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Y. Costa Richardson
Operator's Signature

10/16/03
Date

2003 HOUSE FINANCE AND TAXATION

HCR 3061

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Yolanda Richardson
Operator's Signature

10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3061

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date February 26, 2003

Tape Number	Side A	Side B	Meter #
1	X		25.2
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. DROVDAL, VICE-CHAIR Called the hearing to order.

REP. AL CARLSON, FARGO Introduced the resolution and explained some of the background on the resolution. This resolution deals with the taxation of electric utilities. For the past five years, he was chairman of the Electric Utility Competition Committee. What they attempted to do in that committee, as they watched other states involved in the deregulation of electricity, they found that everyone was making tremendous mistakes as they deregulated. He stated that Montana had destroyed their tax base system, and by watching the news, you see what California did. There are three types of electric utilities in the state, investor owned, co-operatives and municipals. There are fourteen cities which are municipally owned. The tax structure, basically, boils down to the two, investor owned and the co-operatives. We have property which is centrally assessed for one, and we have the gross receipts tax system for the other, the co-operatives being the gross receipts tax. The committee attempted to find a way to

Page 2

House Finance and Taxation Committee

Bill/Resolution Number HCR 3061

Hearing Date February 26, 2003

uniformly tax all of them. Gave an explanation of the problems they encountered in finding a uniform tax. The goal is to find one tax system for all electrical utilities.

REP. KELSH Related to the first line of the resolution, "directing the Legislative Council to study" was it your intention that this would be a mandated study?

REP. CARLSON Yes it would be. During the interium, we were assigned to deregulation, that was our mission for the six years the committee was in existence. That mandate turned from deregulation to taxation after the first biennium. Last session, when the TIA bill was introduced in the Senate, they said now, we will add this to your plate as well. The intent is, not to just lay it out there, but to study it.

REP. WINRICH It sounds like this issue has been studied already, by your own description, the committee has done a great deal of work looking at these issues and wasn't able to come to any concensus in six years, is it realistic to get the job done in two years?

REP. CARLSON I think we have come ninety percent of the way. I can't tell you we will have a uniform agreement on the whole process. We asked the committee to bring us two tax proposals, and they each did, and when you looked at them, they weren't all that different. The main objective was, as a state we have chosen not to spend any less money on our programs, so the first goal is to maintain the revenue stream. We had to draft something that is revenue neutral. I think that was done. We possibly would have had a bill, had we not had two new members on our committee. We only met three times. The new members felt they didn't know enough about it to vote on it.

HARLAN FUGLESTEN, COMMUNICATIONS & GOVERNMENT RELATIONS

DIRECTOR OF THE ND ASSN OF RURAL ELECTRIC COOPERATIVES Testified in

Page 3

House Finance and Taxation Committee

Bill/Resolution Number HCR 3061

Hearing Date February 26, 2003

support of the resolution. See attached written testimony plus a copy of a unified property tax replacement plan.

REP. KLEIN Do you think the structures are similar enough, on these IOU and REC's, that we will be able to put a value on the taxes that is equitable, to me it seems like there is quite a bit of difference, how will you address that?

HARLAN FUGLESTEN We both pay property taxes. We pay them on a different basis. With respect to the structure, I don't think that is an insurmountable area. Investor owned utilities pay something like six million dollars, we pay about seven million dollars in taxes, we are talking about eleven or twelve million dollars in taxes. We know what the fiscal impact is. We think we can arrive at a fiscal note that would be fair.

DENNIS BOYD, ON BEHALF OF MDU RESOURCES GROUP. Was not really testifying in support, at least not as the resolution is written. He stated he objected to a couple of Whereas's in the resolution. He stated he had amendments prepared to address those concerns. Gave some background history relating to the six year history of working on this problem. He stated they pay property taxes under two different systems. Their property taxes are centrally assessed, and then apportioned back to the political subdivisions. The rural electric co-operatives pay per mile transmission line tax, and a two percent gross receipts tax, both of which are in lieu of property taxes. We are taxed very differently, and it is very confusing. The one remaining tax that has not been addressed, is the corporate income tax which we pay, and they do not pay. Corporate income taxes should be assessed on them, removed from us, or figured into the equation.

Mr. Boyd presented amendments to the committee and explained them.

Page 4

House Finance and Taxation Committee

Bill/Resolution Number HCR 3061

Hearing Date February 26, 2003

The amendments reflect the emphasis of this study on property taxes, and includes all of the remaining taxes, which includes corporate income tax.

REP. NICHOLAS Stated, obviously, the IOU's pay the corporate income taxes, is there any reason we should include the tax that I pay as a consumer of the rural electric also?

DENNIS BOYD I presume the taxes paid by the rural electric co-operatives are reflected in the rates that you pay when you buy their electricity, just as they are in our rates. Those taxes, basically, are the gross receipt tax and the per mile transmission line tax.

REP. NICHOLAS The consumer pays the same tax, or what your tax, in the form of a dividend is, clarify that.

DENNIS BOYD That is another touchy area, you brought up dividends, which has nothing to do with this. I don't care, if you want to include that. In my mind, there are two types of taxes remaining, property taxes and income taxes.

With no further testimony, the hearing was closed.

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Yolanda Rickford
Operator's Signature

10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3061

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 3, 2003

Tape Number	Side A	Side B	Meter #
1		x	44.4 Recorder did not work
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

COMMITTEE ACTION

REP. IVERSON Presented amendments to the committee which were prepared by Dennis Boyd with MDU Resources Group.

REP. IVERSON Made a motion to adopt the amendments as presented.

REP. GROSZ Second the motion.

REP. WINRICH Stated he would resist the amendments, as he felt the amendments would set the procedure backwards.

REP. SCHMIDT Felt the amendments would destroy everything the Electric Industry Competition Committee members had worked on for the past six years.

MOTION TO ADOPT THE AMENDMENTS FAILED 7 YES 7 NO

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La Costa Rickford
Operator's Signature

10/16/03
Date

Page 2

House Finance and Taxation Committee

Bill/Resolution Number **HCR 3061**

Hearing Date March 3, 2003

REP. WINRICH Made a motion for a **DO PASS**.

REP. WEILER Second the motion. **MOTION CARRIED**

11 YES 3 NO 0 ABSENT

REP. HEADLAND Was given the floor assignment.

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La Costa Rickford
Operator's Signature

10/6/03
Date

Dennis
Boyd

Proposed Amendments to House Concurrent Resolution No. 3061

Page 1, Line 2: Replace "replace the" with "tax"; replace "property tax system" with "providers"

Page 1, Line 3: Delete "replacement"; delete "for electric utility property"

Page 1, Between lines 7 and 8: Insert "WHEREAS, investor-owned electric utilities are subject to state and federal corporate income taxes; and"

Page 1, Line 8: Delete "property"

Page 1, Line 9: Insert after among "the state or North Dakota and its"

Page 1, Line 15: Delete "property" and "replacement"

Page 1, Line 18: Delete "property"

Page 1, Line 20: Delete entire line

Page 1, Line 21: Delete entire line

Page 1, Line 23: Delete "and"

Page 2, Line 1: Delete entire line

Page 2, Line 2: Delete entire line

Page 2, Line 3: Delete entire line

Page 2, Line 7: Replace "replace the" with "tax"; replace "property tax system" with "providers; delete "replacement"

Page 2 Line 8: Delete "for electric utility property"

38391.0101
Title.

Prepared by the Legislative Council staff for
Representative Iverson
February 26, 2003

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3061

Page 1, line 2, replace "replace the" with "tax" and replace "property tax system" with "providers"

Page 1, line 3, remove "replacement" and remove "for electric utility property"

Page 1, after line 7, Insert:

"WHEREAS, investor-owned electric utilities are subject to state and federal corporate income taxes; and"

Page 1, line 8, remove "property"

Page 1, line 9, after the first "among" Insert "the state of North Dakota and its"

Page 1, line 15, remove "property" and remove "replacement"

Page 1, line 18, remove "property"

Page 1, line 19, remove "replacement"

Page 1, remove lines 20 and 21

Page 1, line 23, remove "and"

Page 2, remove lines 1 through 3

Page 2, line 7, replace "replace the" with "tax", replace "property tax system" with "providers", and remove "replacement"

Page 2, line 8, remove "for electric utility property"

Renumber accordingly

failed

Date:
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3061

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment failed

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR	✓				
CLARK		✓			
FROELICH		✓			
GROSZ	✓				
HEADLAND		✓			
IVERSON	✓				
KELSH		✓			
KLEIN	✓				
NICHOLAS		✓			
SCHMIDT		✓			
WEILER	✓				
WIKENHEISER	✓				
WINRICH		✓			

Total (Yes) 7 No 7

Absent _____

Floor Assignment _____

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

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La Costa Rickford
Operator's Signature

10/6/03
Date

FR

Date: **3-3-03**
Roll Call Vote #: **1**

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *HCR 3061*

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass

Motion Made By

Rep. Winrich

Seconded By

Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR		✓			
CLARK	✓				
FROELICH		✓			
GROSZ	✓				
HEADLAND	✓				
IVERSON		✓			
KELSH	✓				
KLEIN	✓				
NICHOLAS	✓				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH	✓				

Total (Yes)

11

No

3

Absent

Floor Assignment

Rep. Headland

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

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Salvatore Riccio
Operator's Signature

10/16/03
Date

REPORT OF STANDING COMMITTEE (410)
March 3, 2003 3:47 p.m.

Module No: HR-37-3795
Carrier: Headland
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HCR 3061: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO
PASS (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HCR 3061 was placed on
the Tenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-37-3795

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Richard Belter
Operator's Signature

10/16/03
Date

2003 SENATE FINANCE AND TAXATION

HCR 3061

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Salvatore Riccardi
Operator's Signature

10/16/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3061

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 17, 2003

Tape Number	Side A	Side B	Meter #
1	X		36-2355
1	X		4330-4690
Committee Clerk Signature <i>Mary Kay Lachar</i>			

Minutes:

Senator Urlacher opened the hearing on HCR3061. All committee members are present. This bill This resolution directs the study of the feasibility and desirability of enacting legislation to replace the existing electric utility property tax system with a fair and uniform replacement tax system for electric utility property.

Representative Al Carlson (mtr #36) - Introduced HCR3061. This resolution deals with the taxation system for utilities. Referenced the interim electric utilities committee and gave some of the six year history of the committee. Dealt with the taxation issues and mechanics of deregulation of the electric industry. First thing the committee needed to do was protect the revenue base, which was significant for the state of ND. In the past four years the committee has been studying taxation, there are two different systems that are taxed, investor owned and cooperatives. One is centrally assessed, one is on gross receipts. Dealing with making a common tax system for both. Still feel that is a worthy goal and that is what this resolution does.

Page 2

Senate Finance and Taxation Committee

Bill/Resolution Number HCR3061

Hearing Date March 17, 2003

Directs us to continue the process to look at a common system for electric utilities taxation.

Urges the support of the committee.

Senator Seymour (mtr #361) - It has taken six years and didn't get the job done. What will an additional year or two make.

Representative Carlson (mtr #370) - That will help. The Territorial Integrity was part of the study, haven't really studied taxation before. Spent most of the time on the TIA.

Senator Larry Robinson (mtr #504) - Testified in support of HCR3061. Supports for the same reasons that Representative Carlson talked about. This is a complex issue. Feels the interim committee has made progress in the area of getting a handle on the present system. Feels we are within a few meetings of resolving. Interim committee has taken a conservative approach and has moved slowly. Supports the proposal as it is written. Feels this resolution would enable a bill to be drafted for the '05 legislative session.

Senator Urlacher (mtr #747) - The complexity of the issue is the driving force to continue.

Senator Robinson (mtr #753) - That is a big issue. Also the importance of the issue. Regarding the revenue side, we can ill afford to make a mistake. We want to be fair, it needs to be uniform.

Harlan Fuglesten, Communications and Government Relations Director for the North Dakota

Association of Rural Electric Cooperatives (mtr #878) - Testified in support of HCR3061. For the past five years, our members have worked diligently with the Electric Industry Competition Committee to arrive at a common property tax replacement system on electric transmission and distribution facilities that would be fair and equitable for utilities and for political subdivisions.

Written testimony is attached.

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Senate Finance and Taxation Committee

Bill/Resolution Number HCR3061

Hearing Date March 17, 2003

Dennis Boyd, MDU Resources Group (mtr #1465) - Not opposed to a study of the taxes paid by utilities. Does object to the forum of the current study resolution, it focuses only on property taxes. In response to Senator Seymour's question, although the committee did not advance any bills during its six years, it was a very excellent forum for the discussion of ideas. As a result of the discussions that did take place in that committee, there are three bills that have passed through the legislature. Went over the content of those three bills and their effect. Six years ago it was feared that the fed. would impose deregulation on us. We wanted to move slowly and study the issue. Deregulation will happen one day but won't be anytime soon in ND. A part of that study was to insure that all electric providers are treated equally. Equality includes a equal taxation system for all competitors in the environment, and my objection to this resolution as it is before you is that it focuses only on property taxes and does not include the corporate income tax. Feels ND is leaving approximately 1 million tax dollars on the table by not taxing the REC's with a corporate income tax. Passed out proposed amendments and reviewed the intent. The basic intent is that the study is a study that includes all remaining taxes on the table. Stated that corporate income tax is a difficult issue. Referenced HB1471 and the significant tax increase for MDU that it contains. Asked that the committee adopt the amendments and then would support a do pass.

Senator Urlacher (mtr #2310) - Given no further testimony, closed the hearing.

Senator Urlacher (mtr #4330) - Opened the discussion on HCR3061. Or do we need time to evaluate the amendments. Feels we should be looking at all forms of taxation.

Page 4

Senate Finance and Taxation Committee

Bill/Resolution Number HCR3061

Hearing Date March 17, 2003

Senator Tollefson moved to amend as presented by Dennis Boyd of MDU. Second by Senator Wardner.

Senator Wardner (mtr #4436) - Feels it is a good amendment. Study will end up looking at all taxes.

Roll call vote to amend HCR3061 as proposed. 6 yea, 0 nay, 0 absent.

Senator Urlacher - we have the bill before us as amended.

Senator Wardner moves a Do Pass as Amended. Second by Senator Tollefson.

Roll call vote 6 yea, 0 nay, 0 absent. Carrier is Senator Tollefson.

38391.0102
Title.0200

Adopted by the Finance and Taxation
Committee

March 17, 2003

[Signature]
3-17-03

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3061

Page 1, line 2, replace "replace the existing" with "tax" and replace "property tax system" with "providers"

Page 1, line 3, remove "replacement" and remove "for electric utility property"

Page 1, after line 7, insert:

"WHEREAS, investor-owned electric utilities are subject to state and federal corporate income taxes; and"

Page 1, line 8, remove "property"

Page 1, line 9, after "among" insert "the state and its"

Page 1, line 15, remove "property" and remove "replacement"

Page 1, line 18, remove "property"

Page 1, remove lines 20 and 21

Page 1, line 23, remove "and"

Page 2, remove lines 1 through 3

Page 2, line 7, replace "replace the existing" with "tax", replace "property tax system" with "providers", and remove "replacement"

Page 2, line 8, remove "for electric utility property"

Renumber accordingly

Date:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Finance and Taxation

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Command as Directed

Motion Made By _____ Seconded By _____

[illegible]

Total (Yes) _____ No _____

Absent _____

Floor Assignment

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

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Robert Richardson
Operator's Signature

10/16/03
Date

Date: 3.17.03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3061

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass as amended

Motion Made By Sen. L. L. L. L. Seconded By Sen. Tollefson

Senators	Yes	No	Senators	Yes	No
Senator Urlacher - Chairman	/		Senator Nichols	/	
Senator Wardner - Vice Chairman	/		Senator Seymour	/	
Senator Syverson	/				
Senator Tollefson	/				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Sen. Tollefson

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

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Al Costa Rickford 10/16/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
March 18, 2003 8:04 a.m.

Module No: SR-48-4982
Carrier: Tolletson
Insert LC: 38391.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HCR 3061: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3061 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "replace the existing" with "tax" and replace "property tax system" with "providers"

Page 1, line 3, remove "replacement" and remove "for electric utility property"

Page 1, after line 7, Insert:

"WHEREAS, investor-owned electric utilities are subject to state and federal corporate income taxes; and"

Page 1, line 8, remove "property"

Page 1, line 9, after "among" insert "the state and its"

Page 1, line 15, remove "property" and remove "replacement"

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Page 2, remove lines 1 through 3

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Page 2, line 8, remove "for electric utility property"

Renumber accordingly

2003 TESTIMONY

HCR 3061

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Richard Costa
Operator's Signature

10/16/03
Date

Testimony of Harlan Fuglesten
North Dakota Association of Rural Electric Cooperatives
On HCR 3061
Before the House Finance and Taxation Committee
February 26, 2003

Mr. Chairman and members of the Committee. My name is Harlan Fuglesten, Communications and Government Relations Director for the North Dakota Association of Rural Electric Cooperatives. On behalf of our Association, I rise in support of HCR 3061. Our membership includes five generation and transmission cooperatives and 17 distribution cooperatives. Collectively, our members are responsible for almost 90 percent of the coal-based generation in the state, they own about 60 percent of the privately-owned transmission lines in the state, and they account for more than 40 percent of all retail electric sales in North Dakota. Because of our investment in North Dakota, it is not surprising that electric cooperatives pay the majority of the industry's property taxes or in lieu property taxes.

For the past five years, our members have worked diligently with the Electric Industry Competition Committee to arrive at a common property tax replacement system on electric transmission and distribution facilities that would be fair and equitable for utilities and for political subdivisions. During this time, we worked with representatives of the investor-owned utilities, the municipal utilities, and the tax department to develop statistics that would assist in identifying the revenue impact of various formulas for taxing the industry. In the process of developing tax proposals, the committee requested that any plans presented be revenue neutral in terms of the total tax revenue for political subdivisions. The committee recognized, however, that any new taxing plan would necessarily cause some tax shifting among utilities and political subdivisions. To the extent possible, in formulating tax proposals for consideration by the committee, we attempted to minimize these tax shifts.

The committee made a lot of progress toward developing a unified property tax replacement plan. At its meeting in October, the committee even considered draft legislation of such a plan that received very serious consideration. A copy of this plan is attached to my testimony. The proposed tax plan would have replaced the existing public utility property taxes and high voltage and gross receipts taxes with new graduated transmission line taxes and with distribution taxes based on a two-part formula of kilowatt hour sales and revenue. In the end, however, the majority of the committee did not believe there was sufficient

consensus to proceed with a committee recommendation. Questions that did not receive sufficient study were how these taxes would be redistributed to political subdivisions, and what impact various distribution methods would have on political subdivisions.

During the recent debate on the Territorial Integrity Act, there was discussion about whether cities would receive more property tax benefits from being served by an investor-owned utility or a rural electric cooperative. The subject becomes confusing very quickly because the answer depends not only on the amount each utility pays in taxes but also on how state law distributes these tax revenues. These questions could be avoided if investor-owned utilities and the electric cooperatives paid property taxes on the same basis.

Although the Electric Industry Competition Committee did not advance a comprehensive tax plan for consideration by this legislative assembly, the committee's study did focus attention on some of the deficiencies and drawbacks of the current tax system. As a consequence, there are a couple of bills that committee members advanced this session to help improve the current tax system. One such bill is HB 1348 to set a tax of \$300/mile for new high voltage transmission lines built in the state. This bill recognizes the need to create this tax incentive for new transmission line construction, and any comprehensive tax plan could incorporate this concept. HB 1348 received a unanimous vote in the House and is now in the Senate. Another utility property tax bill is SB 2286 which deals with duplicate gross receipts taxes paid by electric cooperatives. This bill passed the Senate unanimously and will be heard by your committee in the near future. Passage of SB 2286 will help foster more equity in the current system, and thereby make it easier to transition to a common property tax replacement system in the future.

Mr. Chairman and members of the committee, HCR 3061 recognizes that the great progress made by the Electric Industry Competition Committee in revamping a complex electric utility property tax system should not be lost when the committee ceases to exist on August 1. Instead, it is time for an interim taxation committee to complete this important work. We ask for your favorable recommendation on HCR 3061.

Thank you.

Testimony of Harlan Fuglesten
North Dakota Association of Rural Electric Cooperatives
On HCR 3061
Before the Senate Finance and Taxation Committee
March 17, 2003

Mr. Chairman and members of the Committee. My name is Harlan Fuglesten, Communications and Government Relations Director for the North Dakota Association of Rural Electric Cooperatives. On behalf of our Association, I rise in support of HCR 3061. Our membership includes five generation and transmission cooperatives and 17 distribution cooperatives. Collectively, our members are responsible for almost 90 percent of the coal-based generation in the state, they own about 60 percent of the privately-owned transmission lines in the state, and they account for more than 40 percent of all retail electric sales in North Dakota. Because of our investment in North Dakota, it is not surprising that electric cooperatives pay the majority of the industry's property taxes or in lieu property taxes.

For the past five years, our members have worked diligently with the Electric Industry Competition Committee to arrive at a common property tax replacement system on electric transmission and distribution facilities that would be fair and equitable for utilities and for political subdivisions. During this time, we worked with representatives of the investor-owned utilities, the municipal utilities, and the tax department to develop statistics that would assist in identifying the revenue impact of various formulas for taxing the industry. In the process of developing tax proposals, the committee requested that any plans presented be revenue neutral in terms of the total tax revenue for political subdivisions. The committee recognized, however, that any new taxing plan would necessarily cause some tax shifting among utilities and political subdivisions. To the extent possible, in formulating tax proposals for consideration by the committee, we attempted to minimize these tax shifts.

The committee made a lot of progress toward developing a unified property tax replacement plan. The committee spent more than five years studying the issue. During this time,

the committee considered a number of proposals offered by the RECs and the IOUs, including a proposal advanced by the IOUs that included an income tax component, which the committee rejected.

At its meeting in October 2002, the committee considered draft legislation of a property tax replacement plan that received very serious consideration. This plan evolved from a number of proposals the RECs had advanced over the years, and represented, in our view, a compromise on a number of issues. A copy of this plan is attached to my testimony. The proposed tax plan would have replaced the existing public utility property taxes and high voltage and gross receipts taxes with new graduated transmission line taxes and with distribution taxes based on a two-part formula of kilowatt hour sales and revenue. The plan would have raised taxes for some RECs and one IOU and would have lowered taxes for other RECs and IOUs. Overall, however, most tax shifts were quite modest. In the end, however, the majority of the committee did not believe there was sufficient consensus to proceed with a committee recommendation. Questions that did not receive sufficient study were how these taxes would be redistributed to political subdivisions, and what impact various distribution methods would have on political subdivisions.

During the recent debate on the Territorial Integrity Act in the House, there was discussion about whether cities would receive more property tax benefits from being served by an investor-owned utility or a rural electric cooperative. The subject becomes confusing very quickly because the answer depends not only on the amount each utility pays in taxes but also on how state law distributes these tax revenues. These questions could be avoided if investor-owned utilities and the electric cooperatives paid property taxes on the same basis.

Although the Electric Industry Competition Committee did not advance a comprehensive tax plan for consideration by this legislative assembly, the committee's study did focus attention on some of the deficiencies and drawbacks of the current tax system. As a consequence, there were a couple of bills that committee members advanced this session to help improve the current

tax system. One such bill is HB 1348 to set a tax of \$300/mile for new high voltage transmission lines built in the state. This bill recognizes the need to create this tax incentive for new transmission line construction, and any comprehensive tax plan could incorporate this concept. HB 1348 received a unanimous vote in the House and, after a minor clarifying amendment, it also passed the Senate unanimously. Another utility property tax bill is SB 2286 that dealt with duplicate gross receipts taxes paid by electric cooperatives. This bill passed both the Senate and House unanimously and has been sent to the Governor. Adoption of these bills will help foster more equity in the current system, and thereby make it easier to transition to a common property tax replacement system in the future.

Mr. Chairman and members of the committee, HCR 3061 recognizes that the great progress made by the Electric Industry Competition Committee in revamping a complex electric utility property tax system should not be lost when the committee ceases to exist on August 1.

We believe it is time to complete the work of the committee through a final interim study committee. We ask for your favorable recommendation on HCR 3061.

Thank you.

Proposed Amendments to House Concurrent Resolution No. 3061

**Submitted by Dennis Boyd
MDU Resources Group, Inc.**

Page 1, Line 2: Replace "replace the" with "tax"; replace "property tax system" with "providers"

Page 1, Line 3: Delete "replacement"; delete "for electric utility property"

Page 1, Between lines 7 and 8: Insert "WHEREAS, investor-owned electric utilities are subject to state and federal corporate income taxes; and"

Page 1, Line 8: Delete "property"

Page 1, Line 9: Insert after among "the state or North Dakota and its"

Page 1, Line 15: Delete "property" and "replacement"

Page 1, Line 18: Delete "property"

Page 1, Line 20: Delete entire line

Page 1, Line 21: Delete entire line

Page 1, Line 23: Delete "and"

Page 2, Line 1: Delete entire line

Page 2, Line 2: Delete entire line

Page 2, Line 3: Delete entire line

Page 2, Line 7: Replace "replace the" with "tax"; replace "property tax system" with "providers; delete "replacement"

Page 2 Line 8: Delete "for electric utility property"

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Introduced by

1 A BILL for an Act to create and enact chapters 57-33.2 and 57-60.1 of the North Dakota
2 Century Code, relating to taxation of generation, distribution, and transmission of electric power;
3 to amend and reenact sections 57-02-27.3, 57-06-02, 57-06-03, and 57-06-05, subsections 13
4 and 14 of section 57-06-06, and sections 57-06-18, 57-06-19, 57-06-20, and 57-06-21 of the
5 North Dakota Century Code, relating to assessment and imposition of taxes against electric
6 power companies; to repeal sections 57-06-07 and 57-06-17 and chapters 57-33 and 57-33.1 of
7 the North Dakota Century Code, relating to taxation of electric power companies, rural electric
8 cooperatives, and cooperative electrical generating plants; to provide a penalty; to provide a
9 continuing appropriation; and to provide an effective date.

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

11 **SECTION 1. AMENDMENT.** Section 57-02-27.3 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **57-02-27.3. Taxable valuation of ~~centrally-assessed~~ wind turbine electric**
14 **generators.** A ~~centrally-assessed~~ wind turbine electric generation unit with a nameplate
15 generation capacity of one hundred kilowatts or more, on which construction is completed
16 before January 1, 2011, must be valued at three percent of assessed value to determine
17 taxable valuation of the property.

18 **SECTION 2. AMENDMENT.** Section 57-06-02 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **57-06-02. Definitions.** As used in this chapter, unless the context ~~and or~~ subject
21 matter otherwise clearly ~~require~~ requires:

22 1. "Company" includes any individual, copartnership, business trust, corporation,
23 limited liability company, joint-stock company, or association.

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John Costa Rickford
Operator's Signature

10/16/03
Date

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2. "Gas company" means a company owning, holding, or operating under lease or otherwise any property in this state for the purpose of furnishing gas, or distributing the same, for public use, by means of pipelines.

3. "Pipeline company" means a company owning, holding, or operating under a lease or otherwise any property in this state for the purpose of transporting crude oil, natural gas, processed gas, manufactured gas, refined petroleum products, or coal and related products for public use.

~~4. "Power company" means a company owning or holding, under lease or otherwise, any property in this state and operating it for the purpose of furnishing or distributing electric light, electric power, or steam heat for public use.~~

SECTION 3. AMENDMENT. Section 57-06-03 of the North Dakota Century Code is amended and reenacted as follows:

57-06-03. Operative property defined. The term "operative property" means any and all property reasonably necessary for use by any company mentioned in section 57-06-02 exclusively in the operation and conduct of the particular kind of business engaged in by it. Any such property held under a contract for the purchase thereof must be considered for all purposes of taxation as the property of the company holding the same. Any such property, real or personal, held by any company under a rental lease must be assessed by the state board of equalization in the name of such company, if an agreement in writing between the owner thereof and such company is filed with the tax commissioner requesting that such leased property be so assessed. Whenever any property of a public utility company required to be assessed by the state board of equalization under the provisions of this chapter is used partly for operative purposes and partly for other purposes, either by the company or by others, all such property that is not exempt under chapter 57-33.2 must be assessed by the state board of equalization as operative property of the company.

SECTION 4. AMENDMENT. Section 57-06-05 of the North Dakota Century Code is amended and reenacted as follows:

57-06-05. Annual assessment. The state board of equalization, at its annual meeting in August, shall assess the franchises and all operative property of power, gas, pipeline, and other companies, covered by this chapter, with reference to the value thereof on the first day of January of that year.

SECTION 5. AMENDMENT. Subsections 13 and 14 of section 57-06-06 of the North Dakota Century Code are amended and reenacted as follows:

13. A description of the personal property, including moneys and credits, held by the company as a whole system, and the part thereof apportioned to the ~~line~~ company's property in North Dakota.

14. The whole length of the ~~lines~~ pipelines of the system operated by the company and the length of the ~~lines~~ pipelines in North Dakota, whether operated as owner, lessee, or otherwise. The length of the ~~line~~ pipeline operated for the whole system and in North Dakota shall be separately reported.

SECTION 6. AMENDMENT. Section 57-06-18 of the North Dakota Century Code is amended and reenacted as follows:

57-06-18. Allocation of assessment of other operative property. All lots and parcels of real estate, not including rights of way, with the buildings, structures, and improvements thereon, ~~dams and powerhouses, substations, shops, and other buildings,~~ electric power, electric light, gas, or steam distribution systems, and other personal property ~~not a part of any single and continuous property,~~ must be separately assessed and the assessment must be allocated to the taxing district in which the property is located. The assessment by the state board of equalization covering the property must give a legal description of the real estate and a general description of other property sufficient for identification. The assessment by the board of the operative property must cover the aggregate valuation of the property of any company in any municipality or taxing district of the state as a unit and need not be made in detail.

SECTION 7. AMENDMENT. Section 57-06-19 of the North Dakota Century Code is amended and reenacted as follows:

57-06-19. Certification of assessment. The state tax commissioner shall certify to the county auditor of each county in which the company assessed owns property:

1. The ~~the~~ total assessed valuation of the company's property ~~not constituting a single and continuous line,~~ with information as to the amount in each assessment district within such county.

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1 2. ~~The number of miles [kilometers] of line, valuation per mile [1.61 kilometers], and~~
2 ~~total valuation of any property constituting a single and continuous line within each~~
3 ~~taxing district in each county.~~

4 **SECTION 8. AMENDMENT.** Section 57-06-20 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-06-20. Duties of county auditor.** The county auditor, after receiving the statement
7 from the tax commissioner, shall enter the valuations mentioned in section 57-06-19 in the
8 assessment record of the several taxing districts of the county ~~into or through which the lines~~
9 ~~extend, or~~ in which the property is located. Taxes must be extended upon such percentage of
10 full values as is required by law and at the same rate and in the same manner as taxes upon
11 tangible personal property in such taxing districts.

12 **SECTION 9. AMENDMENT.** Section 57-06-21 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **57-06-21. Reports to county auditors.** On or before the first day of May of each year,
15 each company required to be assessed under this chapter shall file with the county auditor of
16 each county within which any part of its operative property is located a report giving a general
17 description of all its property located within the county, with operative and nonoperative property
18 listed separately. Such report must give the length of the ~~line or lines~~ pipelines within the
19 county and the length in each taxing district of each ~~line~~ pipeline constituting part of a single
20 and continuous ~~line~~ pipeline or property. The company also shall file with the county auditor a
21 map of all of its ~~lines~~ pipelines within the county showing clearly the length of its ~~lines~~ pipelines
22 within each taxing district as of January first of that year and shall file revised maps in
23 subsequent years if changes have been made in its operative property. To facilitate the making
24 of such maps, the county auditor annually, on or before the first day of April, shall mail to the
25 company an accurate map of the county showing the boundaries of each assessment district
26 and school district.

27 **SECTION 10.** Chapter 57-33.2 of the North Dakota Century Code is created and
28 enacted as follows:

29 **57-33.2-01. Definitions. As used in this chapter:**

30 1. "Commissioner" means the state tax commissioner.

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2. "Company" means an individual, partnership, corporation, limited liability company, limited liability partnership, cooperative, or any other organization or association engaged in generation, distribution, or transmission of electricity.

3. "Distribution company" means a company engaged in distribution of electricity for retail sale to consumers in this state through distribution lines. However, a municipal electric utility operated under chapter 40-33 is not a distribution company for purposes of this chapter and is not subject to taxes under section 57-33.2-03.

4. "Distribution line" means a line to transmit electricity, which operates at a voltage of less than forty-one and six-tenths kilovolts.

5. "Retail sale" means transfer of electricity to the end-use consumer for consideration.

6. "Transmission company" means a company engaged in transmission of electricity through transmission lines.

7. "Transmission line" means a line to transmit electrical energy which operates at a voltage of forty-one and six-tenths kilovolts or more but does not include a line owned or operated by an agency or instrumentality of the United States government.

57-33.2-02. Transmission line mile tax. Transmission lines are subject to annual taxes per mile [1.61 kilometers] or fraction of a mile based on their nominal operating voltages on January first of each year, as follows:

1. For transmission lines that operate at a nominal operating voltage of less than fifty kilovolts, a tax of seventy-five dollars.

2. For transmission lines that operate at a nominal operating voltage of fifty kilovolts or more, but less than one hundred kilovolts, a tax of one hundred fifty dollars.

3. For transmission lines that operate at a nominal operating voltage of one hundred kilovolts or more, but less than two hundred kilovolts, a tax of three hundred dollars.

4. For transmission lines that operate at a nominal operating voltage of two hundred kilovolts or more, but less than three hundred kilovolts, a tax of four hundred fifty dollars.

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1 5. For transmission lines that operate at a nominal operating voltage of three hundred
2 kilovolts or more, but less than four hundred kilovolts, a tax of six hundred dollars.

3 6. For transmission lines that operate at a nominal operating voltage of four hundred
4 kilovolts or more, a tax of nine hundred dollars.

5 57-33.2-03. Distribution taxes. A distribution company is subject to taxes consisting
6 of the following two components:

7 1. A tax at the rate of fifty-four cents per megawatt-hour for retail sale of electricity
8 delivered through a distribution line to a consumer in this state during the calendar
9 year.

10 2. A tax at the rate of ninety-two hundredths of one percent of the company's gross
11 revenue from retail sales of electricity delivered through a distribution line to a
12 consumer in this state during the calendar year.

13 Distribution taxes do not apply to the sale of electricity to any coal conversion facility subject to
14 taxation under chapter 57-60.

15 57-33.2-04. Delinquent taxes. Taxes under this chapter are due January first for the
16 preceding calendar year and are delinquent if not received by the commissioner by March first
17 following the due date.

18 57-33.2-05. Taxes in lieu of property taxes. Taxes imposed by this chapter are taxes
19 upon the privilege of doing business in this state and are in lieu of all real or personal property
20 taxes levied by the state or any of its political subdivisions upon real or personal property to the
21 extent the property is owned and used directly by a company in the operation and conduct of
22 the business of generation or delivery of electricity through distribution or transmission lines.
23 Taxes under this chapter are not in lieu of property taxes on the following:

24 1. Taxes on a wind turbine electric generation unit subject to valuation under section
25 57-02-27.3.

26 2. Taxes on a coal-powered electrical generating plant that is not subject to coal
27 conversion facility privilege taxes under chapter 57-60.

28 3. Property taxes on land on which generation, transmission, or distribution buildings,
29 structures, or improvements are located, including buildings, structures, or
30 improvements used for administrative purposes relating to generation,
31 transmission, or distribution of electricity.

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4. City franchise fees on public utilities.

This chapter may not be construed to abridge the power of a governing board of a city to franchise the construction and operation of a public utility.

57-33.2-06. Taxes paid on worthless accounts. Distribution taxes paid from retail sales to accounts found to be worthless and charged off in accordance with generally accepted accounting principles may be credited against subsequent payment of taxes under section 57-33.2-03. If accounts that have been claimed as a credit under this section are later collected, tax under section 57-33.2-03 must be paid on the amount collected.

57-33.2-07. Powers of commissioner. The commissioner may require any company subject to taxes imposed by this chapter to furnish any information the commissioner deems necessary to correctly compute the amount of the tax under this chapter. The commissioner may examine the books, records, and files of a company. The commissioner may conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any company or person and may make any investigation deemed necessary to full and complete disclosure of facts necessary to administer the tax under this chapter. The commissioner may make rules in compliance with chapter 28-32 as necessary for administration of this chapter.

57-33.2-08. Commissioner to audit reports and state board of equalization to assess tax. The tax commissioner may audit reports of distribution companies and transmission companies not later than three years after the due date of the report, or three years after the report was filed, whichever period expires later. The state board of equalization shall assess the tax and, if any additional tax is found due, the tax commissioner shall notify the taxpayer in detail as to the reason for the increase.

57-33.2-09. Transmission line location reports and maps to county auditors. By May first of each year, each transmission company shall file with the county auditor of each county in which any of its transmission line is located a report showing the length and nominal operating voltage of its transmission line within the county and within each taxing district within the county. A transmission company shall file with the report a map showing all of its transmission line within the county and showing the length and nominal operating voltage of its transmission line within each taxing district in the county. Reports and maps under this section must be based upon nominal operating voltage, ownership, and location of transmission lines

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1 as of January first of each year. By April first of each year, the county auditor shall provide
2 each transmission company having transmission line in the county with an accurate map of the
3 county showing the boundaries of each taxing district in the county.

4 57-33.2-10. Filing of reports and maps with commissioner. By May first of each
5 year, each transmission company, distribution company, and each company that is both a
6 transmission company and a distribution company shall file with the commissioner:

7 1. Information about the company, including:

8 a. The company name.

9 b. Whether the company is an individual, partnership, association, cooperative,
10 corporation, limited liability company, or other legal entity and the state or
11 country and date of original organization and any reorganization,
12 consolidation, or merger with references to specific laws authorizing such
13 actions.

14 c. The location of its principal office.

15 d. The place where the company's books, papers, and accounts are kept.

16 e. The name and mailing address of the president, secretary, treasurer, auditor,
17 superintendent, general manager, and all other general officers.

18 f. The name and mailing address of the chief officer or managing agent and any
19 general officers of the company who reside in this state.

20 2. A copy of each report and map filed with any county auditor under section
21 57-33.2-09.

22 3. A report on the megawatt-hours of electricity delivered for retail sale to consumers
23 in each county during the most recently completed calendar year.

24 4. A report on the company's gross revenue from retail sale of electricity delivered
25 through a distribution line to consumers in each county in this state during the most
26 recently completed calendar year.

27 5. Any other information the commissioner requires.

28 57-33.2-11. Deficiency, protest, and appeal.

29 1. When the amount of taxes due is understated on a return because of a
30 mathematical or clerical error, the tax commissioner shall notify the company of the

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1 error and the amount of additional taxes due. This notice is not a notice of
2 deficiency and the company has no right to protest.

3 2. If upon an audit the tax commissioner finds additional taxes due, the tax
4 commissioner shall notify the company and the state board of equalization of the
5 deficiency in the tax amount. A notice of deficiency must be sent to the company
6 by first-class mail and must state the amount of additional taxes due and set forth
7 the reasons for the increase.

8 3. A company has thirty days from the date of mailing of the notice of deficiency to file
9 a written protest with the state board of equalization objecting to the assessment of
10 additional taxes due. The protest must set forth the basis for the protest and any
11 other information that may be required by the state board of equalization. If a
12 company fails to file a written protest within the time provided, the amount of
13 additional taxes stated in the notice of deficiency becomes finally and irrevocably
14 fixed. If a company protests only a portion of the tax commissioner's finding, the
15 portion that is not protested becomes finally and irrevocably fixed.

16 4. If a protest is filed, the state board of equalization shall reconsider the assessment
17 of additional taxes due.

18 5. Within six months after the protest is filed, the state board of equalization shall mail
19 to the company a notice of reconsideration and assessment which must respond to
20 the company's protest and assess the amount of any additional taxes due. The
21 amount set forth in that notice becomes finally and irrevocably fixed unless the
22 company brings an action against the state in district court within six months of the
23 mailing of the notice of reconsideration and assessment.

24 57-33.2-12. Claims for credit or refund.

25 1. A company may file a claim for credit or refund of an overpayment of any tax
26 imposed by this chapter within six years after the due date of the return or within
27 six years after the return was filed, whichever period expires later.

28 2. A claim for credit or refund must be made by filing with the tax commissioner an
29 amended return, or other report as prescribed by the tax commissioner,
30 accompanied by a statement outlining the specific grounds upon which the claim
31 for credit or refund is based.

Date No. 9

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Richard
Operator's Signature

10/6/03
Date

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1 3. The tax commissioner shall notify the company if the state board of equalization
2 disallows all or part of a claim for credit or refund. The decision of the state board
3 of equalization denying a claim for credit or refund is final and irrevocable unless
4 the company brings an action against the state in district court within six months of
5 the mailing of the notice denying the claim for credit or refund.

6 57-33.2-13. Preservation of records. Every company required to make a return and
7 pay any taxes under this chapter shall preserve records of retail sales as the commissioner may
8 require. Every company shall preserve for a period of six years and three months all invoices
9 and other records of electricity delivered to a consumer in this state. All of these books,
10 invoices, and other records must be open to examination at any time by the commissioner or
11 any duly authorized agent of the commissioner.

12 57-33.2-14. Lien for tax. The tax under this chapter constitutes a first and paramount
13 lien in favor of the state of North Dakota upon all property and rights to property, whether real or
14 personal, belonging to the taxpayer. The lien is subject to collection, indexing, and other action
15 in the manner provided in section 57-39.2-13 for sales tax liens.

16 57-33.2-15. Corporate officer and limited liability company governor or manager
17 liability. If a corporation or limited liability company taxable under this chapter fails for any
18 reason to file the required return or pay the tax due, any of its officers, governors, or managers
19 having control or supervision of, or charged with the responsibility for making, the returns and
20 payments, are personally liable for the failure. The dissolution of a corporation or limited liability
21 company does not discharge an officer's, a governor's, or a manager's liability for a prior failure
22 of the corporation or limited liability company to make a return or remit the tax due. The sum
23 due for such a liability may be assessed and collected under the provisions of this chapter for
24 the assessment and collection of other liabilities.

25 57-33.2-16. Bond. The commissioner may require a sufficient bond from any company
26 charged with making and filing reports and payment of taxes under this chapter. Any required
27 bond must run to the state of North Dakota and be conditioned upon making and filing of
28 reports as required by law or rule and for prompt payment of all taxes justly due to the state
29 under this chapter.

30 57-33.2-17. Deposit of revenue - Report to treasurer. The commissioner shall
31 transfer revenue collected under this chapter to the state treasurer for deposit in the electric

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1 transmission and distribution tax fund. With each transfer under this section, the commissioner
2 shall provide a report showing the information necessary for the state treasurer to allocate the
3 revenue under section 57-33.2-18.

4 57-33.2-18. Allocation - Continuing appropriation. The electric transmission and
5 distribution tax fund is appropriated as a standing and continuing appropriation to the state
6 treasurer for allocation and distribution to counties by April first of each year as provided in this
7 section.

- 8 1. Revenue from the tax on transmission lines under section 57-33.2-02 must be
9 allocated among counties based on the mileage of transmission lines and the rates
10 of tax on those lines within each county. Revenue received by a county under this
11 subsection must be allocated among taxing districts in the county based on the
12 mileage of transmission lines and the rates of tax that apply to the land on which
13 those lines are located within each taxing district. Revenue from that portion of a
14 transmission line located in more than one taxing district must be allocated among
15 those taxing districts in proportion to their respective current property tax mill rates
16 that apply to the land on which the transmission line is located.
- 17 2. Revenue from the distribution company gross revenue tax under subsection 1 of
18 section 57-33.2-03 must be allocated to the county in which the retail sale to which
19 the tax applied was made. Revenue received by the county under this subsection
20 must be allocated among taxing districts in the county in proportion to their most
21 recent respective property tax levies in dollars on property within the county. A city
22 that operates a municipal electric utility under chapter 40-33 must be excluded
23 from allocations and computations under this subsection.
- 24 3. Revenue from the taxes on retail sales paid by a distribution company under
25 subsection 1 of section 57-33.2-03 must be allocated to each county in which that
26 distribution company's distribution lines are located in the ratio in which the number
27 of miles of its lines in each county bears to the total number of miles of lines of the
28 distribution company in this state. Revenue received by the county under this
29 subsection must be allocated among taxing districts in the county in proportion to
30 their most recent respective property tax levies in dollars on property within the

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1 county. A city that operates a municipal electric utility under chapter 40-33 must be
2 excluded from allocations and computations under this subsection.

3 4. For purposes of this section, "taxing district" means the state, county, and that
4 portion of any political subdivision with authority to levy property taxes which is
5 located within the county.

6 57-33.2-19. Penalty. A person who willfully violates any provision of this chapter is
7 guilty of a class A misdemeanor.

8 **SECTION 11.** Chapter 57-60.1 of the North Dakota Century Code is created and
9 enacted as follows:

10 57-60.1-01. Definitions. As used in this chapter:

- 11 1. "Commissioner" means the state tax commissioner.
12 2. "Electrical generating plant" means a facility that produces electrical power from a
13 source other than coal or wind energy and which has at least one single electrical
14 energy generation unit with a capacity of five thousand kilowatts or more.
15 3. "Gross receipts" means all revenue valued in money, whether received in money
16 or otherwise, derived by an electrical generating plant subject to this chapter from
17 the production of electricity, but not including any revenue derived from
18 transportation, transmission, distribution, or other events that occur after
19 completion of the process of production of electricity by the facility.
20 4. "Operator" means any person owning, holding, or leasing an electrical generating
21 plant and conducting the generation of electricity by the plant.

22 57-60.1-02. Imposition of taxes - In lieu of ad valorem taxes. There is imposed
23 upon the operator of each electrical generating plant a tax paid monthly for the privilege of
24 producing electricity at such electrical generating plant. The rate of the tax is ninety
25 one-hundredths of one mill on each kilowatt-hour of electricity produced for the purpose of sale.
26 The board of county commissioners, by resolution, may grant to the operator of an electrical
27 generating plant located within the county which begins construction after June 30, 2003, partial
28 or complete exemption from the tax imposed by this section for a period not exceeding five
29 years from the date of the first taxable production from the plant. An electrical generating plant
30 is classified as personal property and taxes imposed by this chapter are in lieu of ad valorem
31 taxes except taxes on the land on which the electrical generating plant is located.

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1 **57-60.1-03. Adoption by reference of provisions governing the privilege tax on**
2 **coal conversion facilities. The provisions of chapter 57-60 which are not in conflict with the**
3 **provisions of this chapter govern the administration of the tax imposed in this chapter.**

4 **57-60.1-04. Allocation of revenue - Continuing appropriation.**

5 1. **The state treasurer shall no less than quarterly allocate all moneys received from**
6 **each electrical generating plant to the county in which the electrical generating**
7 **plant is located.**

8 2. **Amounts allocated to a county under this section must be allocated within the**
9 **county in the same manner property taxes are allocated on the land on which the**
10 **electrical generating plant is located.**

11 **SECTION 12. REPEAL.** Sections 57-06-07 and 57-06-17 and chapters 57-33 and
12 57-33.1 of the North Dakota Century Code are repealed.

13 **SECTION 13. EFFECTIVE DATE.** This Act is effective for taxable years beginning
14 after December 31, 2003.