

2021 HOUSE FINANCE AND TAXATION

HB 1412

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1412
2/3/2021

A bill relating to an exemption from the coal conversion facilities privilege tax and the imposition of a lignite research tax and relating to allocation of the coal conversion facilities privilege tax and the lignite research tax.

Chairman Headland opened the hearing at 9:00am.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	AB
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Discussion Topics:

- 60% 5-year tax holiday to coal conversion tax

Representative Delzer introduced bill (#5150).

Jason Bohrer, President and CEO of the Lignite Energy Council, testified in support (#5014).

Geoff Simon, Western Dakota Energy Association, testified in support (#5126).

Ryan Rauschenberger, State Tax Commissioner, explained the fiscal note.

Chairman Headland closed the hearing at 9:18am.

Representative B. Koppelman made a motion for a Do Pass and Rerefer to Appropriations.

Vice Chairman Steiner seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	AB
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Motion carried 13-0-1

Vice Chairman Steiner will be the bill carrier.

Additional written testimony:

Carlee McLeod, USND, testimony in favor #5104.

Wade Boeshans, BNI Energy, testimony in favor #5083.

Arik Spencer, Greater North Dakota Chamber, testimony in favor #5066.

Zac Smith, NDAREC, testimony in favor #4998.

Al Christianson, Great River Energy, testimony in favor #4980.

Jean Schafer, Basin Electric Power Cooperative, testimony in favor #4949.

Jerry Obenauer, City of Hazen, testimony in favor #4493.

Scott Skokos, Dakota Resource Council, testimony in opposition #5058.

Chairman Headland closed the discussion at 9:21am.

Mary Brucker, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1412: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1412 was rereferred to the **Appropriations Committee**.

Mr. chairman and members of the finance and tax committee.

For the record I am jeff Delzer state representative from district 8, which is the eastern part of Mclean county and most of rural Burleigh county.

I appear before you today in support of house bill 1412. It is a bill which if passed will give a 60% 5-year tax holiday to the coal conversion tax. The counties, cities and research funds will be held whole.

I have attached flow charts from the current tax structure to the proposed tax structure. Also attached is a history of the taxes that the industry has supplied to the state since we started using our lignite resource to create electricity. As you can see the total taxes paid have been over 800 million dollars. A lot of that at a time when the tax was a considerable contribution to the state revenues.

There will be others that may tell you better why this should be granted. My thoughts are that we cannot afford to ignore the challenges which this industry faces. the industry has done many improvements in environmental issues. We in North Dakota enjoy some of the best air and water quality in the nation and likely the world. We should be proud of what the industry has done.

We still have challenges like further reducing carbon and competing with federally subsidized green energy. This will give the industry some relief to better compete with other forms of generation and the end goal will be to keep the thousands of our friends and neighbors who have and continue to make their living as the workforce related to coal.

The bill will reduce the general fund taxes by roughly 15 million per year a total of 75 million and it goes for all coal fired generating plants in the state. The bill sunsets in the middle of the biennia.

I hope you will support the bill and our coal industry. I would be glad to go through the attachments and would try to answer question of the committee.

Delzer, Jeff W.

From: Mathiak, Adam
Sent: Friday, January 15, 2021 6:43 PM
To: Delzer, Jeff W.
Cc: Knudson, Allen H.
Subject: Coal Tax Deposits in General Fund

Representative Delzer:

This email is in response to your question regarding coal tax collections deposited in the general fund and the estimated fiscal impact of proposed bill draft [21.0817.04000].

The schedule below provides information on the actual coal severance tax collections and coal conversion tax collections deposited in the general fund since the 1969-71 biennium.

Biennium	Coal severance tax	Coal conversion tax
1969-71	\$0	\$0
1971-73	0	0
1973-75	0	0
1975-77	3,132,116	0
1977-79	5,947,886	2,701,006
1979-81	9,020,972	3,868,174
1981-83	10,561,927	4,789,601
1983-85	15,935,133	17,748,691
1985-87	15,939,783	16,951,091
1987-89	20,950,460	18,113,775
1989-91	21,924,265	18,648,878
1991-93	23,244,128	19,557,661
1993-95	23,828,544	22,960,212
1995-97	22,245,267	24,064,781
1997-99	22,596,137	23,786,790
1999-2001	22,173,854	25,672,170
2001-03	0	46,878,511
2003-05	0	47,196,831
2005-07	0	49,217,864
2007-09	0	49,438,952
2009-11	0	39,064,299
2011-13	0	38,399,414
2013-15	0	40,767,149
2015-17	0	43,669,236
2017-19	0	44,572,709
Total	\$217,500,472	\$598,067,795

The schedule below provides information on the preliminary estimated fiscal impact of proposed bill draft [21.0817.04000]. The amounts shown are based on the actual collections from the 2017-19 biennium, which is the most recent information available in the Tax Department's publications. The amounts shown in the fiscal note may vary from these amounts.

	Current Law	Proposed Bill Draft	Increase (Decrease)
Tax collections	\$52,930,000	\$23,820,000	(\$29,110,000)
Allocations			
Counties	\$8,360,000	\$8,360,000	\$0
General fund	42,340,000	13,230,000	(29,110,000)
Lignite research fund	2,230,000	2,230,000	0
Total allocations	\$52,930,000	\$23,820,000	(\$29,110,000)

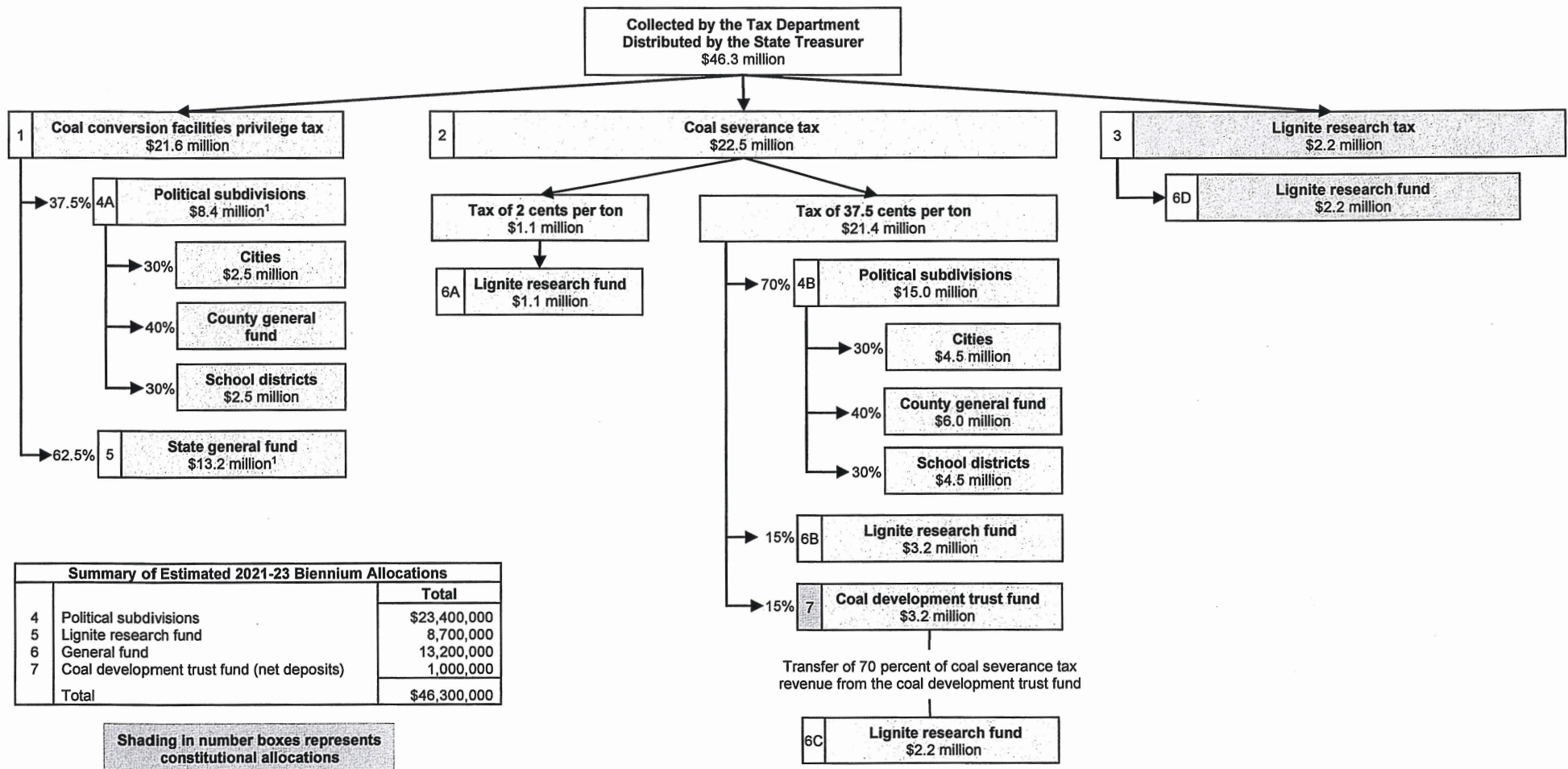


North Dakota Legislative Council

Prepared for Representative Delzer
LC# 21.9616.01000
January 2021

2021-23 BIENNIUM COAL TAXES - PROPOSED CHANGES

This memorandum provides information on the estimated coal-related tax collections and allocations for the 2021-23 biennium based on the proposed changes in House Bill No. 1412 as introduced. Footnotes and a summary of the taxes and funds are included on the second page.



FOOTNOTES

¹The amounts shown for the allocations to the political subdivisions and the state general fund from the coal conversion tax may not reflect the statutory percentages due to minimum allocation requirements for political subdivisions.

NOTE: The amounts reflected in these schedules are preliminary estimates. **The actual amounts allocated for the 2021-23 biennium may differ significantly from these amounts** based on actual coal production and electricity generation.

SUMMARY OF TAXES AND FUNDS

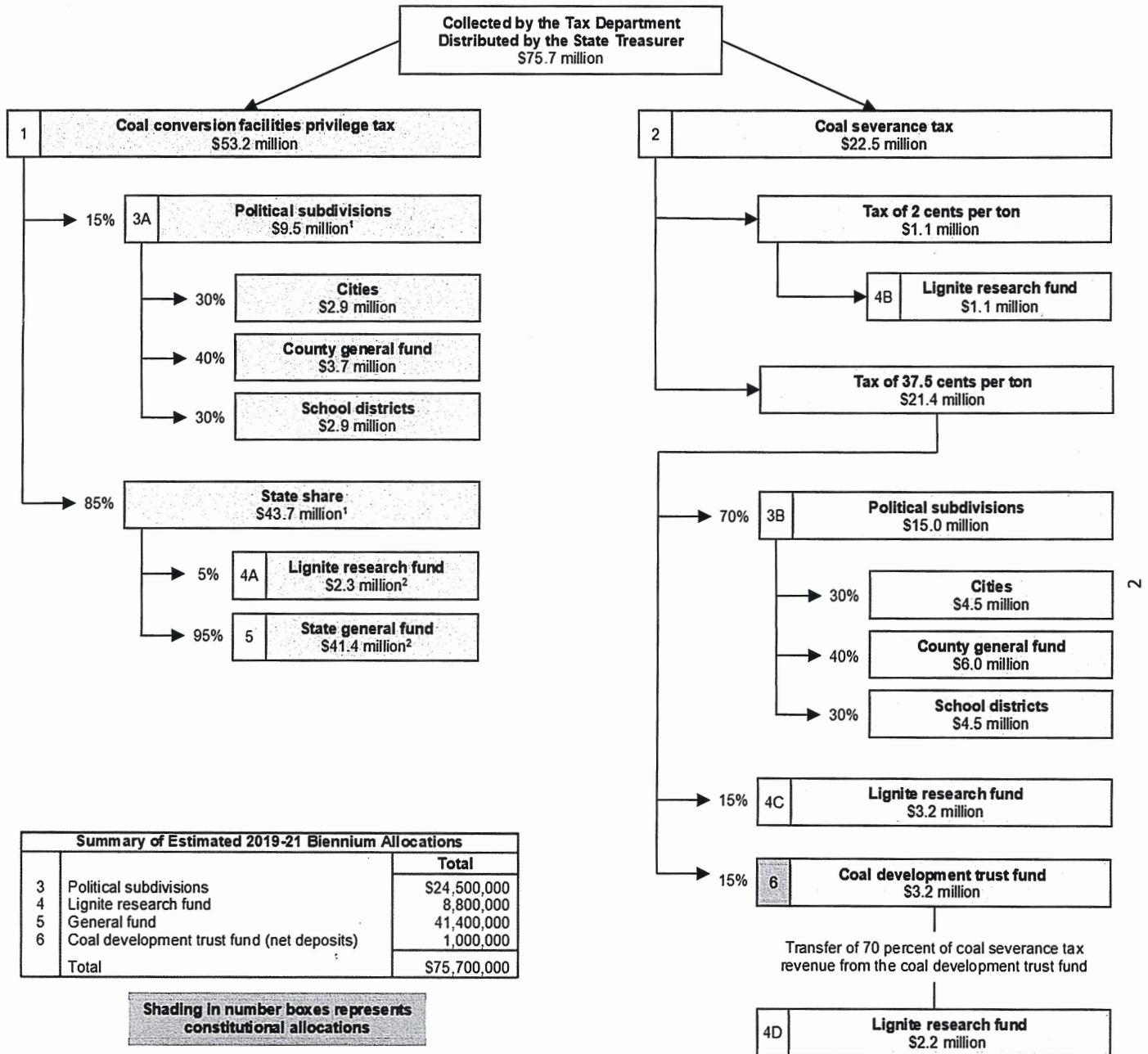
The table below provides a brief description of the taxes and funds included in the flowchart on the previous page. The proposed changes in House Bill No. 1412, as introduced, are shown in boldface.

Box	Tax/Fund	Description
1	Coal conversion facilities privilege tax	North Dakota Century Code Section 57-60-02 provides for a tax on coal conversion facilities. The tax is in lieu of property taxes. For electrical generating plants, the tax is calculated by applying one mill rate to the capacity of the facility and by applying another mill rate to the electrical production. Coal gasification plants are subject to a tax on the natural gas produced from the facility. Coal beneficiation plants are subject to a tax on the beneficiated coal or on the gross receipts from the sale of beneficiated coal products. For all other coal conversion facilities, a tax is applied to the gross receipts from the facility. House Bill No. 1412, as introduced, would exempt coal conversion facilities from 60 percent of the tax.
2	Coal severance tax	Section 57-61-01 provides for a tax of 37.5 cents per ton of coal that is mined in the state, and the tax collections are deposited in the coal development fund for allocations by the State Treasurer. Section 57-61-01.5 provides for a separate tax of 2 cents per ton of coal that is mined in the state, and the tax collections are deposited in the lignite research fund.
3	Lignite research tax	House Bill No. 1412, as introduced, would impose a lignite research tax of 5 percent based on 85 percent of the coal conversion tax before the 60 percent exemption.
4	Political subdivisions	The coal conversion facilities privilege tax collections are distributed to political subdivisions pursuant to Section 57-60-15, and the coal severance tax collections are distributed to political subdivisions pursuant to Section 57-62-02.
5	Lignite research fund	The lignite research fund is established under Section 57-61-01.6 for research, development projects, and marketing activities related to the lignite industry.
6	General fund	The general fund is the chief operating fund of the state.
7	Coal development trust fund	The coal development trust fund is established in Section 21 of Article X of the Constitution of North Dakota. The fund is used to provide loans to coal-impacted counties, cities, and school districts and to provide loans to any school district for school construction.

2019-21 BIENNIUM ESTIMATED COAL TAX REVENUE - ALLOCATION FLOWCHART

This memorandum provides information on the estimated allocations of the coal conversion tax and coal severance tax revenue collections for the 2019-21 biennium. A summary of the funds is included as an appendix.

2019-21 BIENNIUM



¹The amounts shown for the allocations to the political subdivisions and the state share from the coal conversion tax may not reflect the statutory percentages due to minimum allocation requirements for political subdivisions.

²The amounts shown for the allocations to the lignite research fund and the state general fund from the coal conversion tax may not reflect the statutory percentages because the additional allocations related to the minimum allocation requirements for political subdivisions are deducted only from the state general fund allocation and not the lignite research fund.

NOTE: The amounts reflected in these schedules are preliminary estimates. **The actual amounts allocated for the 2019-21 biennium may differ significantly from these amounts** based on actual coal production and electricity generation.

ATTACH:1



February 3, 2021

Chairman Headland and House Finance and Taxation Committee Members,

On behalf of the members of the Lignite Energy Council, I am submitting testimony today in support of House Bill 1412 to provide much needed temporary tax relief from coal conversion taxes for struggling lignite plants, which employ thousands of working families and serve as the lifeblood of many counties and communities in central North Dakota.

Due to changing fuel markets, federal policies and regulations that distort energy markets, the lignite industry greatly needs immediate economic relief to protect and preserve the North Dakota lignite industry which produces more than \$5 billion in regional economic impact, over 13,000 direct and indirect jobs and \$125 million in annual state and local tax revenues.

The seven lignite power plants in North Dakota produce a total of 4,000 megawatts of electricity on an annual basis. One 1,000-megawatt lignite power plant provides over \$32,000,000 in annual tax revenue consisting of coal severance taxes, coal conversion taxes, sales, property, and corporate income taxes along with all employment related taxes.

Each operator of a lignite power plant or conversion facility pays a coal conversion tax that is based on the amount of electricity or other products it generates per year. The total amount of coal conversion taxes paid in 2019, which is the most complete data available, was \$25.4 million. To breakdown how that total amount was paid, two facilities paid over \$5M while others pay annual coal conversion taxes in the \$1M-\$4M range.

HB1412 only focuses on the coal conversion tax and is proposing temporary tax relief from that tax for a period of five years. Coal conversion taxes are paid by the operator of a coal conversion facility for producing electricity or other products from coal conversion plants. A coal conversion facility is defined as (1) an electrical generating plant which has at least one unit with a generating capacity of 10,000 kilowatts or more of electricity, (2) a plant other than an electrical generating plant which processes or converts coal and uses or is designed to use over 500,000 tons of coal per year, or (3) a coal beneficiation plant.



This proposal only provides relief from the general fund deposits and does not impact county tax revenue or the lignite research fund. The counties will be held harmless under this proposal. This temporary relief will provide economic stability for the industry as we develop carbon capture and additional uses for lignite.

For these reasons, the Lignite Energy Council supports HB1412 and we respectfully ask that the committee provide this legislation with a favorable “Do-Pass” recommendation.

Thank you for your consideration,

Jason Bohrer

President and CEO

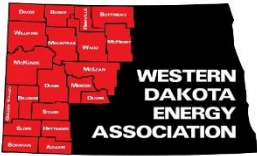
Lignite Energy Council

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WESTERN DAKOTA ENERGY ASSOCIATION

#5126

February 3, 2021

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Coal Conversion
Counties

Supt. Brad Rinas
Washburn PSD
Coal Conversion
Counties

Testimony of:

Geoff Simon, Lobbyist #144

in support of HB 1412

House Finance and Taxation Committee

Chairman Headland and Committee members:

On behalf of the city, county and school district members of the Western Dakota Energy Association (WDEA), notably those in the coal-producing counties, we wish to express our strong support for House Bill 1412 to provide a temporary reduction in the coal conversion tax to operators of coal-fired generating plants who are facing financial struggles due to current market inequities.

North Dakota's lignite plants have been forced to comply with a slew of expensive federal regulations, some of which provided marginal environmental improvements at best, while other sources of electric generation received generous tax subsidies that reduced their cost of production. Even though the state's lignite generation is among the lowest-cost sources of baseload power in the country, plants have been forced to back down their production because their subsidized competition is able to provide power at a lower cost, at times even offering power at negative prices thanks to the federal government's warped energy policy. Given the unfairness in the electric market, it is appropriate that the tax reduction provided in HB 1412 deliver temporary economic relief to support the state's vital baseload facilities.

Importantly to WDEA members, the legislation is crafted in a way that it would reduce only the state's portion of the conversion tax, while continuing to deliver tax revenue to the cities, counties and school districts in the coal-producing counties. The fiscal note on this bill shows an estimated reduction of \$35 million in state revenue over the 2021-23 biennium, which we believe is certainly justified given the more than \$5 billion annual economic impact of the lignite industry which includes more than 13,000 direct and indirect jobs.

It is unfortunate that federal energy policy continues to incentivize the development of intermittent sources of electric generation, while failing to adequately compensate baseload generating units which are essential to stabilize the grid at times when the intermittent production is unavailable. Even more unfortunate, we are unlikely to see any meaningful corrective action to this distorted energy policy anytime soon. Therefore, it is appropriate that the North Dakota Legislature take a proactive approach to temporarily reduce the tax burden to help ensure the continued viability of the essential baseload units.

WDEA wishes to thank Representative Delzer and Senator Bell for introducing this important legislation, and urges the committee to support the passage of HB 1412.

Thank you for the opportunity to submit testimony.

Western Dakota Energy Association
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www.usnd.org

House Bill 1412—Testimony in Support

#5104

House Finance and Tax, Chairman Headland

February 3, 2021

Chairman Headland, members of the committee, my name is Carlee McLeod, and I am president of the Utility Shareholders of North Dakota (USND). On behalf of my member companies, who collectively provide electric service to over 250,000 homes and businesses in North Dakota, we ask for your support of HB 1412.

As I stated in testimony yesterday when USND opposed HB 1458, we support the priorities and legislation put forward by the Lignite Energy Council, because they have been developed and vetted through the leadership at the generating utilities within the state. That means these proposals are being put forward by the people who both understand the challenges and bear the responsibility of generating electricity and meeting customer needs reliably and in a cost-effective manner. This temporary tax relief offers tangible help in our utilities' struggle to keep our lignite generation resources viable. For that reason, we ask for your support of HB 1412.

Thank you.



Testimony in Support of HB 1412
Wade Boeshans - BNI Energy President and General Manager
February 3, 2021

Chairman Headland and members of the House Finance and Taxation Committee:

My name is Wade Boeshans, President and General Manager of BNI Energy and Chairman of the Lignite Energy Council Board of Directors. I appreciate the opportunity to submit comments in support of House Bill 1412.

We are a native North Dakota company employing approximately 180 employees between our mining facility headquarters office. Our company roots trace back to 1930, when our predecessors began mining lignite near Noonan, ND. Today, BNI mines about 4.5 million tons of lignite per year, and are proud of our responsible and award-winning mining and reclamation process.

The lignite industry is facing unprecedented challenges due to historically low electric market prices, state and federal policies and activist pressures against fossil fuels that have stymied growth and threaten to shut down the industry. The two primary challenges facing the industry are market competitiveness and Environmental, Social and Governance (ESG) pressures. ESG pressures restrict the Lignite Industry's access to insurance and capital markets and pressure the industry to reduce CO2 emissions. Market pressures threaten the industry's ability to continue compete and be profitable in the market. Electricity generated from lignite competes head to head with other generation fuel types like wind, nuclear and natural gas in a regional market.

The Lignite Energy Council has developed five North Dakota legislative priorities to address market and ESG challenges:

- 1) Coal conversion tax relief
- 2) Develop a North Dakota insurance product to provide access to affordable property insurance.
- 3) Develop a low-interest loan program to provide access to capital for CO2 capture, storage and utilization projects.
- 4) Provide sales-tax exemptions for CO2 storage projects.
- 5) Continued investment in research and development.

It is critical for North Dakota to provide coal conversion tax relief to the lignite plants to help improve the market competitiveness of the industry. Currently, the lignite industry provides more than \$125 million in annual state and local tax revenues. House Bill 1412 will provide immediate economic relief and stability for the industry as it develops carbon capture and storage solutions and expanded uses for lignite.

Temporarily focusing resources into research now will foster industry growth and benefit North Dakota in the long-term. It is important to note this bill would not divert or negatively impact county tax revenue. It would provide a five-year stabilization period to ensure our long-standing industry can continue to operate in our state, support our local communities, and employ North Dakota citizens.

For these reasons, BNI Energy supports House Bill 1412 and asks the committee for a favorable consideration of a “DO-PASS” recommendation.

**Greater North Dakota Chamber
HB 1412
House Industry, Business, and Labor Committee
February 2, 2021**

#5066

Mr. Chairman and members of the House Finance and Taxation Committee, my name is Arik Spencer, President and CEO of the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization. We urge support for the immediate economic tax relief through short term tax reform as outlined in House Bill 1412.

The lignite industry, providing \$125M in annual state and local tax revenues and employing or impacting thousands of families in North Dakota, has felt pressures from non-market forces including but not limited to federal policies and regulations. These burdens amplified the cost to operate, limited access to capital and increased other costs including insurance premiums. Relief is needed for these essential businesses and workers for the betterment of our state.

This temporary tax relief would not impact local coal counties negatively as the relief is from general fund deposits. The 5-year plan would provide an opportunity for coal conversion facilities to work toward economic stability. North Dakota has an 800-year supply of economical lignite remaining under the soil but if you don't nurture research or develop carbon capture for other uses, this industry will not serve our state past the immediate future.

Thank you for the opportunity to provide comment on HB 1412 as we request your consideration on a do-pass recommendation.

Arik Spencer
President and CEO
Greater North Dakota Chamber



North Dakota Association of Rural Electric Cooperatives
3201 Nygren Drive NW • P.O. Box 727 • Mandan, ND 58554-0727



ND
Living

Phone: 701.663.6501 or 800.234.0518

Fax: 701.663.3745 www.ndarec.com

Feb 3, 2021

#4998

To: House Finance and Taxation Committee

RE: Support of House Bill 1412

From: Zac Smith, communications and government relations director, NDAREC

Chairman Headland and members of the House Finance and Taxation committee, the North Dakota Association of Rural Electric Cooperatives (NDAREC) represents sixteen electric distribution cooperatives and five generation and transmission cooperatives that generate, transmit, and distribute electricity across the state of North Dakota. NDAREC supports HB 1412 on behalf of its members.

HB 1412 provides temporary tax relief from coal conversion taxes for lignite plants in North Dakota. North Dakota's electric cooperatives currently operate five coal-based power plants in the state as well as a plant that converts coal to byproducts for sale. You have already heard and will continue to hear throughout this legislative session of the challenges facing the lignite industry. I do not need to restate them here today. I simply offer that the tax relief offered by 1412 is a real, tangible help to the challenging economics for coal-based generation. The bill accomplishes this without impacting revenue to the counties or the lignite research fund. This temporary relief will provide economic stability for the industry as North Dakota Electric Cooperatives continue to develop carbon capture and search for a path forward for lignite.

I thank the Committee for its time and consideration and would urge a Do Pass recommendation on House Bill 1412.

This institution is an equal opportunity provider and employer

Your Touchstone Energy® Cooperative





1611 East Century Avenue
Bismarck, North Dakota 58503
701-250-2176
greatriverenergy.com

February 3, 2021

Chairman Headland and House Finance and Taxation Committee Members,

On behalf of Great River Energy, I am submitting testimony in support of House Bill 1412 to provide lignite plants necessary temporary tax relief from coal conversion taxes.

The lignite industry needs immediate economic relief to protect and preserve the North Dakota lignite industry which produces significant economic impact, thousands of jobs and millions in annual state and local tax revenues.

This proposal provides relief from the general fund deposits and does not impact county tax revenue or the lignite research fund.

Great River Energy supports HB1412 and we respectfully ask that the committee provide a "Do-Pass" recommendation on this legislation.

Thank you for your consideration,

Al Christianson

Director, Business Development & Governmental Affairs

Great River Energy

Lobbyist #78



Bill Number	Name	Lobbyist #	Support	Oppose	Neutral
HB 1412	Jean Schafer, Basin Electric	8	X		

We Support this bill and would reiterate the testimony provided by the Lignite Energy Council.



A proud heritage - A promising future

146 Main Street E. Box 717 Hazen, North Dakota 58545
Phone (701) 748-2550 Fax 748-2559
Email hazennd@westriv.com

February 1, 2021

Chairman Headland and House Finance and Taxation Committee Members,

I am submitting testimony today in support of House Bill 1412 to provide temporary tax relief for lignite plants, which support thousands of working families and serve as the lifeblood of many counties and cities in central, and western, North Dakota.

Due to changing fuel markets, federal policies and regulations the lignite industry needs immediate economic relief to protect and preserve the North Dakota lignite industry which produces more than \$5 billion in regional economic impact, over 13,000 direct and indirect jobs and \$125 million in annual state and local tax revenues.

Each operator of a lignite power plant or conversion facility pays a coal conversion tax that is based on the amount of electricity or other products it generates annually. The total amount of coal conversion taxes paid in 2019 was \$25.4 million. To breakdown how that total amount was paid, two facilities paid over \$5M while others pay annual coal conversion taxes in the \$1M-\$4M range.

HB1412 only focuses on the coal conversion tax and is proposing temporary tax relief from that tax for a period of five years. Coal conversion taxes are paid by the operator of a coal conversion facility for producing electricity or other products from coal. A coal conversion facility is defined as (1) an electrical generating plant which has at least one unit with a generating capacity of 10,000 kilowatts or more of electricity, (2) a plant other than an electrical generating plant which processes or converts coal and uses or is designed to use over 500,000 tons of coal per year, or (3) a coal beneficiation plant.

This proposal only provides relief from the general fund deposits and does not impact county, city, school tax revenue, or the lignite research fund. These political subdivisions will be held harmless under the proposal. This temporary relief will provide economic stability for the industry as we develop carbon capture and additional uses for lignite.

For these reasons, the City of Hazen supports HB1412 and we respectfully ask that the committee provide this legislation with a "Do-Pass" recommendation.

Thank you for your consideration,

Jerry Obenauer
President, Hazen City Commission

Testimony of Dakota Resource Council
House Bill 1412
February 3rd, 2021

1 Chairman Craig Headland & members of the committee, my name is Scott Skokos and I
2 am testifying on behalf of Dakota Resource Council and our members. Thank you for allowing
3 me to submit written testimony in opposition of HB 1412.

4 Dakota Resource Council (DRC) is a non-partisan grassroots group of landowners,
5 ranchers, farmers, and other citizens. A key part of our mission is to promote the sustainable use
6 of North Dakota's natural resources. We are concerned about the implications of what we
7 believe is a proposed tax cut in HB 1412.

8 On page 1, line 10-12 HB 1412 states "a coal conversion facility is exempt from sixty
9 percent of the tax imposed under section 57 - 60 - 02" and on lines 14-15 it states "An electrical
10 generating plant is exempt from the generation tax imposed under subsection 3 of section 57 - 60
11 - 02." There is no reason to support a tax exemption for an industry that is quickly becoming
12 outdated. Many in the coal industry will point to renewables and "climate activists" as killing
13 coal. When in fact it is market forces from cheap, abundant natural gas that is the biggest player
14 in coal's decline. Consumer preferences for clean energy only add to coal's troubles, but it is not
15 the primary driver. Economics, not climate activists, are coal's biggest problem. Falling natural
16 gas prices make it so coal is no longer the cheapest fossil fuel.¹ It is understandable that North
17 Dakota would want to save an industry that has given so much to the state and a large population
18 of workers in the state hold a strong identity to coal. Coal has provided great livelihoods and
19 revenue to communities for decades. We know that these jobs help people provide for their
20 families. However, are we going to be a nanny state and protect an industry that is being out-
21 competed in a free-market by natural gas, consumer preferences, and productivity gains?

22 We believe HB 1412 to be a form of corporate welfare for one industry. If we could say,
23 yes 100%, HB 1412 will save the coal industry then it could possibly be justified. That is not the
24 case because North Dakota isn't isolated and will be impacted by market forces outside of its
25 control. There are better options to help communities and workers transition than cling to a
26 fantasy. We need to be honest about the future in our rapidly changing energy economy and
27 prepare workers accordingly. HB 1412 is an attempt to bail-out one industry because of legacy
28 and nostalgia.

29 Another concerning aspect of the bill is diverting funds towards the lignite research fund.
30 We know that there is a big push for research and innovation around carbon sequestration (CCS)
31 and other uses for lignite coal. Many proponents of CSS projects in ND will tell you that CCS is
32 a "new technology" and "innovative", when in fact it has been around for decades. CCS projects
33 have been tried around the world and failed. They are not economically feasible. Why waste
34 money on something already proven not to work? A similar CCS project, Petra Nova in Texas,
35 was mothballed and did not deliver or capture what it was promised to. According a 2020 report
36 from the Institute for Energy Economics and Financial Analysis, which states "overall, Petra
37 Nova captured 662,000 fewer metric tons of CO2 than projected during its first three years of

¹ <https://siepr.stanford.edu/research/publications/what-killing-us-coal-industry>

38 operation. That is a serious shortfall that merits investor caution. The promise for investors
39 considering putting money into CCS projects is that in return for funding a project's
40 construction, they will recover their investment through a steady stream of payments via the
41 federal government's 45Q tax credits, which offer \$35 per metric ton for plants like Petra Nova
42 that use the captured CO2 for enhanced oil recovery activities and \$50 per metric ton for CO2
43 sequestered underground."² In addition IEEFA released another 2020 report on ND's proposed
44 Project Tundra specifically, you can find analysis of the risks in their report "Project Tundra: A
45 Step in the Wrong Direction Carbon Capture Project Carries Large Risks for Investors and Co-op
46 Members".³ We highlight these reports because CCS is the primary way being touted for the coal
47 industry to remain viable, even as CCS has been repeatedly shown already not to be
48 economically viable. If private investors were interested in lignite technologies or CCS projects
49 like Project Tundra, the lignite industry would not be asking for millions of dollars in taxpayer
50 money. Investors around the country are looking forward to the future and recognizing a bad
51 investment when they see it. The North Dakota government should do the same.

52 There are several other protectionist bail-out bills for the coal industry this session
53 including HB 1452 where the lignite council will serve on a committee to dole out 25 million
54 dollars for research projects that reduce environmental impacts of energy. This is an absolute
55 waste of taxpayer money; it is not helping anyone pretend that the coal industry can be saved.
56 We highlight this only to show the obvious need for government assistance rather than compete
57 with the free market. HB 1412 is another attempt to bail-out the coal industry. Productivity gains
58 have cost good jobs for centuries. This is not a new story and has happened in the timber
59 industry, steel industry, auto industry, and others. Progress in technology often leads for fewer
60 workers needed, which is the case with natural gas plants which require less workers to operate
61 than coal plants. This does not make it any easier on workers, families, or the state which profits
62 off coal, we understand that. Which is why taxes should not be cut from counties reliant on the
63 coal industry right now as proposed in HB 1412. Cutting off taxes for counties at this pivotal
64 time would be a disastrous idea.

65 If leadership in North Dakota would decide to be honest with workers, then those taxes
66 (while they are still available) could be used for a transition fund for coal-dependent
67 communities. The taxes could also be used for retraining programs for coal workers. We know
68 this is an unpopular idea, and we sympathize with how frustrating this situation is. However, that
69 doesn't change the reality of our current energy economy. Tax revenue (as it currently is) could
70 be used by counties to engage in economic development to help mitigate the loss of the coal
71 industry. There will not be one industry that can replace coal for these communities. It will need
72 to be a broad, diverse strategy to help these communities. Looking forward to the future honestly
73 rather than clinging to the past is challenging, but embracing progress will be better in the long-

² https://ieefa.org/wp-content/uploads/2020/08/Petra-Nova-Mothballing-Post-Mortem_August-2020.pdf

³ https://ieefa.org/wp-content/uploads/2020/09/Project-Tundra_A-Step-in-the-Wrong-Direction_September-2020.pdf

Testimony of Dakota Resource Council
House Bill 1412
February 3rd, 2021

74 term. This is why we do not support a tax cut for the coal industry as counties, communities, and
75 workers need those funds to diversify their economies and make plans for their futures.

76 I urge the committee to oppose HB 1412 and recommend a **DO NOT PASS** on HB 1412.

77

2021 HOUSE APPROPRIATIONS

HB 1412

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Brynhild Haugland Room, State Capitol

HB 1412
2/5/2021

Relating to allocation of the coal conversion facilities privilege tax and the lignite research tax

9:15 Chairman Delzer Called the meeting to order;

Representatives	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	A
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	P
Representative Mike Brandenburg	P
Representative Michael Howe	P
Representative Gary Kreidt	P
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	A
Representative David Monson	P
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	P
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigesaa	P

Discussion Topics:

- 60% Coal Conversion Tax
- Making Coal Counties Whole

9:16 Representative Headland- Introduces HB 1412 and testifies in favor.

Additional written testimony: No written testimony

9:21 Representative Kreidt- Made a motion for a Do Pass

Representative Schobinger –Seconds the motion

Representatives	Vote
Representative Jeff Delzer	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Larry Bellew	Y
Representative Tracy Boe	Y
Representative Mike Brandenburg	N
Representative Michael Howe	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative Corey Mock	Y
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Mark Sanford	Y
Representative Mike Schatz	Y
Representative Jim Schmidt	Y
Representative Randy A. Schobinger	Y
Representative Michelle Strinden	Y
Representative Don Vigesaa	Y

Motion Carries 20-1-0 Representative Steiner will carry the bill

9:22 Chairman Delzer Closes the meeting for HB 1412

Risa Berube,

House Appropriations Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1412: Appropriations Committee (Rep. Delzer, Chairman) recommends **DO PASS** (20 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1412 was placed on the Eleventh order on the calendar.

2021 SENATE FINANCE AND TAXATION

HB 1412

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1412
3/17/2021

A BILL for an Act to create and enact a new section to chapter 57-60 of the North Dakota Century Code, relating to an exemption from the coal conversion facilities privilege tax and the imposition of a lignite research tax; to amend and reenact subsection 1 of section 57-60-14 of the North Dakota Century Code, relating to allocation of the coal conversion facilities privilege tax and the lignite research tax; to provide an effective date; and to provide an expiration date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [8:31]

Discussion Topics:

- Tax holiday
- Lignite research
- Tax structure
- Direct and indirect workforce
- Operating margins
- Budget deficits
- Local tax collection

Representative Delzer [8:32] introduces in favor #9792.

Jason Bohrer [8:34], President, Lignite Energy Council orally in favor.

Geoff Simon [8:46] Executive Director, Western Dakota Energy Association in favor #9776.

Ryan Warner [8:51] in opposition #9845.

Scott Skokos [8:59] Dakota Resource Council in opposition #9687.

Dustin Gawrylow [9:06] Managing Director, North Dakota Watchdog Network in opposition #9700.

Additional written testimony:

Arik Spencer, Greater North Dakota Chamber in favor #9530.

Jonathan Fortner, VP of Government Affairs, Lignite Energy Council in favor #9757.

Chair Bell adjourns the meeting. [9:09]

Joel Crane, Committee Clerk

Chair Bell and members of the finance and tax committee.

For the record I am Jeff Delzer state representative from district 8, which is the eastern part of McLean county and most of rural Burleigh county.

I appear before you today in support of house bill 1412. It is a bill which if passed will give a 60% 5-year tax holiday to the coal conversion tax. The counties, cities and research funds will be held whole.

I have attached flow charts from the current tax structure to the proposed tax structure. Also attached is a history of the taxes that the industry has supplied to the state since we started using our lignite resource to create electricity. As you can see the total taxes paid have been over 800 million dollars. A lot of that at a time when the tax was a considerable contribution to the state revenues.

There will be others that may tell you better why this should be granted. My thoughts are that we cannot afford to ignore the challenges which this industry faces. The industry has done many improvements in environmental issues. We in North Dakota enjoy some of the best air and water quality in the nation and likely the world. We should be proud of what the industry has done.

We still have challenges like further reducing carbon and competing with federally subsidized green energy. This will give the industry some relief to better compete with other forms of generation and the end goal will be to keep the thousands of our friends and neighbors who have and continue to make their living as the workforce related to coal.

The bill will reduce the general fund taxes by roughly ^{17.75}~~15~~ million per year a total of ^{88.75}~~75~~ million and it goes for all coal fired generating plants in the state. The bill sunsets in the middle of the biennia.

I hope you will support the bill and our coal industry. I would be glad to go through the attachments and would try to answer question of the committee.

Delzer, Jeff W.

From: Mathiak, Adam
Sent: Friday, January 15, 2021 6:43 PM
To: Delzer, Jeff W.
Cc: Knudson, Allen H.
Subject: Coal Tax Deposits in General Fund

Representative Delzer:

This email is in response to your question regarding coal tax collections deposited in the general fund and the estimated fiscal impact of proposed bill draft [21.0817.04000].

The schedule below provides information on the actual coal severance tax collections and coal conversion tax collections deposited in the general fund since the 1969-71 biennium.

Biennium	Coal severance tax	Coal conversion tax
1969-71	\$0	\$0
1971-73	0	0
1973-75	0	0
1975-77	3,132,116	0
1977-79	5,947,886	2,701,006
1979-81	9,020,972	3,868,174
1981-83	10,561,927	4,789,601
1983-85	15,935,133	17,748,691
1985-87	15,939,783	16,951,091
1987-89	20,950,460	18,113,775
1989-91	21,924,265	18,648,878
1991-93	23,244,128	19,557,661
1993-95	23,828,544	22,960,212
1995-97	22,245,267	24,064,781
1997-99	22,596,137	23,786,790
1999-2001	22,173,854	25,672,170
2001-03	0	46,878,511
2003-05	0	47,196,831
2005-07	0	49,217,864
2007-09	0	49,438,952
2009-11	0	39,064,299
2011-13	0	38,399,414
2013-15	0	40,767,149
2015-17	0	43,669,236
2017-19	0	44,572,709
Total	\$217,500,472	\$598,067,795

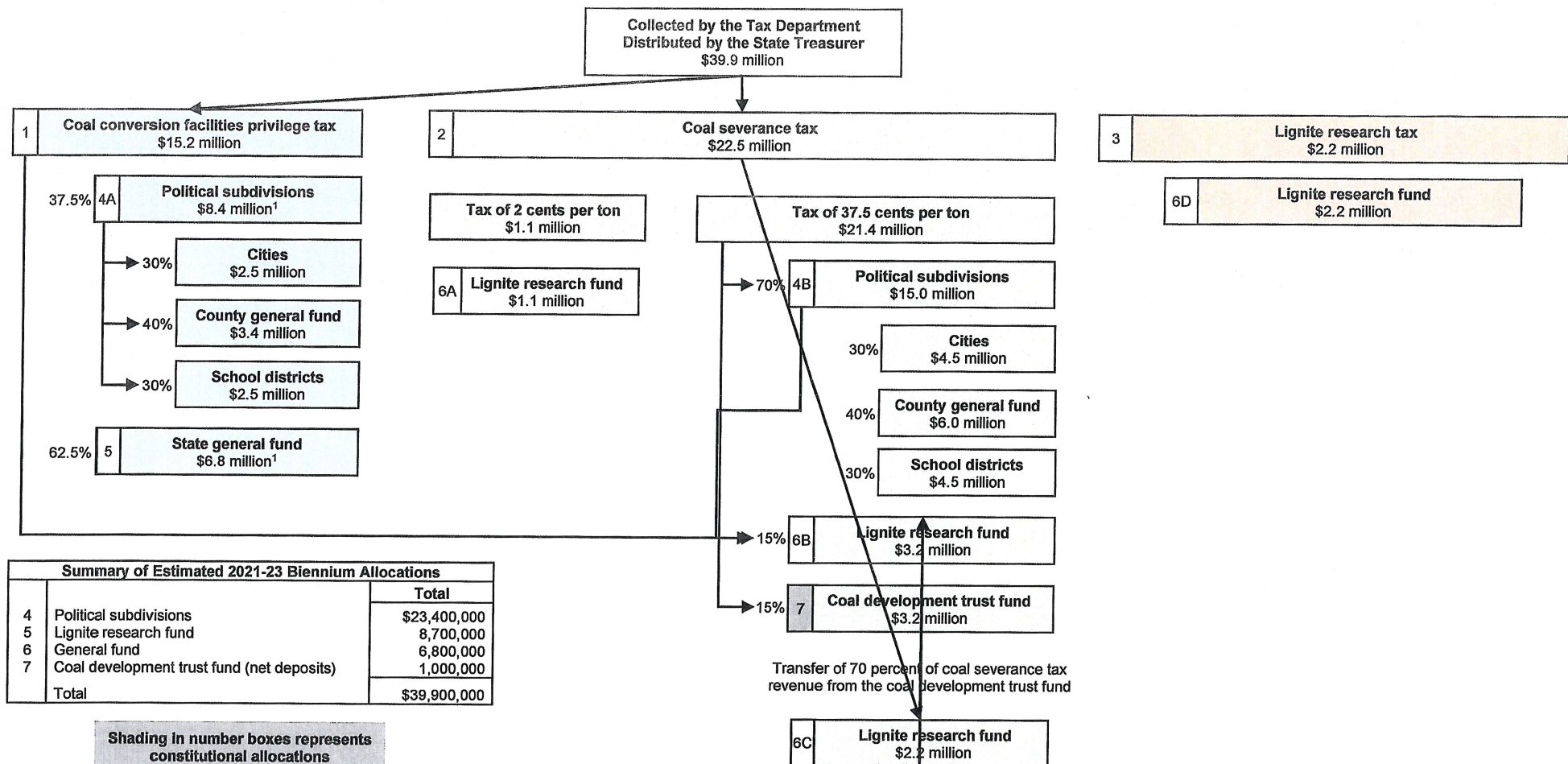
The schedule below provides information on the preliminary estimated fiscal impact of proposed bill draft [21.0817.04000]. The amounts shown are based on the actual collections from the 2017-19 biennium, which is the most recent information available in the Tax Department's publications. The amounts shown in the fiscal note may vary from these amounts.

	Current Law	Proposed Bill Draft	Increase (Decrease)
Tax collections	\$52,930,000	\$23,820,000	(\$29,110,000)
Allocations			
Counties	\$8,360,000	\$8,360,000	\$0
General fund	42,340,000	13,230,000	(29,110,000)
Lignite research fund	2,230,000	2,230,000	0
Total allocations	\$52,930,000	\$23,820,000	(\$29,110,000)

Legislative Council

2021-23 BIENNIUM COAL TAXES - PROPOSED CHANGES

This memorandum provides information on the estimated coal-related tax collections and allocations for the 2021-23 biennium based on the proposed changes in House Bill No. 1412 as introduced. Footnotes and a summary of the taxes and funds are included on the second page.



FOOTNOTES

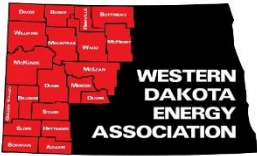
¹The amounts shown for the allocations to the political subdivisions and the state general fund from the coal conversion tax may not reflect the statutory percentages due to minimum allocation requirements for political subdivisions.

NOTE: The amounts reflected in these schedules are preliminary estimates. **The actual amounts allocated for the 2021-23 biennium may differ significantly from these amounts** based on actual coal production and electricity generation.

SUMMARY OF TAXES AND FUNDS

The table below provides a brief description of the taxes and funds included in the flowchart on the previous page. The proposed changes in House Bill No. 1412, as introduced, are shown in boldface.

Box	Tax/Fund	Description
1	Coal conversion facilities privilege tax	North Dakota Century Code Section 57-60-02 provides for a tax on coal conversion facilities. The tax is in lieu of property taxes. For electrical generating plants, the tax is calculated by applying one mill rate to the capacity of the facility and by applying another mill rate to the electrical production. Coal gasification plants are subject to a tax on the natural gas produced from the facility. Coal beneficiation plants are subject to a tax on the beneficiated coal or on the gross receipts from the sale of beneficiated coal products. For all other coal conversion facilities, a tax is applied to the gross receipts from the facility. House Bill No. 1412, as introduced, would exempt coal conversion facilities from 100 percent of the electrical production portion of the tax and 60 percent of the capacity portion of the tax.
2	Coal severance tax	Section 57-61-01 provides for a tax of 37.5 cents per ton of coal that is mined in the state, and the tax collections are deposited in the coal development fund for allocations by the State Treasurer. Section 57-61-01.5 provides for a separate tax of 2 cents per ton of coal that is mined in the state, and the tax collections are deposited in the lignite research fund.
3	Lignite research tax	House Bill No. 1412, as introduced, would impose a lignite research tax of 5 percent based on 85 percent of the coal conversion tax before the 60 percent exemption.
4	Political subdivisions	The coal conversion facilities privilege tax collections are distributed to political subdivisions pursuant to Section 57-60-15, and the coal severance tax collections are distributed to political subdivisions pursuant to Section 57-62-02.
5	Lignite research fund	The lignite research fund is established under Section 57-61-01.6 for research, development projects, and marketing activities related to the lignite industry.
6	General fund	The general fund is the chief operating fund of the state.
7	Coal development trust fund	The coal development trust fund is established in Section 21 of Article X of the Constitution of North Dakota. The fund is used to provide loans to coal-impacted counties, cities, and school districts and to provide loans to any school district for school construction.



#9776

WESTERN DAKOTA ENERGY ASSOCIATION

March 17, 2021

EXECUTIVE COMMITTEE

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Coal Conversion
Counties

Supt. Brad Rinas
Washburn PSD
Coal Conversion
Counties

Testimony of:

Geoff Simon, Lobbyist #144

in support of HB 1412

Senate Finance and Taxation Committee

Chairman Bell and Committee members:

On behalf of the city, county and school district members of the Western Dakota Energy Association (WDEA), notably those in the coal-producing counties, we wish to express our strong support for House Bill 1412 to provide a temporary reduction in the coal conversion tax to operators of coal-fired generating plants who are facing financial struggles due to current market inequities.

North Dakota's lignite plants have been forced to comply with a slew of expensive federal regulations, some of which provided marginal environmental improvements at best, while other sources of electric generation received generous tax subsidies that reduced their cost of production. Even though the state's lignite generation is among the lowest-cost sources of baseload power in the country, plants have been forced to back down their production because their subsidized competition is able to provide power at a lower cost, at times even offering power at negative prices thanks to the federal government's warped energy policy. Given the unfairness in the electric market, it is appropriate that the tax reduction provided in HB 1412 deliver temporary economic relief to support the state's vital baseload facilities.

Importantly to WDEA members, the legislation is crafted in a way that it would reduce only the state's portion of the conversion tax, while continuing to deliver tax revenue to the cities, counties and school districts in the coal-producing counties. The fiscal note on this bill shows an estimated reduction of \$35 million in state revenue over the 2021-23 biennium, which we believe is certainly justified given the more than \$5 billion annual economic impact of the lignite industry which includes more than 13,000 direct and indirect jobs.

It is unfortunate that federal energy policy continues to incentivize the development of intermittent sources of electric generation, while failing to adequately compensate baseload generating units which are essential to stabilize the grid at times when the intermittent production is unavailable. Even more unfortunate, we are unlikely to see any meaningful corrective action to this distorted energy policy anytime soon. Therefore, it is appropriate that the North Dakota Legislature take a proactive approach to temporarily reduce the tax burden to help ensure the continued viability of the essential baseload units.

WDEA wishes to thank Senator Bell and Representative Delzer for introducing this important legislation, and urges the committee to support the passage of HB 1412.

Thank you for the opportunity to submit testimony.

Western Dakota Energy Association
1661 Capitol Way, Bismarck ND 58501
www.ndenergy.org • 701-527-1832

Madam Chairwoman, and members of the committee, my name is Ryan Warner. I am here to testify as a private citizen in opposition to HB 1412.

HB 1412 aims to bailout the coal industry in North Dakota. If passed, it will reduce General Fund revenue by \$88.75 million over the next 5 years, based on the most recent tax collection information included in the fiscal note attached to this bill.

Perhaps the coal industry does need a bailout. This is because cheap abundant natural gas is a better fit in today's energy market. Natural gas peaker plants can ramp up and down to meet market demand in real time, and coal isn't really suited for that. Natural gas also has a smaller marginal cost of production (which means it takes fewer employees to operate) as well as a smaller carbon footprint than does coal. All signs point to natural gas currently being the best dispatchable source of electricity. Coal simply lacks a viable business model in the 21st century.

However, a bailout of the coal industry creates a revenue shortfall, so while we ponder the necessity of bailing out coal we also need to discuss where we might cut spending. After all, we are not the federal government and we cannot simply print our way out of a budget deficit. So where are we going to get the money to bailout the coal industry?

According to previous testimony, the coal industry accounts for 13,000 direct and indirect jobs in North Dakota. These jobs represent a little less than 2% of the state's population. If passed, HB 1412 could potentially foist \$88.75 million in missing tax revenue onto the other 98% of the state's population over the next 5 years. Why would we privilege such a small minority at the expense of everyone else? And why are we subsidizing their industry's failure on the back of taxpayers?

Not only that, but the Lignite Research Fund has already received \$86 million in tax dollars since 2007 to coordinate and fund coal research and development, public relations, marketing, and lobbying efforts. Why does 2% of the population directly or indirectly employed by the coal industry deserve their own publicly funded research and development and PR team to protect their interests?

As I said earlier, I am a private citizen, and nobody paid me to be here today - and as such I kind of represent the 98% of North Dakotans who don't have a state-sponsored lobbyist at their beck and call to protect their money and their industry.

Actually, that is not fair, the other 98% of North Dakotans do have paid representatives to protect their interests - this committee and the state legislature of North Dakota.

However, if we compare the \$86 million the state of North Dakota has paid into the Lignite Research Fund since 2007 against what the state of North Dakota has paid its state legislators in that same time period you will see that as a state we have actually spent twice as much to promote the interests of the 2% of the state involved in coal than we have paid state legislators to represent 100% of the people of North Dakota. In fact, on average, the state has spent \$3.1

million per biennium to pay its legislators, and \$6.1 million to fund the Lignite Research Fund since 2007.¹

This ratio is out of balance. The interests of the entire state's population deserve paid representation that is on par with special interest groups, especially when the special interest group in question is getting funded with public money. So, either the legislature as a whole needs a big raise, or the Lignite Research Fund and Lignite Energy Council need a pay cut.

People want to know where their tax dollars are going and that they are being spent wisely. But, after taking 86 million dollars over the last 14 years to further the coal industry in North Dakota, the Lignite Council stands before you asking for another 88 million in handouts over the next 5 years. This is a tacit admission of failure. As a publicly funded entity, they should be held accountable and not be allowed to shift the cost of their failure onto the taxpayers of North Dakota. So, if the coal industry requires another handout to survive, I guess that's fine as long as they are willing to sacrifice the public funding that is currently allocated to the Lignite Research Fund and the Lignite Energy Council.

Short of dismantling the Lignite Research Fund and the Lignite Energy Council, I urge this committee to give HB 1412 a DO NOT PASS designation.

¹ This includes per diem and monthly salary, but does not include mileage reimbursement, interim session per diem, or any other direct or indirect benefits.

Chairman Kreun & members of the committee, my name is Scott Skokos and I am testifying on behalf of Dakota Resource Council and our members. Thank you for allowing me to testify in opposition of HB 1412.

Dakota Resource Council (DRC) is a non-partisan grassroots group of landowners, ranchers, farmers, and other citizens. A key part of our mission is to promote the sustainable use of North Dakota's natural resources. We are concerned about the implications of the proposed tax cut in HB 1412.

On page 1, line 10-12 HB 1412 states "a coal conversion facility is exempt from sixty percent of the tax imposed under section 57 - 60 – 02" and on lines 14-15 it states "An electrical generating plant is exempt from the generation tax imposed under subsection 3 of section 57 - 60 – 02."

This bill provides tax cuts to save the coal industry, yet there is no actual policy in this bill that will save coal jobs or coal communities. We understand that if the coal industry goes away, as it is projected to, there will be significant hardship for thousands of people, and rural communities, in the heart of ND. We understand why many in the legislature are under pressure to save coal. Coal communities have been a vital part of ND for decades providing high-wage jobs and benefits, often without a degree. ND made a really efficient system to make their lignite coal economical through "mine-mouth" plants and has become an energy exporter. We recognize the pride that comes from that history. However, historically many industries reach a point where they are faced with market forces and economics, some notable examples include the timber industry, steel industry, and auto industry. Productivity gains, technological advancements, and progress have cost good jobs across history. Progress in technology often leads to fewer workers needed, which is the case with natural gas plants which require less workers to operate than coal plants. This does not make it any easier on workers, families, or the state which profits off coal, we understand that. We could have a whole argument about those market forces and why some believe the market gives unfair advantage to energy sources other than coal. We could debate for days, throwing facts back and forth, and get nowhere meaningful. The fact of the matter is that even if this bill passes, and other bills this session, it will not save the coal industry in the long-term. People working in the coal industry, and the communities reliant on coal, will eventually be faced with the transition. We can either prepare for the transition now or bury our heads in the sand.

DRC cares about people working in the coal industry and what will happen to coal communities as plants and mines close. We care about what will happen with reclamation. However, there is no transparency in HB 1412 as to where the money saved from the tax cut will go. There is nothing in this bill to prevent the money saved from the tax cuts from lining coal executive's pockets prior to closure or bankruptcy. CEO bonuses before closures are common and have happened countless times around the country. If the purpose of this bill is to help coal communities and people working in the coal industry over the long-term, would it not be wise to earmark these taxes and invest in economic diversification, community development, retraining, and transition planning for coal communities? What assets do these communities have other than

coal that could be built upon? This is what community development, economic diversification, and transition planning is about. Could coal communities attract new types of industries or manufacturing? The possibilities for these communities reliant on coal are endless. Lake Sakakawea is a valuable resource already and money could be put in for more tourism and fishing. People working in the coal industry and communities that rely on coal deserve an equitable transition with support from our state government. We know that we often disagree on partisan issues, but we can all agree that coal communities need help right now. The national trends and experts say coal is in decline and will be completely retired in the not-so-distant future (Source). We stand on the side of promoting an equitable transition for coal communities based on those facts and trends.

We also believe HB 1412 to be a form of corporate welfare for one industry, especially if we do not cut the spending that is associated with the amount of money lost from the tax revenue. In this scenario, it becomes a burden on taxpayers to cover that revenue from coal. It also doesn't make sense that the lignite research fund will still continue to receive funds from their taxes if they are receiving such a large tax cut, as proposed in this bill. If we could say, yes 100%, HB 1412 will save the coal industry then it could possibly be justified. That is not the case because North Dakota isn't isolated and will be impacted by market forces outside of its control. There are better options to help communities and workers transition than place nostalgia over common sense. We need to be honest about the future in our rapidly changing energy economy and prepare workers accordingly.

We believe it is time for leadership in North Dakota to be honest with workers based on national trends and facts. Those taxes (while they are still available) could be used for a transition fund for coal-dependent communities. The taxes from the cut could be used for retraining programs for people working in the coal industry. We know retraining is an unpopular idea, and we sympathize with how frustrating this situation is. However, that doesn't change the reality of our current energy economy. We know that there will not be one industry that can replace coal for these communities. Historically coal-reliant communities will need to be a broad, diverse strategy to help these communities which will lead to long-term resilience, so we don't face a similar situation down the road. We understand why people working in the coal industry support this bill, as it is an emotional situation they are facing. However, ND state legislators should be trusted to make decisions that will be sustainable over the long-term and are fiscally responsible. This bill, and many other coal bills this session, are gambling with taxpayer dollars on a bad bet. This is why we do not support a tax cut for the coal industry as counties, communities, and workers need those funds to diversify their economies and make plans for their futures.

I urge the committee to oppose HB 1412 and recommend a **DO NOT PASS** on HB 1412.

HB 1412 – Testimony by Dustin Gawrylow (Lobbyist #266) North Dakota Watchdog Network

This bill appears to cut the coal conversion tax that applicable facilities pay into the general fund, in lieu of local property tax – which is then directed to local political subdivisions.

It then imposes a new lignite research tax, at a lower level, which is earmarked to be added to the Lignite Research funding currently funded with Coal Severance Tax revenue.

The net effect according the Fiscal Note is a tax cut just over \$35 million.

This would all be fine if not for two factors:

1. The current tax collected is designated to pay for local government services, cutting it requires other taxpayers to cover the cost. Is this were part of a larger tax cut package where everyone benefits from reductions, this too would not be so bad. But...
2. The new tax replacing the old tax is being earmarked for Lignite Research. This, just like other taxes collected for this purpose – which is a subsidy of the very industry being taxed.

The ultimate result of this policy change is that the general public will be indirectly subsidizing the coal industry at a higher level.

We should be looking at broad based tax reductions that benefit all industries and individuals, and avoiding policies that increase subsidies or bailout any particular industry.

In so many other cases, we are told we can't afford to cut taxes because it will shift costs, and we just can't afford it.

Yet here, we are not only cutting the tax, but increasing the subsidy.

There are not many industries that this legislature would cater to so willingly.

Let's look for ways to reduce tax burdens for everyone and every industry.

And let's stop picking winners and losers.

Greater North Dakota Chamber
HB 1412
Senate Finance and Taxation
March 17, 2021

Madam Chair and Members of the Senate Finance and Taxation Committee,

For the record, I am Arik Spencer, President and CEO of the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization. **We urge support** for the immediate economic tax relief through short term tax reform as outlined in House Bill 1412.

The lignite industry, providing \$125M in annual state and local tax revenues and employing or impacting thousands of families in North Dakota, has felt pressures from non-market forces including but not limited to federal policies and regulations. These burdens amplified the cost to operate, limited access to capital and increased other costs including insurance premiums. Relief is needed for these essential businesses and workers for the betterment of our state.

This temporary tax relief would not impact local coal counties negatively as the relief is from general fund deposits. The 5-year plan would provide an opportunity for coal conversion facilities to work toward economic stability. North Dakota has an 800-year supply of economical lignite remaining under the soil but if you don't nurture research or develop carbon capture for other uses, this industry will not serve our state past the immediate future.

Thank you for the opportunity to provide comment on HB 1412 as we request your consideration on a **do-pass recommendation**.

ARIK SPENCER

PRESIDENT AND CEO

GREATER NORTH DAKOTA CHAMBER

March 17, 2021

Senate Finance and Taxation Committee Members,

On behalf of the members of the Lignite Energy Council, I am submitting testimony today in support of House Bill 1412 to provide much needed temporary tax relief from coal conversion taxes for struggling lignite plants, which employ thousands of working families and serve as the lifeblood of many counties and communities in central North Dakota.

Due to changing fuel markets, federal policies and regulations that distort energy markets, the lignite industry greatly needs immediate economic relief to protect and preserve the North Dakota lignite industry which produces more than \$5 billion in regional economic impact, over 13,000 direct and indirect jobs and \$125 million in annual state and local tax revenues.

The seven lignite power plants in North Dakota produce a total of 4,000 megawatts of electricity on an annual basis. One 1,000-megawatt lignite power plant provides over \$32,000,000 in annual tax revenue consisting of coal severance taxes, coal conversion taxes, sales, property, and corporate income taxes along with all employment related taxes.

Each operator of a lignite power plant or conversion facility pays a coal conversion tax that is based on the amount of electricity or other products it generates per year. The total amount of coal conversion taxes paid in 2019, which is the most complete data available, was \$25.4 million. To breakdown how that total amount was paid, two facilities paid over \$5M while others pay annual coal conversion taxes in the \$1M-\$4M range.

HB1412 only focuses on the coal conversion tax and is proposing temporary tax relief from that tax for a period of five years. Coal conversion taxes are paid by the operator of a coal conversion facility for producing electricity or other products from coal conversion plants. A coal conversion facility is defined as (1) an electrical generating plant which has at least one unit with a generating capacity of 10,000 kilowatts or more of electricity, (2) a plant other than an electrical generating plant which processes or converts coal and uses or is designed to use over 500,000 tons of coal per year, or (3) a coal beneficiation plant.

This proposal only provides relief from the general fund deposits and does not impact county tax revenue or the lignite research fund. The counties will be held harmless under





this proposal. This temporary relief will provide economic stability for the industry as we develop carbon capture and additional uses for lignite.

For these reasons, the Lignite Energy Council supports HB1412 and we respectfully ask that the committee provide this legislation with a favorable "Do-Pass" recommendation.

Thank you for your consideration,

Jason Bohrer

President and CEO Lignite Energy Council

1016 E. Owens Ave. | PO Box 2277 | Bismarck, ND 58502

 701.258.7117

 www.lignite.com

 LEC@lignite.com

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1412
3/24/2021

A BILL for an Act to create and enact a new section to chapter 57-60 of the North Dakota Century Code, relating to an exemption from the coal conversion facilities privilege tax and the imposition of a lignite research tax; to amend and reenact subsection 1 of section 57-60-14 of the North Dakota Century Code, relating to allocation of the coal conversion facilities privilege tax and the lignite research tax; to provide an effective date; and to provide an expiration date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [2:49]

Discussion Topics:

- Conversion Tax
- Severance Tax
- County, city and school tax collection
- Lignite fund

Emily Thompson [2:52] Code Reviser, Legislative Counsel walks thru amendment [LC 21.0817.04002] #10684.

Chair Bell adjourns the meeting. [3:00]

Chair Bell recalled the meeting back to order [4:05]

Senator Kannianen [4:07] moved amendment [LC 21.0817.04002]

Senator Weber seconds

Motion carries by voice vote.

Senator Kannianen [4:08] moved DO PASS as Amended and re-refer to Appropriations.

Senator Patten seconds

Senators	Vote
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	N
Senator Jim Roers	Y
Senator Mark Weber	Y

Senate Finance and Taxation Committee
HB 1412
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Page 2

Motion passes 6-1-0
Senator Kannianen carries

Chair Bell adjourns the meeting. [4:09]

Joel Crane, Committee Clerk

March 24, 2021

CS
3/24
1 of 3

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1412

Page 1, line 3, after "reenact" insert "section 57-60-02,"

Page 1, line 3, after "57-60-14" insert ", and section 57-61-01"

Page 1, line 4, after "to" insert "an exemption from the coal conversion facilities tax,"

Page 1, line 5, after the second "tax" insert ", and an exemption from the coal severance tax"

Page 1, after line 6, insert:

"SECTION 1. AMENDMENT. Section 57-60-02 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02. Imposition of taxes.

There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. ~~The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears~~

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2023

to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.
4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.
5.
 - a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.
 - b. ~~The board of county commissioners may, by resolution, grant to the operator of a coal conversion facility, other than an electrical generating plant, located within the county a partial or complete exemption from the remaining fifteen percent of tax imposed by this section for a period not exceeding five years from the date of the first taxable production from the facility. Notwithstanding the provisions of section 57-60-14, any tax collected which is based upon the production of a facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.~~
6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.
7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, 2026. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply. Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15."

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3 ex 2

Page 1, line 11, replace "sixty" with "eighty-five"

Page 1, line 16, remove "eighty-five percent of"

Page 2, line 5, remove "The coal conversion tax collections under subsection 3 of section 57-60-02 to the"

Page 2, remove lines 6 through 9

Page 2, line 10, remove "d."

Page 2, line 11, replace "general fund" with "county"

Page 2, after line 12, insert:

"SECTION 4. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner.

1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.
2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, 2026. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1412: Finance and Taxation Committee (Sen. Bell, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1412 was placed on the Sixth order on the calendar.

Page 1, line 3, after "reenact" insert "section 57-60-02,"

Page 1, line 3, after "57-60-14" insert ", and section 57-61-01"

Page 1, line 4, after "to" insert "an exemption from the coal conversion facilities tax,"

Page 1, line 5, after the second "tax" insert ", and an exemption from the coal severance tax"

Page 1, after line 6, insert:

"SECTION 1. AMENDMENT. Section 57-60-02 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02. Imposition of taxes.

There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. ~~The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.~~ If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.
3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of

- sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.
4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.
 5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

b. ~~The board of county commissioners may, by resolution, grant to the operator of a coal conversion facility, other than an electrical generating plant, located within the county a partial or complete exemption from the remaining fifteen percent of tax imposed by this section for a period not exceeding five years from the date of the first taxable production from the facility. Notwithstanding the provisions of section 57-60-14, any tax collected which is based upon the production of a facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.~~
 6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.
 7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, 2026. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply. Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15."

Page 1, line 11, replace "sixty" with "eighty-five"

Page 1, line 16, remove "eighty-five percent of"

Page 2, line 5, remove "The coal conversion tax collections under subsection 3 of section 57-60-02 to the"

Page 2, remove lines 6 through 9

Page 2, line 10, remove "d."

Page 2, line 11, replace "general fund" with "county"

Page 2, after line 12, insert:

"SECTION 4. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner.

1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.
2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, 2026. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02."

Renumber accordingly

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1412

Introduced by

Representatives Delzer, Headland, Pollert

Senators Bell, Wardner

1 A BILL for an Act to create and enact a new section to chapter 57-60 of the North Dakota
2 Century Code, relating to an exemption from the coal conversion facilities privilege tax and the
3 imposition of a lignite research tax; to amend and reenact section 57-60-02, subsection 1 of
4 section 57-60-14, and section 57-61-01 of the North Dakota Century Code, relating to an
5 exemption from the coal conversion facilities tax, allocation of the coal conversion facilities
6 privilege tax and the lignite research tax, and an exemption from the coal severance tax; to
7 provide an effective date; and to provide an expiration date.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 57-60-02 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-60-02. Imposition of taxes.**

12 There is hereby imposed upon the operator of each coal conversion facility a tax paid
13 monthly for the privilege of producing products of such coal conversion facility. The rate of the
14 tax must be computed as follows:

- 15 1. For all coal conversion facilities, except as otherwise provided in this section, the tax is
16 measured by the gross receipts derived from the facility for the preceding month and is
17 in the amount of two percent of its gross receipts. Gross receipts derived from the sale
18 of a capital asset are not subject to the tax imposed by this subsection.
- 19 2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one
20 mill times sixty percent of the installed capacity of each unit times the number of hours
21 in the taxable period. All electrical energy generating units that begin construction or
22 complete repowering are exempt from eighty-five percent of the tax imposed by this
23 subsection for five years from the date of the first taxable production or from the date
24 of the first taxable production after repowering from the unit. ~~The board of county-~~

- 1 ~~commissioners may, by resolution, grant to the operator of an electrical generating~~
2 ~~plant located within the county partial or complete exemption from the remaining~~
3 ~~fifteen percent of the tax imposed by this subsection for a period not exceeding five~~
4 ~~years from the date of the first taxable production or from the date of the first taxable~~
5 ~~production after repowering from the unit. If a board of county commissioners grants a~~
6 ~~partial or complete exemption for a specific coal conversion facility under this~~
7 ~~subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that~~
8 ~~subsection relates to revenue from the specific unit of the coal conversion facility for~~
9 ~~which the partial or complete exemption has been granted. Notwithstanding section~~
10 ~~57-60-14, any tax collected from a unit subject to the exemption provided by this~~
11 ~~subsection must be allocated entirely to the county for allocation as provided in section~~
12 ~~57-60-15.~~ If a unit is incapable of generating electricity for eighteen consecutive
13 months, the tax on that unit for taxable periods beginning after the eighteenth month
14 must be reduced by the ratio that the cost of repair of the unit bears to the original cost
15 of the unit. This reduced rate remains in effect until the unit is capable of generating
16 electricity.
- 17 3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is
18 a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of
19 electricity produced for the purpose of sale. For all electrical generating plants that
20 begin construction or complete repowering, the production from the plants is exempt
21 from the tax imposed by this subsection for five years from the date of the first taxable
22 production or from the date of the first taxable production after repowering from the
23 plant.
- 24 4. For coal gasification plants, the tax is the greater of either the amount provided in
25 subsection 1 or thirteen and one-half cents on each one thousand cubic feet
26 [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not
27 including any amount of synthetic natural gas in excess of one hundred ten million
28 cubic feet per day.
- 29 5. ~~a.~~ For all coal conversion facilities, other than electrical generating plants, the
30 production from the facilities is exempt from eighty-five percent of the tax imposed by
31 this section for a period of five years from the date of first taxable production from the

1 facility. The operator of each facility applying for exemption under this subsection shall
2 certify to the tax commissioner the date of first taxable production of the facility.

3 ~~b. The board of county commissioners may, by resolution, grant to the operator of a~~
4 ~~coal conversion facility, other than an electrical generating plant, located within~~
5 ~~the county a partial or complete exemption from the remaining fifteen percent of~~
6 ~~tax imposed by this section for a period not exceeding five years from the date of~~
7 ~~the first taxable production from the facility. Notwithstanding the provisions of~~
8 ~~section 57-60-14, any tax collected which is based upon the production of a~~
9 ~~facility subject to the exemption provided by this subsection must be allocated~~
10 ~~entirely to the county for allocation as provided in section 57-60-15.~~

- 11 6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand
12 pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or
13 one and one-quarter percent of the gross receipts derived from such facility for the
14 preceding month, whichever amount is greater. Any amount of beneficiated coal
15 produced in excess of eighty percent of the design capacity of the coal beneficiation
16 plant or produced for use within a coal conversion facility is exempt from such tax.

17 7. With the exception of the tax imposed under subsection 3, the board of county
18 commissioners, by resolution, may grant the operator of a plant or facility located
19 within the county a partial or complete exemption from up to fifteen percent of the tax
20 imposed under this section for a period not to extend past June 30, 2026. If a board of
21 county commissioners grants a partial or complete exemption for a specific plant or
22 facility under this subsection, subsection 2 of section 57-60-14 does not apply.
23 Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to
24 the exemption provided by this subsection must be allocated entirely to the county for
25 allocation as provided in section 57-60-15.

26 **SECTION 2.** A new section to chapter 57-60 of the North Dakota Century Code is created
27 and enacted as follows:

28 **Coal conversion facility tax - Exemption - Lignite research tax - Imposition.**

- 29 1. Excluding the generation tax imposed under subsection 3 of section 57-60-02, a coal
30 conversion facility is exempt from ~~sixty~~eighty-five percent of the tax imposed under

1 section 57-60-02 and instead shall pay a lignite research tax equal to eighty-five
2 percent of the tax imposed under section 57-60-02 multiplied by five percent.

3 2. An electrical generating plant is exempt from the generation tax imposed under
4 subsection 3 of section 57-60-02 and instead shall pay a lignite research tax equal to
5 eighty-five percent of the tax imposed under subsection 3 of section 57-60-02
6 multiplied by five percent.

7 **SECTION 3. AMENDMENT.** Subsection 1 of section 57-60-14 of the North Dakota Century
8 Code is amended and reenacted as follows:

- 9 1. ~~The~~At least quarterly, the state treasurer shall ~~no less than quarterly~~ allocate all
10 ~~moneys received from all coal conversion facilities in each county pursuant to the~~
11 ~~provisions of this chapter, fifteen percent to the county and eighty-five percent to the~~
12 ~~state general fund, except moneys received from the tax imposed by subsection 3 of~~
13 ~~section 57-60-02, which must be deposited in the state general fund. Five percent of~~
14 ~~all funds allocated to the state general fund pursuant to this chapter must be allocated~~
15 ~~to the;~~
16 a. The lignite research tax collections under section 1 of this Act to the lignite
17 research fund for the purposes under section 57-61-01.5.
18 b. ~~The coal conversion tax collections under subsection 3 of section 57-60-02 to the~~
19 ~~general fund.~~
20 c. ~~Thirty-seven and one-half percent of the coal conversion tax collections under~~
21 ~~section 57-60-02, excluding the collections under subsection 3 of section~~
22 ~~57-60-02, to the county.~~
23 d. The remaining coal conversion tax collections under section 57-60-02 to the
24 general fundcounty lignite research fund, for the purposes defined in section
25 57-61-01.5.

26 **SECTION 4. AMENDMENT.** Section 57-61-01 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes -**
29 **Payment to the tax commissioner.**

30 1. There is hereby imposed upon all coal severed for sale or for industrial purposes by
31 coal mines within the state a tax of thirty-seven and one-half cents per ton of two

1 thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use
2 taxes imposed by law. Each coal mine owner or operator shall remit the tax for each
3 month, within twenty-five days after the end of each month, to the tax commissioner
4 on reports and forms as the tax commissioner deems necessary. For the purposes of
5 this chapter, commercial leonardite is taxed in the same manner as coal.

6 2. The board of county commissioners, by resolution, may grant to the operator of a mine
7 from which the coal or commercial leonardite is mined a partial or complete exemption
8 from up to seventy percent of the tax imposed under this section for a period not to
9 extend past June 30, 2026. Any tax revenue exceeding thirty percent of the tax
10 imposed under this subsection must be allocated to the county under subsection 3 of
11 section 57-62-02.

12 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable production beginning after
13 June 30, 2021.

14 **SECTION 6. EXPIRATION DATE.** This Act is effective through June 30, 2026, and after that
15 date is ineffective.

2021 SENATE APPROPRIATIONS

HB 1412

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1412
3/31/2021
Senate Appropriations Committee

Relating to an exemption from the coal conversion facilities privilege tax and the imposition of a lignite research tax.
--

Senator Holmberg opened the hearing at 8:28 AM.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.**

Discussion Topics:

- Fiscal Amounts
- Long term / market driven revenues
- Federal regulations – market prices
- Policy changes
- Tax relief now vs. raising taxes in future

Jonathan Fortner, VP of Government Affairs, Lignite Energy Council – testified in favor and submitted testimony #11115.

Zach Smith, Director of Comm. And Government Relations, ND Association of Rural Electric Cooperatives – testified in favor and submitted testimony #11116.

Jean Schafer, Basin Electric – testified in favor and submitted testimony #11143.

Geoff Simon, Executive Director, Western Dakota Energy Association – testified in favor and submitted testimony #11108.

Scott Skokos, Executive Director, Dakota Resource Council – testified in opposition and submitted testimony #11118.

Dustin Gawrylow, Managing Director, North Dakota Watchdog Network – testified in opposition and submitted testimony #11113 and #11122

Additional written testimony: #11093, #11111, #11128,

Senator Krebsbach closed the hearing at 9:10 AM.

Rose Laning, Committee Clerk



March 31, 2021

Senate Appropriation Committee Members,

On behalf of the members of the Lignite Energy Council, I am submitting testimony today in support of House Bill 1412 to provide much needed temporary tax relief from coal conversion taxes for struggling lignite plants, which employ thousands of working families and serve as the lifeblood of many counties and communities in central North Dakota.

Due to changing fuel markets, federal policies and regulations that distort energy markets, the lignite industry greatly needs immediate economic relief to protect and preserve the North Dakota lignite industry which produces more than \$5 billion in regional economic impact, over 13,000 direct and indirect jobs and \$125 million in annual state and local tax revenues.

The seven lignite power plants in North Dakota produce a total of 4,000 megawatts of electricity on an annual basis. One 1,000-megawatt lignite power plant provides over \$32,000,000 in annual tax revenue consisting of coal severance taxes, coal conversion taxes, sales, property, and corporate income taxes along with all employment related taxes.

Each operator of a lignite power plant or conversion facility pays a coal conversion tax that is based on the amount of electricity or other products it generates per year. The total amount of coal conversion taxes paid in 2019, which is the most complete data available, was \$25.4 million. To breakdown how that total amount was paid, two facilities paid over \$5M while others pay annual coal conversion taxes in the \$1M-\$4M range.

HB1412 only focuses on the coal conversion tax and is proposing temporary tax relief from that tax for a period of five years. Coal conversion taxes are paid by the operator of a coal conversion facility for producing electricity or other products from coal conversion plants. A coal conversion facility is defined as (1) an electrical generating plant which has at least one unit with a generating capacity of 10,000 kilowatts or more of electricity, (2) a plant other than an electrical generating plant which processes or converts coal and uses or is designed to use over 500,000 tons of coal per year, or (3) a coal beneficiation plant.

This proposal only provides relief from the general fund deposits and does not impact the lignite research fund. This temporary relief will provide economic stability for the industry as we develop carbon capture and additional uses for lignite.



1016 E. Owens Ave. | PO Box 2277 | Bismarck, ND 58502

☎ 701.258.7117

🌐 www.lignite.com

@ LEC@lignite.com



For these reasons, the Lignite Energy Council supports HB1412 and we respectfully ask that the committee provide this legislation with a favorable “Do-Pass” recommendation.

Thank you for your consideration,

Jason Bohrer

President and CEO Lignite Energy Council

1016 E. Owens Ave. | PO Box 2277 | Bismarck, ND 58502

 701.258.7117

 www.lignite.com

 LEC@lignite.com



North Dakota Association of Rural Electric Cooperatives
3201 Nygren Drive NW • P.O. Box 727 • Mandan, ND 58554-0727

March 31, 2021

To: Senate Appropriations Committee

RE: Support of House Bill 1412

From: Zac Smith, communications and government relations director, NDAREC

Chairman Holmberg and members of the Senate Appropriations committee, the North Dakota Association of Rural Electric Cooperatives (NDAREC) represents sixteen electric distribution cooperatives and five generation and transmission cooperatives that generate, transmit, and distribute electricity across the state of North Dakota. NDAREC supports HB 1412 on behalf of its members. North Dakota's cooperatives have a long legacy of utilizing our state's natural resources to provide affordable and reliable service to our members, particularly with lignite coal, and proudly so. The communities that host these generating facilities are in many cases our employees and member owners as well, and we value the relationship and responsibility we have back to them.

HB 1412 provides temporary tax relief from coal conversion taxes for lignite plants in North Dakota. North Dakota's electric cooperatives currently operate five coal-based power plants in the state as well as a plant that converts coal to byproducts for sale. You have already heard and will continue to hear throughout this legislative session of the challenges facing the lignite industry. I do not need to restate them here today. I simply offer that the tax relief offered by 1412 is a real, tangible help to the challenging economics for coal-based generation. The bill accomplishes this without impacting revenue to the lignite research fund or the counties unless the county voluntarily chooses to forego additional severance tax. This temporary relief will provide economic stability for the industry as North Dakota Electric Cooperatives continue to develop carbon capture and search for a path forward for lignite.

I thank the Committee for its time and consideration and would urge a Do Pass recommendation on House Bill 1412.

HB 1412**Jean Schafer - Basin Electric Power Cooperative, March 31, 2021
Senate Appropriations Committee**

Chairman Holmberg and members of the Senate Appropriations Committee:

Basin Electric Power Cooperative (**Basin Electric**) is a regional, consumer-owned, generation and transmission cooperative formed in 1961 to supply supplemental power to a consortium of rural electric distribution cooperatives. Basin Electric's core business is generating and delivering electricity to wholesale customers, primarily our member systems. As of the end of 2020, Basin Electric owns 4,208 megawatts (**MW**) and operates 5,189 MW of electric generating capacity including coal, wind, natural gas, and nuclear. Basin Electric supplies 140 rural electric member cooperative systems with wholesale electric power who in turn serve approximately 3 million consumers in a nine-state area.

On behalf of Basin Electric I wanted to express our support of House Bill 1412 which will provide temporary tax relief from coal conversion taxes for struggling lignite plants in central North Dakota. Basin Electric has two coal-based power plants in the state, Antelope Valley Station and Leland Olds Station, located in Mercer County, as well as the Dakota Gasification Company (DGC), which also converts coal to byproducts.

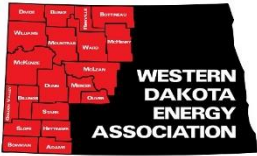
Due to changing fuel markets, federal policies and regulations that distort energy markets, lignite-based power plants and conversion facilities greatly need immediate economic relief to help protect and preserve the North Dakota lignite industry as a whole, and help coal-based power plants stay economically viable resources in the wholesale power markets.

Specific to coal conversion taxes and how they would be used to offset Basin Electric generation costs, there are two components. One is based on the capacity of the unit (fixed) and the other is based on the energy produced/generation (energy). We include the component that is based on "energy" in the economic market offers. So, if we can reduce/eliminate coal conversion taxes that are based on our energy produced, we can reduce our offers by the applicable amount and therefore make the coal units more dispatchable in the power market.

HB 1412 only focuses on the coal conversion tax and relief from that tax for a period of five years. This proposal only provides relief from the general fund deposits and does not impact county tax revenue or the lignite research fund, and the counties will be held harmless-unless they voluntarily choose to opt in. We would further support the amendments by the Senate Energy and Natural Resources committee that raise the amount of the tax relief to be equal to the full value paid by the conversion facilities.

For these reasons, Basin Electric asks for your support of HB1412.

Thank you.



WESTERN DAKOTA ENERGY ASSOCIATION

11108

March 31, 2021

EXECUTIVE COMMITTEE

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City of Bowbells

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Coal Conversion
Counties

Supt. Brad Rinas
Washburn PSD
Coal Conversion
Counties

Testimony of:
Geoff Simon, Lobbyist #144
in support of HB 1412
Senate Appropriations Committee

Chairman Holmberg and Committee members:

On behalf of the city, county and school district members of the Western Dakota Energy Association (WDEA), notably those in the coal-producing counties, we wish to express our strong support for House Bill 1412 to provide a temporary reduction in the coal conversion tax to operators of coal-fired generating plants who are facing financial struggles due to current market inequities.

North Dakota's reliable lignite plants have been forced to comply with a slew of expensive federal regulations, some of which provided marginal environmental improvements at best, while other sources of electric generation received generous tax subsidies that reduced their cost of production. Even though the state's lignite generation is among the lowest-cost sources of baseload power in the country, plants have been forced to back down their production because their subsidized competition is able to provide power at a lower cost, at times even offering power at negative prices thanks to warped federal energy policy. Given the unfairness in the electric market, it is appropriate that the tax reduction provided in HB 1412 deliver temporary economic relief to support the state's vital baseload facilities.

Importantly to WDEA members, the legislation is crafted in a way that it would reduce only the state's portion of the conversion tax, while continuing to deliver tax revenue to the cities, counties and school districts in the coal-producing counties. The original fiscal note on the bill shows an estimated reduction of \$35 million in state revenue over the 2021-23 biennium. However, the Senate Finance and Taxation Committee improved the bill with an amendment from Senator Bell that increases the amount of the conversion tax reduction from the 60% provided in the original bill, to 85% in its current form. We understand this is the reduction initially requested by the lignite industry. We believe this "tax holiday" is certainly a justifiable investment to help preserve an industry that generates well over \$5 billion in annual economic impact and more than 13,000 direct and indirect jobs.

It is unfortunate that federal energy policy continues to incentivize the development of intermittent sources of electric generation, while failing to adequately compensate baseload generating units which are essential to stabilize the grid at times when the intermittent production is unavailable. Even more unfortunate, we are unlikely to see any meaningful corrective action to this distorted energy policy anytime soon. Therefore, it is appropriate that the North Dakota Legislature take a proactive approach to temporarily reduce the tax burden to help ensure the continued viability of the essential baseload units.

WDEA wishes to thank Senator Bell and Representative Delzer for introducing this important legislation, and urges the committee to support the passage of HB 1412.

Thank you for the opportunity to submit testimony.

Western Dakota Energy Association
1661 Capitol Way, Bismarck ND 58501
www.ndenergy.org • 701-527-1832

Testimony of Dakota Resource Council
House Bill 1412
March 31st, 2021

1 Chairman Holmberg & members of the committee, my name is Scott Skokos and I am testifying on
2 behalf of Dakota Resource Council and our members. Thank you for allowing me to testify in opposition
3 of HB 1412.

4 Dakota Resource Council (DRC) is a non-partisan grassroots group of landowners, ranchers, farmers, and
5 other citizens. We are concerned about the implications of the proposed tax cut in HB 1412.

6 We believe HB 1412 to be a form of corporate welfare for the coal industry, especially if we do not cut
7 the spending that is associated with the amount of money lost from the coal tax revenue to the state. How
8 is the state general fund going to make up for this lost revenue? In the current scenario, it could become a
9 burden on taxpayers to cover that lost revenue from coal through additional sales or property taxes. In our
10 view, there are better options to help communities and workers transition than place nostalgia over
11 common sense. In our view, we need to be honest about the future in our rapidly changing energy
12 economy and make fiscally responsible decisions, not give bailouts to special interest groups.

13 DRC cares about people working in the coal industry and what will happen to coal communities as plants
14 and mines close. However, there is no transparency in HB 1412 as to where the money saved from the tax
15 cut will go. There is nothing in this bill to prevent the money saved from the tax cuts from lining coal
16 executive's pockets prior to closure or bankruptcy. CEO bonuses before closures are common and have
17 happened countless times around the country over the last several years, including a recent example from
18 the last few months when Lighthouse Resources gave over half a million dollars in bonus payments in the
19 year leading up to the company's bankruptcy filing.¹ These bonuses were also given to "insiders" and
20 "senior" employees. If the purpose of this bill is to truly help coal communities and people working in the
21 coal industry over the long-term, would it not be wise to earmark these taxes and invest in economic
22 diversification, community development, retraining, and transition planning for coal communities? The
23 national trends and experts say coal is in decline and will be completely retired in the not-so-distant
24 future.² Banks, investors, and finance experts acknowledge coal's decline. We stand on the side of
25 promoting an equitable transition for coal communities, not giving bailouts to the coal industry, based on
26 those facts and trends.

27 We also believe that those taxes (while they are still available) could instead be used for a transition fund
28 for communities reliant on coal. The taxes from the cut could be used for retraining programs for people
29 working in the coal industry. These types of programs are already happening in other states such as
30 Colorado. Specifically, Colorado Governor Jared Polis created an Office of Just Transition to support coal
31 workers, employers, and communities as they plan for the future closings of coal plants upon which their
32 communities rely on.³ Therefore, we do not support a tax cut for the coal industry as we need to use those
33 taxes to help communities, families and people working in the coal industry have an equitable transition
34 and there is nothing to stop this tax cut from being pocketed by executives before closure. In addition, if
35 there is no replacement of revenue to the state general fund, it could be an unfair burden on taxpayers in
36 ND and creates a large subsidy to the coal industry.

37 I urge the committee to oppose HB 1412 and recommend a **DO NOT PASS** on HB 1412.

¹ https://trib.com/business/energy/bankrupt-coal-firm-execs-received-700-000-in-bonuses-but-workers-could-lose-pensions/article_401685aa-808f-586f-99dc-5515415a3d5d.html

² <https://www.eia.gov/todayinenergy/detail.php?id=44115>

³ <https://cdle.colorado.gov/the-office-of-just-transition>

HB 1412 – Testimony by Dustin Gawrylow (Lobbyist #266) North Dakota Watchdog Network

Quick Points to Make HB 1412 Tolerable:

1. Only offset lost local tax revenue – DO NOT USE GENERAL FUND DOLLARS TO OFFSET SUBSIDIES. i.e. Lignite Research, and other activities these taxes cover.
2. Hold local government whole, but freeze that level on a dollar basis – DO NOT LET LOCAL GOVERNMENT CONTROL WHAT THE STATE COVERS.

Full Testimony

This bill is an expansion of corporate welfare disguised as a tax cut.

This bill appears to cut the coal conversion tax that applicable facilities pay into the general fund, in lieu of local property tax – which is then directed to local political subdivisions.

It then imposes a new lignite research tax, at a lower level, which is earmarked to be added to the Lignite Research funding currently funded with Coal Severance Tax revenue. Furthermore, now with the new amendments, county commissions can now exempt mines from 70% of the severance tax.

The net effect according the Fiscal Note is a tax cut just over \$35 million.

This would all be fine if not for two factors:

1. The current tax collected is designated to pay for local government services, cutting it requires other taxpayers to cover the cost. Is this were part of a larger tax cut package where everyone benefits from reductions, this too would not be so bad. But...
2. The new tax replacing the old tax is being earmarked for Lignite Research. This, just like other taxes collected for this purpose – which is a subsidy of the very industry being taxed.

The ultimate result of this policy change is that the general public will be indirectly subsidizing the coal industry at a higher level.

We should be looking at broad based tax reductions that benefit all industries and individuals, and avoiding policies that increase subsidies or bailout any particular industry.

In so many other cases, we are told we can't afford to cut taxes because it will shift costs, and we just can't afford it.

Yet here, we are not only cutting the tax, but increasing the subsidy.

There are not many industries that this legislature would cater to so willingly.

Let's look for ways to reduce tax burdens for everyone and every industry.

And let's stop picking winners and losers.

News

MARCH 26, 2021

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Print Newsletter

Young Educators



Students from White Shield visited the Capitol this week to help promote SB 2304 about teaching Native American history (see story below). Pictured from left are Elijah, Sophie, Instructors Hunter Andes and Margaret Yellowbird, Raylene, Lexus and Eatosh.

[f](#) [t](#) [in](#) [g](#) [e](#)



Julie Fedorchak Randy Christmann

**Committee Debates Grid Responsibility
Bill Incentivizes Utilities to Focus on Reliability**

A House Energy and Natural Resources subcommittee is debating merits of a proposal from the ND Public Service Commission to put new life back into legislation aimed at promoting grid reliability.

An amendment to [SB 2313](#) would allow the PSC to impose big penalties if utilities fail to keep the lights on The original bill would have imposed a “firming” requirement on utilities to maintain adequate dispatchable (reliable) generation, but it was opposed by utility lobbyists. The bill was watered down in the Senate to simply require the state transmission authority to gather information from utilities for a report to the legislature on the adequacy of the state's generation resources.

However, the latest version under consideration in the subcommittee would allow the PSC to determine “qualitative benefits” of generation resources and allow the PSC to impose penalties if a public utility fails to provide reliable service. PSC Chair Julie Fedorchak said the value that a utility's generation assets contribute to reliability needs to be an important consideration in the company's resource mix.

Click [here](#) to listen to Fedorchak's comments.

PSC Commissioner Randy Christmann said utilities need to be encouraged to secure firm capacity to meet customer demands. Christmann said at times companies have been too casual about their ability to secure backup power when non-dispatchable (wind and solar) resources are not available.

Click [here](#) to listen to Christmann's comments.

Christmann supports the penalty provisions in the bill, but opposed a suggestion that any fine be less than \$20 million. The bill also calls for a study to determine if a new generation resource is needed.

capped at \$2 million. He said it would hardly be adequate in a worst case scenario where a power failure resulted in loss of life. Christmann said it's important that the law provides a powerful incentive to motivate utilities to maintain a reliable electric system.

Click [here](#) to listen to Christmann's comments.

Legislators have said they're frustrated by "finger pointing" in the wake of power outages, with different entities blaming each other and not accepting responsibility for the failure. Fedorchak told utility lobbyists at the hearing that the legislation should clearly assign that responsibility to the utility.

Click [here](#) to listen to Fedorchak's comments.

WDEA supports the PSC's proposal. WDEA Executive Director Geoff Simon said the legislation amounts to a state policy, communicating to utilities and grid operators that electric reliability is absolutely essential.

Click [here](#) to listen to Simon's comments.

The subcommittee took no action on the amendment, and urged the PSC and utilities to discuss language they could agree upon that would define the conditions under which a penalty could be imposed. The subcommittee will meet again at 8:00 a.m. Tuesday. The PSC has posted a [public meeting notice](#) that it will discuss the bill at 4:00 p.m. Monday.



**Coal Creek Sales Talks Down to One
GRE in Exclusive Negotiations to Sell Plant**

Gov. Doug Burgum announced this week that Great River Energy is now in exclusive negotiations with a single buyer to sell Coal Creek Station and GRE’s high-voltage, direct current transmission system.

Last year GRE announced plans to retire Coal Creek Station, a 1,151-megawatt coal-fired power plant near Underwood in the second half of 2022. Since then, state officials led by Lt. Gov. Brent Sanford have worked with GRE and potential buyers to keep the plant in operation. The facility has 240 employees, with another 450 working at North American Coal’s nearby Falkirk Mine, the plant's coal supplier.

“This is wonderful news for Coal Creek Station’s employees, their local communities and the entire state of North Dakota,” Burgum said. “We’re deeply grateful to Lt. Gov. Sanford, GRE, the legislature, our state’s congressional delegation and everyone involved in creating a viable path forward for Coal Creek Station and our lignite coal industry.”

According to the governor's office, the potential buyer would buy the plant and the DC line, and intends to pursue plans to capture carbon dioxide from the coal plant's emissions. This week, Burgum signed [SB 2152](#), which provides a sales tax exemption for carbon dioxide used for secure geologic storage, providing an incentive to continue developing North Dakota’s lignite coal reserves.

Click [here](#) for a Bismarck Tribune article about the negotiations.

**Bonding Bill Back to \$1.1 Billion
Loan Pool Added for CO2 Capture Projects
Committee Okays Coal Severance Tax Break**

A revolving loan fund added this week to a bonding bill under consideration by the North Dakota Legislature could help fund future projects aimed at capturing carbon dioxide from coal plants.

The \$250 million loan pool was tacked onto the bill by the Senate Finance and Taxation Committee, chaired by Beulah Senator Jessica Bell. It was added on top of a previous amendment to [HB 1431](#) previously pitched to the committee by Senate Majority Leader Rich Wardner. That amendment had increased the bill's price tag to \$860 million, adding back many items taken out in the House-passed \$680 million version of the bill. With the amendment approved this week by the Tax Committee, the bill is now back to \$1.1 billion, which is [where it started](#) the first week of the legislative session.



Jessica Bell

Although not exclusively dedicated to CO2-capture and sequestration, it is one of the primary

projects for which the "clean sustainable energy fund" is being developed. A separate bill, [HB 1452](#), establishes the clean sustainable energy authority, which would consider grants and loans issued to cutting edge, high tech energy projects. That bill is currently awaiting action in the Senate Appropriations Committee.

Other items added to the bonding bill by Wardner's amendment include \$60 million for career and tech ed projects; \$65 million for deferred maintenance on state buildings; \$30 million for township roads; \$10 million for state parks; \$4 million for digitization of documents for the Theodore Roosevelt Library; \$4 million to complete Pulver Hall at Dickinson State; and \$4.7 million for maintenance of historical buildings.

The Senate committee also approved an amendment to [HB 1380](#), which has become known as the Legacy Fund "streams bill." It would direct future Legacy earnings to various categories of spending. The House had reduced the streams to a trickle, directing funds to cover only the bonding repayment, \$40 million for the clean sustainable energy fund, and \$40 million to the infrastructure revolving loan fund. Additions to the streams bill approved by the committee include funds directed to economic diversification research at state universities, a workforce development enrichment fund, an infrastructure fund for one-time projects, a legacy project fund, and an innovation research and diversification fund.

The committee also approved [HB 1412](#), which would provide a 5-year reduction in the coal severance tax, but before doing so approved an amendment offered by Senator Bell. The change increases to 85 percent the amount the severance tax would be reduced, but excludes the 15 percent that goes to support counties, cities and school districts in the coal-producing counties. The original House version would have reduced the tax by just 60 percent.

All three pieces of legislation will move from the Tax Committee to the Senate Appropriations Committee.



House Considers Straddle Well Bill MHA Nation Wants Tax Sharing Deal

There are hundreds of oil wells around the perimeter of the Fort Berthold Reservation, many of which have underground laterals that begin inside the reservation and go out, while others have laterals that begin outside the boundary and go in. The state of North Dakota currently gets a share of the tax revenue from those inside the boundary, but the MHA Nation does not receive tax revenue from those on the outside. [SB 2319](#) would change that.

The bill, which narrowly passed the Senate 25-21, was heard this week by the House Finance and Taxation Committee. MHA Chairman Mark Fox told committee members there are currently 132 wells outside the reservation with laterals that go into it, and said the tribe is entitled to the tax revenue they generate.



Chairman Mark Fox

Click [here](#) to listen to listen to Fox's comments.

As a bargaining chip to entice the state to approve the tax sharing agreement, Fox has proposed seeking an exception from the Biden administration's ban on federal leasing to tap separate parcels under the control of the federal government. The areas, known as Blue Buttes in McKenzie County and Lost Creek in northern Dunn County, are currently inaccessible, but could be tapped with underground laterals from oil wells on the reservation.

Committee members heard a [presentation](#) from Joel Brown, vice-president of Mineral Tracker, who evaluated the potential production from oil formations under the two parcels. Brown said they have some of "the best geology in the state," and have EURs (estimated ultimate oil recovery) that are well above the state average.

Click [here](#) to listen to Brown's comments.

Brown said based on establishment of 10 spacing units, 67 new wells could be drilling in Dunn County and 43 in McKenzie County, producing upwards of 25,000 barrels of oil per day within five years. He estimated over the life of the wells, they could produce more than 90 million barrels, generating an estimated \$426 million in tax revenue for the state, \$50 million for Dunn County and \$40 million for McKenzie County. The counties would also receive a share of the federal royalties if the area is developed.

Fox shared with the committee a [draft letter](#) addressed to the Corps of Engineers requesting a

meeting to discuss the continuing operation of the Dakota Access Pipeline. Previous testimony indicated that DAPL transports about 225,000 barrels of oil per day that is produced on the reservation, and its shutdown could cost the tribe and the state's producers millions in lost revenue due to higher transportation costs. Fox was asked why the letter was just a draft and had not been mailed since it was in the tribe's interest to do so. The letter was subsequently mailed the next day.

To get the bill through the Senate, it was amended to delay the effective date of the tax-sharing agreement until 2023, and then only if at least one well is drilled in the federal land. It would also exempt Mountrail County from any tax loss if agreement is reached. Fox asked the committee to restore the bill to its original form.



Jordan Kannianen

**Senate Defeats Gas Tax Increase
Other Legislation Provides Road Funds**

The North Dakota Senate today soundly rejected [HB 1464](#), a bill that would have raised the state motor fuel tax by 3 cents to 26 cents per gallon, defeating the measure on a 29-16 vote.

The bill, which previously cruised through the House on a 62-32 vote, would also have included an annual registration fee increase of \$15 for electric vehicles and \$20 for hybrid vehicles. Senator Jordan Kannianen from Stanley said Senate Finance and Tax Committee members, who gave the bill a "do not pass" recommendation, felt other legislation could help meet the state's road construction needs. Kannianen cited the pending bonding bill, the streams bill and last session's

Prairie Dog bill, which would all direct funding for road and bridge infrastructure work.

Click [here](#) to listen to Kannianen's comments.

Sen. Kannianen also noted that a lower gas tax than surrounding states gives North Dakota a competitive retail advantage, particularly for border cities.

Click [here](#) to listen to Kannianen's comments.

Sen. Jim Roers of Fargo, who supported the bill, said the gas tax is a true user fee since the revenue generated through the tax can only be used for highways and cannot be diverted to fund any other government program. Roers said even with the proposed increase, North Dakota's fuel tax would still be lower than the neighboring states of Montana, Minnesota, and South Dakota.

Click [here](#) to listen to Roers' comments.

The state gas tax has not been raised in North Dakota since 2005. Click [here](#) for a story on the bill from KFYY-TV and [here](#) for Fargo Forum coverage. Click [here](#) for an article from the WDEA newsletter on House passage of the bill in February.



**Senate Kills Recreational Marijuana Bill
Public Safety & Workplace Issues Cited**

After more than an hour of debate, the North Dakota Senate defeated an effort to legalize, manage and regulate adult use of recreational marijuana in the state. The Senate vote was decisive, with the legislation failing by a 37-10 margin. Last month the House passed the bill 56-38.

Proponents of [HB 1420](#) viewed the legislation as a way to head off future citizen-initiated efforts to legalize marijuana with a constitutional measure. That view was advocated by West Fargo Senator Judy Lee, who presented the bill on the Senate floor.

Click [here](#) to listen to Lee's comments.

Senator Lee compared recreational marijuana use in the state to an oncoming train that the state has an opportunity to control.

Click [here](#) to listen to Lee's comment.

Lee said the Secretary of State has already approved the petitions that will be used to gather



signatures for at least one citizen-initiated measure for a constitutional amendment to legalize recreational marijuana.



Judy Lee

constitutional amendment, which she pointed out cannot be changed by the legislature

West Fargo Senator David Clemens opposed the legislation, citing testimony from health organizations, transportation groups, law enforcement agencies and business interests concerned about public safety and workforce issues. Clemens said he trusts the decisions of North Dakota citizens and prefers to “let the voters decide” the issue.

Click [here](#) to listen to Clemens' comments.



David Clemens

Edinburg Senator Janne Myrdal, picking up on Lee's analogy, said the train is heading in the wrong direction and North Dakota should not jump on. Myrdal said she sees nothing positive about legalizing marijuana.

Click [here](#) to listen to Myrdal's comments.



Janne Myrdahl

The bill would have restricted recreational marijuana to people 21 and older, limited possession to 1 ounce, limited and tracked purchase amounts, limited use to private property and banned home growing. A companion bill ([HB 1501](#)) that would have set a tax policy for recreational marijuana was unanimously defeated following the floor vote killing recreational use.

Click [here](#) for a Bismarck Tribune article on the Senate vote. Click [here](#) for WDEA's article on House action last month.



School Carry Over

Bill Passes House

Amendment Provides Two-Year Moratorium

The House this week overwhelming approved [SB 2165](#), a bill changing the amount of ending fund balances school districts are allowed to carry forward.

Prior to House passage, an amendment was added creating a two-year moratorium on implementing the ending fund balance law in order to give school districts the time they need to use federal assistance from the Elementary and Secondary School Emergency Relief Fund (ESSER), which they receive to handle impacts from the COVID-19 pandemic.



David Richter

Williston Rep. David Richter said the moratorium will give districts the time they need to spend the federal assistance wisely.

Click [here](#) to listen to Richter's comments.

State law currently provides two sections dealing with ending fund balances and amounts that can be carried forward. Both limit a school district's ending fund balance, but they're computed differently with different limitation percentages. One section is computed based on the current annual budget and there is no fiscal penalty for exceeding the limit. The second section is computed based on actual expenditures and results in a deduction of state school aid if the limit is exceeded.

SB 2165 aligns both sections to allow for 35% of actual expenditures plus \$50,000 or \$100,000 if the school district is in a cooperative agreement with another school district. Pending concurrence from the Senate, the carryover rule would be implemented July 1, 2023. The Senate unanimously approved the bill in January.

The carry forward limitation was put in place to ensure a local district did not continue to levy tax on its citizens or accept state funds while sitting on larger than necessary reserves. Click [here](#) for an article from the WDEA newsletter regarding the legislation from the House Education Committee discussion in early March.



Native American History Tied Up

Bill to be Reconsidered after 47-47 Vote





Steve Vetter

Those supporting the legislation said it would provide more structure to studies of Native American history, which they argued has not been sufficient to help students understand Native American culture.

The bill previously passed the Senate without a dissenting vote. Click [here](#) for an article from the WDEA newsletter about the initial discussion of the bill before the House Education Committee.

Click [here](#) for a Dickinson Press article about the debate.

A bill that would have required an emphasis on Native American history in all public and non-public schools in North Dakota appeared to have gone down to defeat, falling one vote short of passage on 47-47 tie vote in the House on Tuesday, but the following day Grand Forks Rep. Steve Vetter requested reconsideration of the legislation.

The House agreed to reconsider [SB 2304](#) and then re-referred it to the House Education Committee for further discussion and possible amendments.

In the floor debate Tuesday, legislators argued that schools already teach some form of Native American studies, and requiring such specificity in curriculum doesn't have a place in state law.



Lewis & Clark Plant Shutting Down Coal Plant Generated Power Since 1958

Its red and white smokestack has been part of the Sidney, Montana skyline for more than six decades, but next week Lewis and Clark Station will generate its last electron.

Montana-Dakota Utilities will shut down the 44-megawatt lignite-fired plant that has been generating electricity since 1958. The company also plans to shut down the two coal-fired units of

Hestkett Station in Mandan next year. In its [news release](#) two years ago announcing plans to shut down the plants, MDU said, "Low-cost power available on the market, due to low-cost natural gas and increasing wind resources, as well as rising costs to operate these facilities, led to the decision to retire the coal plants.

"The plants have served our customers well, providing low-cost energy for many years, operating roughly twice as long as expected when they were constructed in the mid-1950s and early 1960s," said Nicole Kivisto, president and CEO of Montana-Dakota, in the 2019 news release. "The age of the plants, low-cost competition on the market, and the ongoing cost to operate the plants all have contributed to the plants being too expensive to operate much longer."

Lewis and Clark Station will be officially shut down March 31, according to MDU spokesman Mark Hanson. He said the plant currently employs 27 people, some of whom will remain to operate the natural gas fired combustion engines at Lewis and Clark. Hanson said training was offered to employees who wish to fill open positions in other areas of the company, and some will remain on site in the early stages of the decommissioning work, which is expected to take three to six months.

The plant's fuel comes from the nearby Savage Mine operated by Westmoreland Coal. It's not known if the mine will continue to operate.



API Participates in DOI Leasing Forum NDPC Objects to State Representation Absence

The American Petroleum Institute participated in a forum conducted yesterday by the U.S. Department of the Interior to discuss the Biden administration's Executive Order in January that "paused" oil and natural gas leasing on federal land.

API Senior VP of Policy, Economics and Regulatory Affairs Frank Macchiarola participated in a panel with other national energy industry stakeholders. Macchiarola highlighted the importance of continued federal leasing and development for America's energy security and environmental progress.



"The Biden administration inherits a strong



Frank J. Macchiarola

American energy outlook, and ensuring access to federal leasing and energy development is imperative to continuing low household energy costs, record greenhouse gas emissions reductions and reduced reliance on foreign energy," Macchiarola said.

He encouraged Interior to complete its review quickly and fully reinstate federal oil and gas leasing.

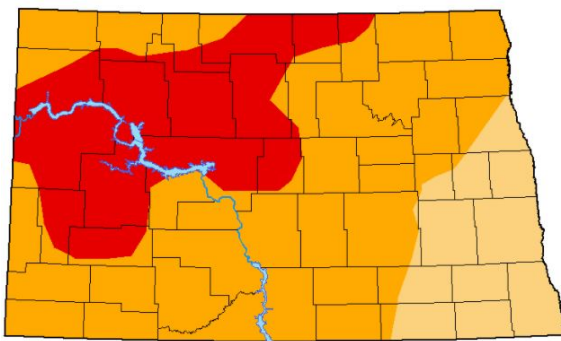
Click [here](#) to view Macchiarola's opening statement to the forum.

The North Dakota Petroleum Council also announced this week it was joining with other state oil and natural gas associations in protesting

the Biden administration's apparent decision to exclude state and local voices from the forum. Here is the full NDPC statement:

"As associations representing the natural gas and oil industry embedded in communities across our states, we are disappointed today's forum did not include a single state or local voice representing the hardworking men and women who produce safe, reliable and sustainable energy to fuel our lives. We speak for the people whose work, lives and livelihoods will be most impacted by Biden's orders regarding production on federal land. A return to centralized, command-and-control decision making in the hands of bureaucrats thousands of miles away from the people, lands, and waters where the impacts are most deeply felt is not a constructive path forward. We are hopeful the exclusion of local voices is not indicative of a pattern of disregard of our states, our people and our livelihoods."

In addition to North Dakota, states protesting the exclusion included Alaska, Colorado, Louisiana, Montana, Utah and Wyoming.



Drought Worsens, No Rain in Sight Outlook Offers 50-50 Chance of Improvement

With another dry week behind us and another dry week ahead, extreme drought conditions are spreading in western North Dakota.

According to the latest [Drought Monitor](#), more than 27 percent of the state falls into the extreme

category, and 85 percent of the state is considered to be in severe drought conditions. Extreme drought now covers nearly all of the big four oil-producing counties - Dunn, McKenzie, Mountrail and Williams - drying up pastures and creating dangerous fire conditions. Windy days are almost certain to prompt the ND Department of Emergency Services to issue a Red Flag Warning about the risk of rangeland wildfires.

As reported in [last week's newsletter](#), the drought comes as no surprise, considering the past six months have been the driest ever in North Dakota since record-keeping began in 1895. However, national climate forecasters still give North Dakota about a 50-50 chance of receiving normal seasonal precipitation in the [90-day outlook](#). The US Drought Monitor indicates that if below normal precipitation persists when spring temperatures warm, rapid intensification of drought conditions will occur.

Effects of drought in the extreme category include:

Crops stop growing; pastures go dormant,
Emergency haying of conservation areas is authorized
Blue-green algae blooms cause cattle death
Large wildfires can burn out of control

Click [here](#) to a Minot Daily News article about the drought. Click [here](#) to see NOAA's page of temperature and precipitation statistical comparisons.



Missouri Runoff Forecast Below Average Meetings April 6 to Discuss Operation Plans

Reservoir inflows in the upper Missouri River basin were well-below average in February, and the runoff forecast for the rest of the year remains below average.



"Missouri's February precipitation was the



“Very cold February temperatures in the upper Basin locked up tributaries in ice and reduced inflows to the reservoirs,” said John Remus, chief of the Corps of Engineers' Missouri River Basin Water Management Division. “Mountain snowpack continues to accumulate in the Rocky Mountains; however, plains snowpack is well-below seasonal averages and soil moisture continues to be much drier than normal.”

February 2021 runoff in the upper Basin was 0.8 million acre-feet, 70% of average. The 2021 calendar year runoff forecast for the upper Basin is 21.8 MAF, 84% of average. During the February cold snap, the mainstem dams increased electric generation during the coldest days to compensate for the increased energy demands throughout the region. The six mainstem power plants generated 637 million kWh of electricity in February. Typical energy generation for February is 624 million kWh.

[Mountain snowpack](#) has been accumulating at below-average rates. The March 1 mountain snowpack in the Fort Peck and the Fort Peck to Garrison reaches was 94% of average. By March 1, about 80% of the total mountain snowpack has typically accumulated.

The Corps will hold virtual spring public meetings on April 6 at 1 p.m. and 6 p.m. to update the region on current hydrologic conditions and the planned operation of the mainstem reservoir system during the coming months. Click [here](#) for more details.



Roundtable to be Held in Halliday
Save the Date: May 6 Western Roads Event

An event that will bring together oil industry trucking interests and county and tribal road managers to discuss ways to improve the movement of oilfield traffic will be held May 6 in Halliday.

WDEA is teaming up with the Upper Great Plains Transportation Institute and its Local Technical Assistance Program (LTAP) to host a roundtable discussion at the new Dunn County highway shop in Halliday. The event will run from 9:00 a.m. to 3:00 p.m. MDT and will feature a variety of topics aimed at improving communication between industry and the counties, and improving the efficiency of operations for both.

Among speakers confirmed thus far are Lt. Governor Brent Sanford and NDDOT Director Bill Panos. Other portions of the agenda are still being finalized, according to LTAP Director Dale Heglund, but he said road and bridge construction and maintenance needs will at the top of the list.

"We'll describe needs specific to western North Dakota, whether it be roads, bridges, culverts or repairing frost boils," Heglund said, "and we expect frost law seasonal road restrictions to be a topic as well.

WDEA and LTAP are working on a research effort that uses temperature and moisture sensors embedded in gravel roads to get a better handle on the rate at which roads firm up after the spring thaw, possibly reducing the period of time in which restrictions are in place.

The roundtable will also feature panel discussions about the oil industry's future and the ways in which local government can assist.



Underage Drinking Enforcement Campaign
Starting Next Week

A statewide campaign against underage drinking is starting next week as part of the state Department of Transportation's Vision Zero effort.

Drive Sober or Get Pulled Over runs from April 1 to May 23. Law enforcement across the state will be conducting compliance checks in an effort to prevent life altering consequences caused by underage consumption. Persons under 21 found to be consuming or in possession of alcohol could face stiff fines and end up in court.

Click [here](#) to view a short video on the campaign.

"There are zero excuses for underage drinking and for driving under the influence," said Bismarck Police Chief Dan Rosenthal. "The Drive Sober or Get Pulled Over campaign is a great way to get the message out."



Police Chief Dave Draovitch. "The *Drive Sober or Get Pulled Over* enforcement campaign is a great reminder to everyone, including young drivers, to make the choice to always drive sober."

Alcohol and drug-related crashes are 100% preventable. Many lives would be saved each year if drivers consistently make the choice to drive sober, designate a sober driver or use a ride-hailing service. State crash statistics are trending higher in 2021, with 21 fatalities to date, making the campaign a vital part of the [Vision Zero](#) strategy to eliminate motor vehicle crash fatalities and serious injuries on North Dakota roads.

Visit the [North Dakota Crash Memorial Wall](#) to view memorials built on the hope of preventing another death on North Dakota roads.



May 11-13, 2021 | Bismarck Event Center | Bismarck, ND

WBPC Announces 2021 Agenda Bakken CEOs and Executives Lined Up

The agenda for the 2021 Williston Basin Petroleum Conference has been released featuring over 70 speakers and presenters, each sharing insights on the latest issues impacting oil and natural gas development and what the future holds for the Williston Basin.

The conference, scheduled for May 11-13, is the largest conference in North Dakota with major networking opportunities for energy industry professionals.

"The WBPC is one of the top oil conferences in the country. We have an incredible lineup of speakers," said Ron Ness, President of the North Dakota Petroleum Council, the lead organizer of this year's conference. "We are excited to feature the latest technologies that have helped turn the Bakken into a world-class resource and discuss the way forward to help take the Bakken and Williston Basin to the next level."

The conference will feature CEOs and executives from key companies and organizations across the globe including:

- Bob Phillips, CEO of Crestwood Midstream – "Building Gas Capture Infrastructure"
- Chris Kendall, CEO, Denbury Resources – "EOR at Cedar Hills in Bowman County"
- Dan Clark, VP of ConocoPhillips Great Plains Business Unit
- Kelcy Warren, Executive Chairman of Energy Transfer LP
- Mike Sommers, President and CEO of API – "The State of American Energy"

Click [here](#) to view the agenda.

WBPC is partnering with Sanford Health Bismarck to host a COVID-Conscious conference. Meeting organizers plan to monitor the situation and take recommended precautions to ensure the health and safety of all conference attendees.



LEC Annual Meeting Set for April 22 Registration Now Open for In-Person Event

The Lignite Energy Council has announced that registration is now open for an in-person OR virtual annual meeting in Bismarck.

A Lignite Reception is set for Wednesday, April 21, to be followed with LEC's annual meeting on April 22.

"We haven't seen many of you in so long and we are very much looking forward to seeing you in person OR virtually at either or both of our two events that will comprise the two-day membership gathering and informational sessions," the group said in an email announcing that registration is open.

The Lignite Reception is new this year and will feature light hors d'oeuvres, two complimentary beverages, dinner and entertainment as well as networking.

To register, click [here](#). For event sponsorship information, click [here](#).



Quick Connect

- Agency reverses Trump-era oil rights ruling snubbing tribes – [Associated Press](#)



- KX Conversation: Sen. Cramer on the energy industry in ND -- [KXMB-TV](#)
- Mineral owners take oil companies to court over royalty deductions -- [Williston Herald](#)
- Need for disputed pipeline argued in Minnesota appeals court -- [Associated Press](#)
- Oil and gas industry has huge impact on state's economy -- [McKenzie County Farmer](#)
- Domestic Energy Producers Alliance: Interview with Ron Ness -- [YouTube](#)
- EXPLAINER: Why is Biden halting federal oil and gas sales? -- [Associated Press](#)
- ND Legacy Fund poised to take big step for in-state investments -- [Bismarck Tribune](#)
- Potential loggerheads between ND House, Senate over bonding -- [Prairie Public Radio](#)
- Armstrong: We can't win fight without winning elections -- [Dickinson Press](#)
- House Committee holds hearing on annual legislative sessions -- [KXMB-TV](#)
- North Dakota lawmakers set to give themselves a pay raise -- [Associated Press](#)
- Bill for filling dead election victors' seats goes to governor -- [Bismarck Tribune](#)
- Senate reverses itself, defeats bill on polling places -- [Prairie Public Radio](#)
- Bill shields audit information before possible prosecution -- [Associated Press](#)
- ND House defeats 'primary' seat belt bill on tight vote -- [Prairie Public Radio](#)
- North Dakota warned Ten Commandments bill will spur lawsuits -- [Associated Press](#)
- Leaders aim to tune how legislator misbehavior is handled -- [Minot Daily News](#)
- Top ND Indian Affairs official to resign, join Sanford Health -- [Bismarck Tribune](#)
- Scott Davis reflects on 12 years as Indian Affairs Commissioner -- [KXMB-TV](#)
- Commission approves agreement to bring Delta Airlines back to Williston -- [Williston Herald](#)
- Williston Fire Dept donates \$32K worth of equipment to Glenburn -- [KXMB-TV](#)
- Five things to know about the API Chili Cook off on Saturday -- [Williston Herald](#)
- Experts explain why gas prices are rising in North Dakota -- [KFYR-TV](#)
- Oil industry pushes back as Biden launches review of federal drilling -- [Reuters](#)
- Don't ban fossil fuels: Absolutism in climate change is a vice -- [Forbes](#)
- Utilities continue to increase spending on the electric transmission system -- [EIA](#)
- 'Busy on other fronts' White House without Trump stays quiet on OPEC -- [Reuters](#)
- SEC unbound: Yet more regulatory creep expected to come with Biden -- [Yahoo News](#)
- Funding infrastructure Investment: Will there be a trucking tax? -- [IER](#)
- The long road to oil demand recovery is full of big obstacles -- [Rigzone](#)
- Oil producer Orintiv to sell Eagle Ford assets for \$880 million -- [Reuters](#)
- In 2020, China's refineries processed more crude oil than U.S. refineries -- [EIA](#)
- API, largest U.S. oil and gas trade group, backs carbon price -- [Reuters](#)
- China thrives on fossil fuels, while the rest of the world hopes -- [IER](#)



Factoid of the Week

The Dakota Access Pipeline has not impacted groundwater in any of the four states where it is located since going into service in June 2017. It crosses under the Missouri River at a minimum depth of 95 feet below the riverbed. The disputed area between Morton and Emmons County that could potentially shut down the entire length of the 1,172 mile pipeline is just over 1,000 feet of the path, and is controlled by the U.S. Army Corps of Engineers.



Source: [Dakota Access Pipeline: The Facts](#)



Upcoming Events

March 17 - 31, 2021

[ND Reclamation Webinar Series](#)

Virtual Event

March 27, 2021

[40th Annual Williston API Chili Cook-Off](#)

Williston

March 27, 2021

[Gumbo Cookoff - Dickinson API](#)

Dickinson

March 30, 2021

[North Dakota Historical Commission](#)

[North Dakota Industrial Commission](#)

via Microsoft Teams

April 6, 2021

[Corps of Engineers meeting on reservoir operations](#)

Virtual meeting

April 7, 2021

[ND State Fair Board](#)

State Fair Center - Boardroom

April 20 - 22, 2021

[Gravel Quality 3 P's: Prospecting, Production and Performance](#)

Valley City, Granville, Dickinson

April 21 - 22, 2021

[Lignite Energy Council Annual Meeting](#)

Hydrid

May 6, 2021

[Western Roads Roundtable](#)

Dunn County Highway Shop - Halliday

May 6 - 7, 2021

[Williston Economic Development Summit](#)

Williston

May 11 - 13, 2021

[Williston Basin Petroleum Conference](#)

Bismarck

Oil prices and rig count

March 26, 2020



WTI Crude: \$60.97

Brent Crude: \$64.57

Natural Gas: \$2.56

North Dakota Active Oil Rigs: 14 (Down 2) 3/26/2020 -- 48 rigs

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11093

Senator,

STOP giving tax exemptions to wealthy corporations and taxing the people!

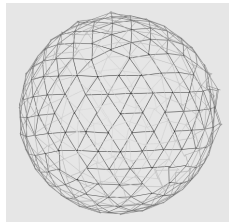
If tax exemptions are going to go to rich coal companies then the citizens should get a dividend every year from these companies because they in sense have been affected by this coal company!

Governments need to stop throwing our money away on rich corporations.

Thank you,

--

Mitchell S. Sanderson



3-31-21

RE: Testimony in Opposition to HB 1412

HB 1412 creates a tax cut of approximately \$100 million for coal conversion facilities over the next 5 years.

As there are no indications within HB 1412 where this approximately \$100 million deficit will be recovered, HB 1412 also constitutes a \$100 million tax increase on the citizens and taxpayers of North Dakota.

This tax increase of \$100 million over 5 years to bailout one industry is at a scale that should require the consent of the citizens of North Dakota.

As we struggle to balance a budget this biennium, and after taking out a loan against the Legacy Fund last biennium to pay for our budget shortfall that session, it would seem that North Dakota lawmakers have become accustomed to spending more money than they possess. This is a slippery slope towards insolvency and surprise tax increases in the future.

As such, I urge a DO NOT PASS on HB 1412. We simply do not have \$100 million laying around to bailout coal conversion facilities.

Sincerely,
Ryan Warner
701.426.6174



Bill Number	Name	Lobbyist #	Support	Oppose	Neutral
1412	Mark B Bring, Director of Legislative Affairs	61	X		

We support HB 1412 and subscribe to the testimony offered by the Lignite Energy Council, in which our company is a major member. We commend the bill sponsors for considering ways to reduce the cost of fuel necessary to generate electricity. Ultimately, this benefits electric consumers and positions the lignite industry for greater competitiveness in the energy marketplace.

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1412

4/9/2021

Senate Appropriations Committee

Relating to an exemption from the coal conversion facilities privilege tax and the imposition of a lignite research tax.

Senator Holmberg opened the committee work at 9:23 AM.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.**

Discussion Topics:

- Two-year tax break sunset clause

Senator Hogue explained the sunset clause.

Senator Mathern moved a 2-year tax break sunset.

Senator Heckaman second.

<i>Senators</i>		<i>Senators</i>	
Senator Holmberg	N	Senator Hogue	N
Senator Krebsbach	N	Senator Oehlke	N
Senator Wanzek	N	Senator Poolman	N
Senator Bekkedahl	N	Senator Rust	N
Senator Davison	N	Senator Sorvaag	N
Senator Dever	N	Senator Heckaman	Y
Senator Erbele	N	Senator Mathern	Y

Roll Call vote 2-12-0 Motion failed.

Senator Hogue moved Do Pass on HB 1412.

Senator Wanzek second.

<i>Senators</i>		<i>Senators</i>	
Senator Holmberg	Y	Senator Hogue	Y
Senator Krebsbach	Y	Senator Oehlke	Y
Senator Wanzek	Y	Senator Poolman	Y
Senator Bekkedahl	Y	Senator Rust	Y
Senator Davison	Y	Senator Sorvaag	Y
Senator Dever	Y	Senator Heckaman	Y
Senator Erbele	Y	Senator Mathern	N

Roll Call vote 13-1-0 Motion passed.

Senator Holmberg closed the committee work at 9:29 AM.

Rose Laning, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1412, as amended: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB
1412, as amended, was placed on the Fourteenth order on the calendar.