It's about a \$1.2 million change per biennium so \$1.2 million out of \$16 million.

Chairman Headland: Now we have closed a coal plant so how much impact will that have on the amount of coal that is produced which will have an impact on the amount of tax collections?

Jason Bohrer: The only good news we can take from the closing of that plant is that it was not using lignite coal. They are bringing that coal in from Powder River Basin. It's our belief that it is one of the advantages that our existing coal mines have that they have a stable long-term low cost supply of fuel. In the challenging economics that exist today it's a dwindling advantage. I think this is one of the things we have to do to make sure to continue to look at things that don't just remove criteria pollutants but also improve efficiency and economic viability of our coal plants.

Chairman Headland: Further testimony in support?

Dale Neizwaag, Basin Electric Cooperative: We stand in support of SB 2031. We're looking hard to find replacement technology for the existing plants. In response to Representative Schobinger's question, in 2008-10 there was a lot of talk about a tax on carbon so we're looking at taking those dollars and finding ways to address that. We thought we would go with a 10-year period then re-evaluate. The only reason for the sunset was to

take some time and look back to see if coal was viable and what the legislature had done. We anticipated a carbon tax be implemented by 2012 at that point.

Chairman Headland: It appears we have at least a four-year reprieve on the assault on coal. Do you think in that four years we will be in a situation where we will be testing carbon capture or possibly testing alum cycle?

Dale Neizwaag: We sure hope so. I think this year is going to be a telling year for us. We hope to have that up and running mid-summer or in the fall so at the end of the year we would have a good idea if the technology was going to work the way we anticipate. With the alum cycle the plant is also meant to run on natural gas. The emphasis on us in North Dakota is to take that and be able to use it with gasified coal. I don't know which other state would take that advantage and run with it other than North Dakota. The lignite has always been the red headed step child of coal. When you get to gasification because lignite has so much water (25-30%) when you gasify it the gasification of lignite is an advantage. As we look at the future with coal technology we're probably not going to be looking at a crush and burn like we have at our plants right now but it's going to be gasification that does it. The fact that we have the Dakota Gasification Plant and has been running for 30 years, we have the knowledge of the gasified lignite out there, the infrastructure of pipelines, and compressors to move it either to the Bakken or to (?) as we've been doing. There are a lot of natural advantages here to do that. I would hope we would get to that point. We're looking in the 2020-25 range for the ability to bring a demonstration of a commercial size plant to the state. A lot of things have to fall into place but that is our hope.

Representative Steiner: On page 2 line 22, was that a hold harmless for coal counties? Did you meet with them?

Dale Neizwaag: When we get to SB 2133 that comes into play.

Representative Steiner: It says "notwithstanding any other provision of law, a county may not be less in each calendar year."

Dale Neizwaag: That would be the counties' hold harmless.

Representative Steiner: I don't see it on the fiscal note unless it's under other funds.

Dale Neizwaag: We never met with them on this bill. We met with them on SB 2133.

Chairman Headland: Further testimony in support?

Jason Bohrer: I would like to submit a correction. I confused the annual with the biennial. The \$1.2 is a biennium and the \$16 million is doubled what we get per biennium so per biennium we get \$8 million. It's a \$1.2 million percent of \$8 million per biennium.

Chairman Headland: Thank you for correcting the record for us. Further testimony in support? If not, is there any opposition? Seeing none we will close the hearing on SB 2031.

Representative Steiner: MADE A MOTION FOR A DO PASS

Representative Howe: SECONDED

Chairman Headland: Is there any discussion?

Representative Ertelt: Why do we tax then give them back part of that tax to do the research? Based on testimony there is a specific tax for R&D, that \$.02 per ton.

Chairman Headland: Is that a philosophical question?

Representative Ertelt: It's directly giving money back to that same industry.

Chairman Headland: I'm assuming it's a tax because it's a natural resource that is finite. For future generations and their well-being there is a small tax on the production of it.

Representative Ertelt: The process of taxing then giving the money for research and development might be better handled by simply reducing overall tax so they can spend the monies on the research and development.

Representative B. Koppelman: Part of the reason we do this is because the state has a self-interest and continuing a revenue stream from our natural resources which coal is one of those. In order to combat the EPA regulations and various things that could threaten that revenue stream, I think we've chosen to take some of the tax we collect then reinvest that into R&D. I think it's the state's self-interest that could be the reason we use some of the tax money for it. If we didn't have that revenue stream what would we have to do to replace that revenue stream through other taxes on our citizens. It's been a pretty good return on investment over the years.

Chairman Headland: Any other questions?

**ROLL CALL VOTE: 12 YES 0 NO 2 ABSENT
MOTION CARRIED**

Representative Howe will carry this bill.

Chairman Headland: I checked and this bill does not have to go to appropriations because it does not impact any state agency.

Date: 3-6-17
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2031**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Steiner Seconded By Rep. Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan	AB	
Vice Chairman Dockter	✓		Representative Mitskog	✓	
Representative Ertelt	✓				
Representative Grueneich	✓				
Representative Hatlestad	✓				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	AB				
Representative Schobinger	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep. Howe

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

REPORT OF STANDING COMMITTEE

SB 2031: Finance and Taxation Committee (Rep. Headland, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2031 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2031



Jason Bohrer, President & CEO
Lignite Energy Council
PO Box 2277
Bismarck, ND 58502
Telephone: (701) 258-7117
Fax: (701) 258-2755

Testimony in Support of SB 2031
Submitted by the Lignite Energy Council before the Senate Finance and Taxation Committee
January 4, 2017

Mr. Chairman, members of the committee, please accept these comments on behalf of the Lignite Energy Council (LEC) in support of Senate Bill 2031. This is an important piece of legislation that will continue providing conversion tax dollars to the Lignite Research Fund. This funding plays a critical role in helping our state’s power industry continue to meet and exceed environmental standards, in addition to innovating and expanding the potential for this energy resource.

By way of background, the lignite R&D program is funded through the North Dakota coal severance tax of 37.5 cents on every ton of coal mined in the state, as well as a two-cent per ton R&D tax. Ten years ago the legislature also authorized five percent of the general fund portion of the coal conversion tax be diverted to the Lignite Research Fund. That provision provided much-needed supplementation to R&D funding to help the industry meet new challenges, a need that remains today. As such, SB 2031 strikes the July 31, 2018 sunset and allows the Lignite Research Fund to continue benefitting from the coal conversion tax.

The focus of the lignite R&D program has traditionally revolved around identifying technology solutions to address criteria pollutants, improve power plant efficiency and operation, help launch new lignite conversion facilities, and activities that mutually-benefit the State of North Dakota and lignite industry as a whole. At the same time, our industry has increased its own commitment to the State of North Dakota, adding additional R&D dollars as well as paying a portion of the costs associated with the state’s successful Next Generation Act lawsuit.

The next great challenge the industry faces is addressing carbon dioxide emissions. This is an enormous effort that will require the development of retrofit technology that can be applied to our existing power plants, as well as a next generation power facility that does not emit any carbon dioxide.

As we work with the state to expand R&D solely dedicated towards advanced energy technology, it is also essential to continue the traditional role of the Lignite Research Fund. For example, during the last round of Lignite Research Fund projects, the Lignite Research Council and Industrial Commission approved a grant for North Dakota State University to explore ways to improve coal mine reclamation. While surface mines in North Dakota are renowned for meeting the standard of reclaiming land to “as

Lignite Coal: America’s Abundant Energy Resource
www.lignite.com

good or better” as before mining, the industry realized that it had been a couple of decades since there had been a collaborative effort to examine reclamation techniques and took it upon itself to partner with NDSU and see if they can identify ways to further improve the process. This is just one example of the work that continues to be done through the Lignite Research Fund and demonstrates the need for SB 2031.

Accordingly, this legislation was developed, considered, and unanimously approved by the interim Energy Development and Transmission Committee. The LEC also requests your favorable consideration of Senate Bill 2031.

EMPOWER



**DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2031
JANUARY 4, 2017, 1:00 P.M.
SENATE FINANCE AND TAXATION COMMITTEE
SENATOR DWIGHT COOK, CHAIRMAN**

JUSTIN DEVER – CO-DEPUTY COMMISSIONER, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Justin Dever and I serve as a Co-Deputy Commissioner for the North Dakota Department of Commerce. The Commissioner of Commerce serves as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2031. This is a bill that was drafted and approved by the interim Energy Development and Transmission committee based upon a recommendation of the EmPower ND Commission. A complete list of the EmPower ND Commission recommendations can be found in the report included with my testimony.

Senate Bill 2031 removes the sunset on the allocation of coal conversion tax revenues to the Lignite Research Fund. Currently, the Lignite Research Fund receives five percent of the portion of the coal conversion tax revenues that is allocated to the state general fund. This generates approximately \$1 million per year, which is about one-quarter of ongoing revenues into the Lignite Research Fund.

The EmPower ND Commission recognizes that “research & development is a key component in ensuring the sustainable use of our valuable natural resources now and into the future.” The Lignite Research Program is one of three energy-related research programs with the other two being the Oil & Gas and Renewable Energy programs. The Lignite Research Program is important to ensuring the continued beneficial use of the state’s lignite coal resources.

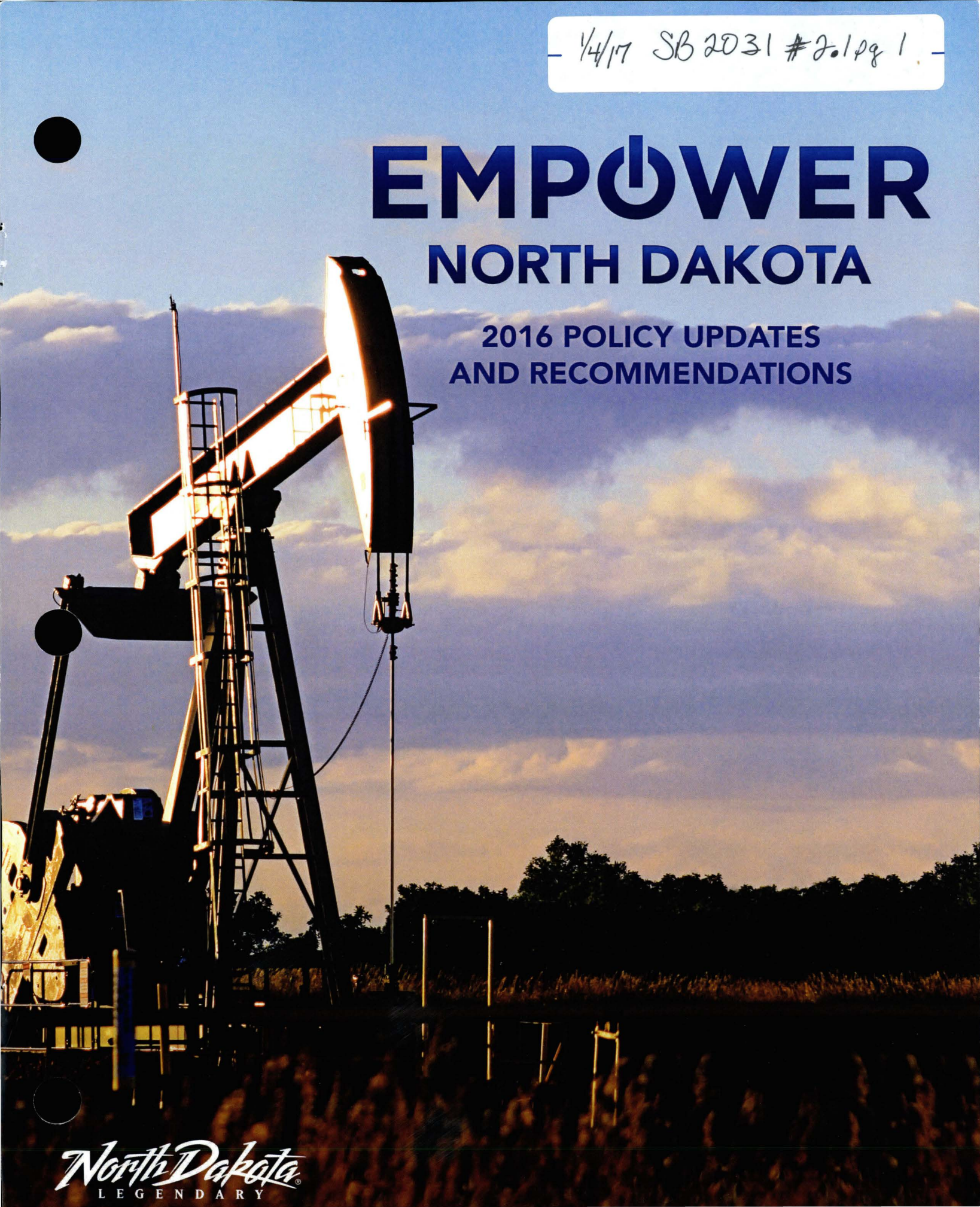
The Lignite Research program has helped in the development of new technologies to address environmental regulations. Environmental regulation is an ongoing issue, and increasing so with the inclusion of carbon dioxide as a pollutant regulated by the EPA. The long-term use of lignite will be greatly aided by the development of technologies related to the capture of carbon dioxide.

Mr. Chairman and members of the Finance and Taxation Committee, the EmPower ND Commission respectfully request your favorable consideration of Senate Bill 2031. That concludes my testimony and I am happy to entertain any questions.

1/4/17 SB 2031 #2.1 pg 1

EMPOWER NORTH DAKOTA

2016 POLICY UPDATES
AND RECOMMENDATIONS





North Dakota

is one of the only states with a multi-resource energy policy, guided by the efforts of the EmPower North Dakota Commission.

This report marks the fifth review of the state's energy policy and provides an executive summary along with recommendations. Past reports can be found at EmPowerND.com.

EmPower North Dakota

2016 POLICY UPDATES AND RECOMMENDATIONS

page 2	[Executive Summary
page 5	[Commission Members
page 6	[Infrastructure
page 8	[Research and Development
page 11	[Regulatory Environment



North Dakota

is the 2nd largest oil-producing state in the nation.

Executive Summary

Through the EmPower North Dakota Commission, leaders from all major energy industries in North Dakota meet regularly with one common goal: to be critical thinkers for the development of the state's energy resources.

The strategic partnerships between North Dakota's long-standing and emerging energy industries enable all sectors of the industry to work together as they meet our state's and country's energy needs without government mandates, similar to those put forward in the Environmental Protection Agency's (EPA) Waters of the U.S. and Clean Power Plan rules.

North Dakota is proactive and aggressive in addressing energy development. It serves as a model for America in fostering innovative, long-term energy strategies to meet our nation's growing energy demand, and need for energy security in an environmentally responsible manner.

The state's diverse energy landscape celebrates many successes:

- North Dakota is the second largest oil-producing state in the nation and the fourth state to surpass production of 1 million barrels per day. The industry has over 13,000 oil and gas producing wells. In 2013, the industry supported 82,000 direct and indirect jobs and had a \$43 billion economic impact.
- Utility companies produce 4,000 megawatts of lignite and other coal generation at eight locations, which provide low-cost and reliable electric power to two million customers in North Dakota, South Dakota, Minnesota, Montana and Iowa. North Dakota is one of the country's top 10 coal-producing states, mining approximately 30 million tons every year since 1988, which results in an annual economic impact of \$3 billion.



Executive Summary (Continued)

- North Dakota leads the nation in the production of 10 different agricultural commodities, including two commodities used for liquid fuels. Several additional crops provide feedstock for successful and developing bio-refining industries in North Dakota.
- Between 2007 and 2013, North Dakota has gone from providing 1 percent to 3.2 percent of U.S. energy production and from ranking 23rd to 8th amongst all energy producing states.
- North Dakota's ethanol industry ranked 10th in the nation in production capacity in 2015. It contributes more than \$640 million annually to the economy and supports more than 10,000 direct and indirect jobs. The state is a national leader in flex fuel pump infrastructure and has seen a 250 percent increase in flex fuel vehicles over the past five years with 121,500 currently on the road.
- Twenty-six natural gas processing plants operate in western North Dakota; two additional new or expanded plants are planned to come online in 2016. Also, the oil and gas industry is investing over \$6 billion in infrastructure to capture natural gas.
- In 2015, North Dakota ranked 11th in the nation in installed wind energy capacity. The North Dakota Public Service Commission has permitted over 3,846 megawatts of wind generation.
- Tesoro, the state's only oil refinery, has expanded operations to 70,000 barrels per day. In addition, Dakota Prairie Refining, a diesel topping refinery producing 20,000 barrels per day, began operating in May 2015. A number of other refinery projects are in various stages of planning and permitting.
- Dakota Gasification Company owns and operates the Great Plains Synfuels Plant, the only commercial-scale coal gasification plant and carbon capture facility in the U.S. that also manufactures synthetic natural gas, as well as many other by-products from lignite coal. The plant is currently constructing a urea facility slated for completion in 2017 to produce 1,100 tons of urea daily, with the ability to shift urea production to produce diesel exhaust fluid, which is used to reduce NOx emissions in diesel engines, as mandated by the federal government.



Executive Summary (Continued)

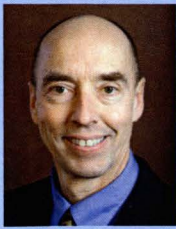
- Verendrye Electric Cooperative has the largest solar program in the state. It features 260 solar powered water pumps, including the 18 systems installed in 2015. The pumps are primarily used in pasture wells in remote areas where building power lines is cost prohibitive.
- Whiting Oil uses photovoltaic systems (PV) at oil well sites to power pump jacks in isolated areas where electrical service is currently unavailable. The PV systems also allow control room staff at natural gas processing plants to monitor production levels at any time.
- Cass County Electric Cooperative broke ground on the state's first community solar garden in June 2016. The Prairie Sun Community Solar is a 102 kilowatt solar array with 324 panels that will give cooperative members access to solar power without the hassle of equipment installation and maintenance.
- The University of North Dakota is working to demonstrate the technical and economic feasibility of electrical power generation using the heat contained in oil field fluids. This geothermal system will generate a continuous 250 kilowatts of electricity from non-conventional, low-temperature water from a Continental Resources, Inc. supply well site near Marmarth.

Special Note

Comprehensive updates for all energy industries can be found in the Spotlight on Energy document produced by the National Energy Center of Excellence: www.energynd.com/spotlight

EmPower ND Commission Members

In 2007, the North Dakota Legislature formalized energy policy and created the 16-member EmPower Commission, which includes representatives from across the energy industry. Their insights provide the substance for this updated EmPower North Dakota Comprehensive State Energy Policy.



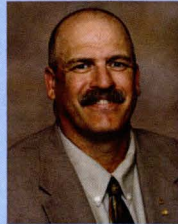
Al Anderson
North Dakota Department
of Commerce, chairman



Jason Bohrer
Lignite Energy Council,
lignite coal



Mark Bring
Otter Tail Power
Company, ex officio



Ron Day
Tesoro, refining or
gas-processing



Terry Goerger
farmer, agriculture



Margaret Hodnik
Allete, Inc., ex officio



Ron Ness
North Dakota Petroleum
Council, oil and gas



Dale Niezwaag
Basin Electric Power Cooperative,
generation and transmission
electric cooperatives



Mark Nisbet
Xcel Energy, wind



Mike Rud
North Dakota Petroleum
Marketers Association,
petroleum marketers



Randy Schneider
North Dakota Ethanol Producers
Association, ethanol



Jay Skabo
Montana-Dakota Utilities Co.,
investor-owned utilities



David Straley
North American Coal
Corporation, lignite coal
producing industry



Sandi Tabor
KLJ, ex officio



John Weeda
Great River Energy,
biomass



Julie Voeck
NextEra Energy Resources,
LLC., ex officio



Commission Recommendations

INFRASTRUCTURE

Water, oil and natural gas pipelines, roads, railroads, electric transmission lines, power generation and affordable housing – all are key infrastructure needs for the development of North Dakota’s energy resources. Infrastructure provides the backbone for North Dakota’s energy industry to export products to the rest of the world. In addition, a vital infrastructure is critical to the growth of communities, the minimization of development impacts and the enhancement of public safety.

- The 2013 Legislative Assembly made substantial progress towards meeting the critical infrastructure needs of the state with an investment of \$2.5 billion, nearly double the amount appropriated in 2011.
- Early in the 2015 legislative session, Gov. Jack Dalrymple signed an unprecedented \$1.1 billion early funding bill that provided North Dakota counties, cities and the state highway department a head start on road and other infrastructure projects in the Oil Patch and beyond.

Infrastructure provides the backbone for North Dakota’s energy industry to export products to the rest of the world.

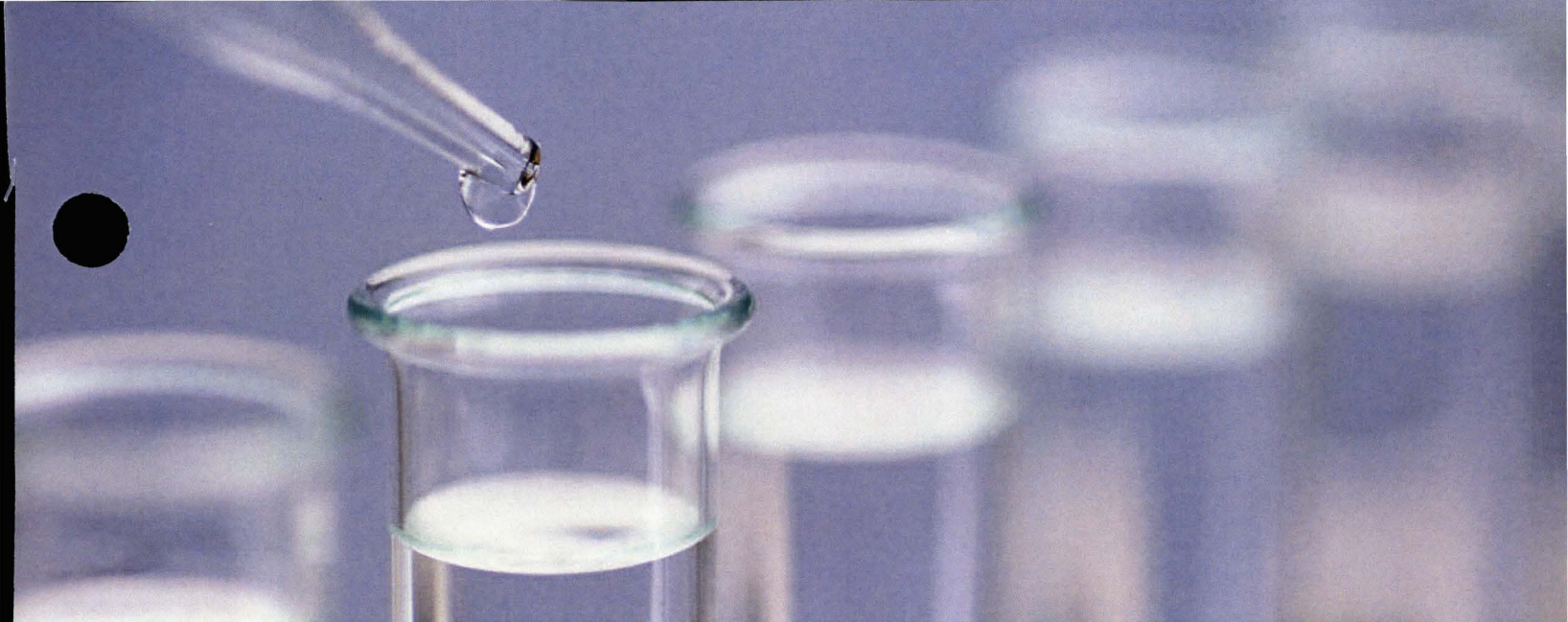
In light of the issues facing infrastructure related to energy development in the state, the Commission urges the State of North Dakota to:

- Continue to provide support to key infrastructure for both energy and community development (roads, rail, water and waste water, emergency and medical services, airports, etc.) across all regions.
- Provide legislative funding on a priority basis and make low-interest loans available to political subdivisions to ensure that critical infrastructure projects begun with the 2015 early funding legislation are completed and that other projects identified by the 2016 study by the Upper Great Plains Transportation Institute are prioritized.



INFRASTRUCTURE (CONTINUED)

- Support expansion of existing water systems to provide capacity to meet growing community and commercial needs, including support for the State Water Commission's efforts to increase access to Lake Sakakawea water for community and commercial needs.
- Monitor the railroad infrastructure upgrade plan within North Dakota to ensure there is adequate ability to meet the export demand of all commodities to market.
- Continue support for the Ombudsman Program, which is provided to landowners by the pipeline restoration and reclamation oversight program and consider expanding the program's focus to other reclamation sectors. (Started as a pilot by the North Dakota Department of Agriculture in April 2015.)
- Provide legislative clarification of state permitting and jurisdictional authority where required. Any required state level permitting process should include input from local political subdivisions as part of the standard permitting process. Local permitting conditions should not be more stringent than state conditions, unless the political subdivision can prove commercially applicable and reasonably prudent.
 - Political subdivisions' input and discussion are valued, but should not duplicate a state permitting process and create jurisdictional uncertainty.
 - The input must follow the prescribed process and preserve the due process designed for state oversight and authorization.
 - The 53 sets of county rules, over 300 city rules, and 1,430 township rules create uncertainty, delays and duplication of efforts, economic development restriction, and limitations on the ability to build critical infrastructure that improves safety, transportation and quality of life.



RESEARCH AND DEVELOPMENT

Research and development (R&D) is a key component in ensuring the sustainable use of our valuable natural resources now and into the future. North Dakota is a leader in fostering R&D partnerships between state government, private industry, higher education and research facilities. R&D plays an essential role in diversifying North Dakota's economy and identifying value-added opportunities for the state's largest economic drivers – energy and agriculture.

As R&D funding is reduced at the federal level, contributions by the state and its partners are critical in the effort to find methods that best utilize North Dakota's vast resources to secure its energy future. R&D provides a road map for the development of new technologies. This includes:

- Understanding the integration between renewable and traditional energy resources.
- Meeting federal climate policy objectives.
- Exploring development of production technologies that may reduce greenhouse gas emissions.

Traditionally, lignite R&D has focused on preserving the existing fleet of lignite-based

plants by developing new options for increased efficiency and reduced emissions. In 2015, the Legislature provided \$5 million in funding for research into new technologies to produce low-cost, lignite-based energy – solutions that are near zero emissions, including CO₂. Funding is needed to further develop, demonstrate, and ultimately commercialize these transformational technologies.

Approximately \$8 million is available each biennium to fund R&D through the Lignite Research Council. The funding is derived from a two cents per ton R&D tax, a dedicated percentage of the Coal Trust Fund, and for a limited time (through July 31, 2018), a portion of the coal conversion tax. A portion of this funding is also used by the North Dakota Transmission Authority to work on transmission issues, which can limit energy development opportunities in the state.

RESEARCH AND DEVELOPMENT (CONTINUED)

The opportunities for enhanced oil and gas recovery in North Dakota are in the early stages of development. The current growth in oil and gas production is primarily due to the utilization of new technologies and practices. At the forefront of these emerging practices is the Dakota Gasification Company's plant in Beulah, where residual CO₂ is captured and delivered via pipeline into the Weyburn oil field in Saskatchewan, Canada. It is estimated that the CO₂ being injected will extend that field's productive life for 25 years and result in production of as much as 130 million barrels of oil that might otherwise have been abandoned.

Further R&D is needed to understand how CO₂ injection or other methods of enhanced oil recovery can be applied in North Dakota's oil shale play. For instance, estimates of the total oil resources in the Bakken and Three Forks Formations range from 300 to 900 billion barrels of oil. If applications of CO₂ improved outcomes by even 1 percent, that would result in the recovery of 3 to 9 million additional barrels.

R&D will be a "key" to unlocking enhanced oil and gas production in the Bakken and Three Forks systems, legacy formations, and potential formations undergoing study. The Bakken Optimization Program is looking for the best methods to recover the oil and gas resources that remain underground and to minimize the environmental impacts. This program includes research on waste minimization and utilization, spill remediation and land reclamation.

Funding for the Oil & Gas R&D Council is appropriated indirectly from the oil and gas production taxes at \$10 million per biennium. A portion of this funding is used to provide staff for the Pipeline Authority to continue work on matters of oil and gas transportation.

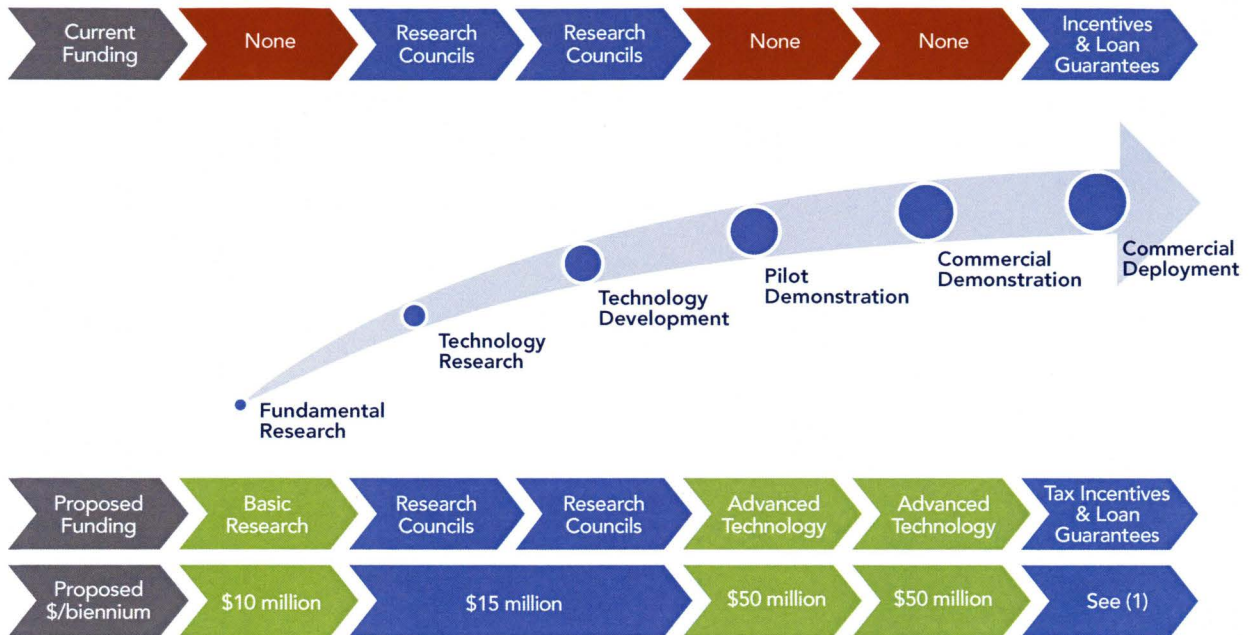
R&D plays an essential role in diversifying North Dakota's economy and identifying value-added opportunities for North Dakota's largest economic drivers – energy and agriculture.

The Renewable R&D Council is funded at \$3 million per biennium from the State's Resources Trust Fund. This program promotes the growth of North Dakota's renewable energy industries through research, development, marketing and education. Funded projects have included the development of new renewable feedstocks, as well as technologies to process renewable energy.

As all our energy resources are developed, these research programs can play a critical role in advancing value-added processing and manufacturing across the state. Similar to the tremendous growth witnessed in value-added agriculture, North Dakota can become a leader in value-added manufacturing related to energy development.

In light of the issues and opportunities needing research and development related to energy resources in the state, the Commission urges the State of North Dakota to:

Typical Technology Development Pathway & Funding



(1) Continue existing incentives and add an anthropogenic (man-made) CO₂ utilization incentive.

- Continue to support existing R&D programs which will ensure the development and implementation of new technologies to promote growth for all energy resources.
 - Remove the sunset provision for the portion of the coal conversion tax going into the Lignite Research Fund, and maintain a commitment of at least \$8 million per biennium.
- Support fundamental research for value-added energy that advances product research, development and commercialization at the UND EERC. The Commission recommends a non-matching funding level of \$10 million per biennium with oversight provided by the Lignite Research Council and Oil & Gas Research Council.
- Support the additional appropriation of dollars for use by the lignite and oil and gas research councils to support pilot and commercial demonstration, resolve the technical problems associated with the commercial deployment of carbon capture technologies, and seek additional incremental improvements in the recovery of oil through enhanced oil recovery using CO₂ or other gases. The Commission recommends a funding level of \$50 million per biennium for a pilot/commercial demonstration project.
- Create and implement a strategy to assist North Dakota in developing viable hydrocarbon- and bio-chemical industries.
- Engage the Electric Power Research Institute to create an impact model for North Dakota that enhances our understanding of integration of traditional and renewable electrical generation.



REGULATORY ENVIRONMENT

EmPower North Dakota Commission policy statements and goals often reflect concerns regarding the existing federal regulatory climate that often fails to provide for reasonable, responsible and cost-effective regulations over many facets of the energy industry. Federal regulations must:

- Provide a fair and responsible regulatory environment based on sound science, the capacity of current technology, and the creation of new technologies to advance and ensure future energy development.
- Be cost-effective and include sufficient lead time for industry to adapt to new statutory requirements affecting production or products.
- Minimize new barriers on investment and development and consider technological feasibility and cost of new technologies to meet regulatory demands.
- Consider the resources and strengths of each state to develop sound energy policies rather than develop broad-sweeping, one-size-fits-all policies.

North Dakota should encourage federal agencies to recognize its unique environmental issues and to work with the state to develop regulations that are flexible and make sense to allow state agencies' primacy in the program.

In developing regulations, it is crucial that economic impacts to individual state economies also be considered. The energy industry can serve as a valuable ally in helping the state identify and analyze the impact of federal regulations on the citizens and stakeholders of North Dakota. Simply understanding the impact of federal regulations is only one part of the equation. Providing input to federal regulators on proposed regulations is a crucial part of the overall strategy to protect the state's interest. Moreover, when regulations do not adequately meet the needs of North Dakota, the state and its Attorney General should vigorously defend state interests and assert primacy. Equally important are communications with the North Dakota congressional delegation on federal regulations of importance to the state.

REGULATORY ENVIRONMENT (CONTINUED)

North Dakota also must recognize both the growth and ongoing changes of all energy sectors and the additional burdens new regulations place on state regulatory agencies. Appropriate regulatory programs are a necessary part of ensuring that North Dakota can maintain its clean environment in conjunction with a healthy business environment. Staff and resources for state regulatory agencies, like the North Dakota Department of Health, need to manage federal regulatory requirements and to ensure North Dakota retains primacy over these regulatory programs.

In light of the federal regulatory climate, the Commission urges the State of North Dakota to:

- Encourage federal agencies to work with individual states and state agencies as a first resource to identify environmental issues, regulatory solutions and economic impacts to each state; in order to develop regulations that are flexible, sensible, advance the U.S. energy position and allow for state primacy.
- Encourage state agencies to provide regular updates on energy-related issues to the Commission and identify ways in which the Commission can support agency efforts on federal issues.
- Establish opportunities for state and federal regulatory agencies to collaborate on federal rulemaking efforts in ways that address individual state issues and work with other states to develop a regional approach to existing and new regulations.
- Recognize opportunities to use by-products, or encourage development of new value-added technologies and by-products, to minimize waste from new energy

development to offset increases in regulatory monitoring burdens on state agencies.

- Provide adequate funding and staffing levels for North Dakota Department of Health – Environmental Health Section to ensure it will be able to properly manage its respective programs and maintain primacy.

Appropriate regulatory programs are a necessary part of ensuring that North Dakota can maintain its clean environment in conjunction with a healthy business environment.

ADDITIONAL RECOMMENDATIONS

These recommendations are supported by the EmPower Commission, but are outside the areas of Infrastructure, Research & Development and Regulatory Environment.

- Remove the sunset provision on the sales tax exemption provided for the construction of wind powered electrical generating facilities.
- Support incentivizing man-made CO₂ for use in enhanced oil recovery.
- Provide increased funding to career and technical education programs, especially through adequate training facilities, to ensure the energy industry has needed workforce into the future.



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SB 2031
1-23-2017
#1

Jason Bohrer, President & CEO
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Bismarck, ND 58502
Telephone: (701) 258-7117
Fax: (701) 258-2755



Testimony in Support of SB 2031
Submitted by the Lignite Energy Council before the Senate Appropriations Committee
January 23, 2017

Mr. Chairman, members of the committee, please accept these comments on behalf of the Lignite Energy Council (LEC) in support of Senate Bill 2031. This is an important piece of legislation that will continue providing conversion tax dollars to the Lignite Research Fund. This funding plays a critical role in helping our state's power industry continue to meet and exceed environmental standards, in addition to innovating and expanding the potential for this energy resource.

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The focus of the lignite R&D program has traditionally revolved around identifying technology solutions to address criteria pollutants, improve power plant efficiency and operation, help launch new lignite conversion facilities, and activities that mutually-benefit the State of North Dakota and lignite industry as a whole. At the same time, our industry has increased its own commitment to the State of North Dakota, adding additional R&D dollars as well as paying a portion of the costs associated with the state's successful Next Generation Act lawsuit.

The next great challenge the industry faces is addressing carbon dioxide emissions. This is an enormous effort that will require the development of retrofit technology that can be applied to our existing power plants, as well as a next generation power facility that does not emit any carbon dioxide.

As we work with the state to expand R&D solely dedicated towards advanced energy technology, it is also essential to continue the traditional role of the Lignite Research Fund. For example, during the last round of Lignite Research Fund projects, the Lignite Research Council and Industrial Commission approved a grant for North Dakota State University to explore ways to improve coal mine reclamation. While surface mines in North Dakota are renowned for meeting the standard of reclaiming land to "as

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good or better” as before mining, the industry realized that it had been a couple of decades since there had been a collaborative effort to examine reclamation techniques and took it upon itself to partner with NDSU and see if they can identify ways to further improve the process. This is just one example of the work that continues to be done through the Lignite Research Fund and demonstrates the need for SB 2031.

Accordingly, this legislation was developed, considered, and unanimously approved by the interim Energy Development and Transmission Committee as well as the Senate Finance and Taxation Committee. The LEC also requests your favorable consideration of Senate Bill 2031.

EMPOWER

North Dakota
LEGENDARY

SB 2031
1-23-2017
#2

DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2031

JANUARY 23, 2017, 10:00 A.M.

SENATE APPROPRIATIONS COMMITTEE

SENATOR RAY HOLMBERG, CHAIRMAN

JUSTIN DEVER – CO-DEPUTY COMMISSIONER, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Justin Dever and I serve as a Co-Deputy Commissioner for the North Dakota Department of Commerce. The Commissioner of Commerce serves as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2031. This is a bill that was drafted and approved by the interim Energy Development and Transmission committee based upon a recommendation of the EmPower ND Commission.

Senate Bill 2031 removes the sunset on the allocation of coal conversion tax revenues to the Lignite Research Fund. Currently, the Lignite Research Fund receives five percent of the portion of the coal conversion tax revenues that is allocated to the state general fund. This generates approximately \$1 million per year, which is about one-quarter of ongoing revenues into the Lignite Research Fund.

The EmPower ND Commission recognizes that “research & development is a key component in ensuring the sustainable use of our valuable natural resources now and into the future.” The Lignite Research Program is one of three energy-related research programs with the other two being the Oil & Gas and Renewable Energy programs. The Lignite Research Program is important to ensuring the continued beneficial use of the state’s lignite coal resources.

The Lignite Research program has helped in the development of new technologies to address environmental regulations. Environmental regulation is an ongoing issue, and increasing so with the inclusion of carbon dioxide as a pollutant regulated by the EPA. The long-term use of lignite will be greatly aided by the development of technologies related to the capture of carbon dioxide.

Mr. Chairman and members of the Appropriations Committee, the EmPower ND Commission respectfully request your favorable consideration of Senate Bill 2031. That concludes my testimony and I am happy to entertain any questions.

#1
SB 2031
3-6-17

EMPOWER

North Dakota
LEGENDARY

DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2031

MARCH 6, 2017, 9:00 A.M.

HOUSE FINANCE AND TAXATION COMMITTEE

REPRESENTATIVE CRAIG HEADLAND, CHAIRMAN

JUSTIN DEVER – CO-DEPUTY COMMISSIONER, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Justin Dever and I serve as a Co-Deputy Commissioner for the North Dakota Department of Commerce. The Commissioner of Commerce serves as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2031. This is a bill that was drafted and approved by the interim Energy Development and Transmission committee based upon a recommendation of the EmPower ND Commission.

Senate Bill 2031 removes the sunset on the allocation of coal conversion tax revenues to the Lignite Research Fund. Currently, the Lignite Research Fund receives five percent of the portion of the coal conversion tax revenues that is allocated to the state general fund. This generates approximately \$1 million per year, which is about one-quarter of ongoing revenues into the Lignite Research Fund.

The EmPower ND Commission recognizes that “research & development is a key component in ensuring the sustainable use of our valuable natural resources now and into the future.” The Lignite Research Program is one of three energy-related research programs with the other two being the Oil & Gas and Renewable Energy programs. The Lignite Research Program is important to ensuring the continued beneficial use of the state’s lignite coal resources.

The Lignite Research program has helped in the development of new technologies to address environmental regulations. Environmental regulation is an ongoing issue, and increasing so with the inclusion of carbon dioxide as a pollutant regulated by the EPA. The long-term use of lignite will be greatly aided by the development of technologies related to the capture of carbon dioxide.

Mr. Chairman and members of the Finance and Taxation Committee, the EmPower ND Commission respectfully request your favorable consideration of Senate Bill 2031. That concludes my testimony and I am happy to entertain any questions.



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SB 2031
3-6-17

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Testimony in Support of SB 2031
Submitted by the Lignite Energy Council before the House Finance and Taxation Committee
March 6, 2017

Mr. Chairman, members of the committee, please accept these comments on behalf of the Lignite Energy Council (LEC) in support of Senate Bill 2031. This is an important piece of legislation that will continue providing conversion tax dollars to the Lignite Research Fund. This funding plays a critical role in helping our state's power industry continue to meet and exceed environmental standards, in addition to innovating and expanding the potential for this energy resource.

By way of background, the lignite R&D program is funded through the North Dakota coal severance tax of 37.5 cents on every ton of coal mined in the state, as well as a two-cent per ton R&D tax. Ten years ago the legislature also authorized five percent of the general fund portion of the coal conversion tax be diverted to the Lignite Research Fund. That provision provided much-needed supplementation to R&D funding to help the industry meet new challenges, a need that remains today. As such, SB 2031 strikes the July 31, 2018 sunset and allows the Lignite Research Fund to continue benefitting from the coal conversion tax.

The focus of the lignite R&D program has traditionally revolved around identifying technology solutions to address criteria pollutants, improve power plant efficiency and operation, help launch new lignite conversion facilities, and activities that mutually-benefit the State of North Dakota and lignite industry as a whole. At the same time, our industry has increased its own commitment to the State of North Dakota, adding additional R&D dollars as well as paying a portion of the costs associated with the state's successful Next Generation Act lawsuit.

The next great challenge the industry faces is addressing carbon dioxide emissions. This is an enormous effort that will require the development of retrofit technology that can be applied to our existing power plants, as well as a next generation power facility that does not emit any carbon dioxide.

As we work with the state to expand R&D solely dedicated towards advanced energy technology, it is also essential to continue the traditional role of the Lignite Research Fund. For example, during the last round of Lignite Research Fund projects, the Lignite Research Council and Industrial Commission approved a grant for North Dakota State University to explore ways to improve coal mine reclamation. While surface mines in North Dakota are renowned for meeting the standard of reclaiming land to "as

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good or better” as before mining, the industry realized that it had been a couple of decades since there had been a collaborative effort to examine reclamation techniques and took it upon itself to partner with NDSU and see if they can identify ways to further improve the process. This is just one example of the work that continues to be done through the Lignite Research Fund and demonstrates the need for SB 2031.

Accordingly, this legislation was developed, considered, and unanimously approved by the interim Energy Development and Transmission Committee, the Senate Finance and Taxation Committee, the Senate Appropriations Committee, and the full Senate. The LEC also requests your favorable consideration of SB 2031.