

ENERGY DEVELOPMENT AND TRANSMISSION COMMITTEE  
August 5, 2008

Testimony of Marcy Dickerson, State Supervisor of Assessments

Mr. Chairman, Members of the Committee, for the record my name is Marcy Dickerson and I am employed by the State Tax Commissioner as State Supervisor of Assessments and Director of the Property Tax Division.

My testimony concerns bill drafts that are before you and relate to coal conversion and coal severance taxes. I do not have bill numbers to refer to, so I will identify them by the times at which they appear on the agenda.

11:25 a.m.

The present definition of “repowering” an electrical generating plant refers to an existing power plant that converts coal from its natural form into electric power. A power plant that converts beneficiated coal into electric power would not be eligible for the repowering exemption under current language. The first amendment extends the definition of repowering to include power plants that use either coal in its natural form or beneficiated coal.

The second amendment limits the repowering exemption to units that complete repowering. Current language provides a five-year exemption from the state portion of the coal conversion tax for the plant and an optional exemption from the county’s portion of the tax for the plant, even if only one of the plant’s units has been repowered. For example, if Unit 1 of the Leland Olds plant completes repowering, under current law both Units 1 and 2 will qualify for the five-year exemption. The amendment would limit the exemption to the repowered Unit 1. Likewise, the optional exemption from the county’s portion of the tax would apply only to the

unit that completed repowering. If a two-unit plant repowers both units, both units will qualify for exemption. That will be the case with Coal Creek Units 1 and 2.

2:10 p.m.

Section 1 of this bill corrects a reference in subsection 41 of N.D.C.C. section 57-39.2-04 by deleting the words “taxed under chapter 57-60”. Beneficiated coal is not taxed under chapter 57-60; rather, plants that produce beneficiated coal are taxed under chapter 57-60.

Section 2 extends the definition of “power plant” and “repowering” relating to sales tax exemptions to include power plants that use either coal in its natural form or beneficiated coal.

Section 3 extends the definition of “power plant” and “repowering” relating to use tax exemptions to include power plants that use either coal in its natural form or beneficiated coal.

Section 4 amends N.D.C.C. § 57-61-01.4 to provide that no state severance tax may be imposed on coal used in agricultural commodity processing facilities as defined in subsection 4 of section 57-39.2-04.4. The purpose of this amendment is to make the language in the sales tax statute and the coal severance tax statute similar. The reference to sugar beet refining plants is deleted, because sugar beet refining plants fit within the class “agricultural commodity processing facilities.”

Section 4 also provides that no state severance tax may be imposed on coal purchased for beneficiation and subsequent use in agricultural commodity processing facilities located within North Dakota or adjacent states. Coal purchased for beneficiation and subsequent other uses is not exempted from the severance tax. Section 4 also extends the existing requirement that the purchaser of coal exempted under § 57-61-01.4 certify the amount of coal purchased for exempt purposes, by including coal purchased for beneficiation and subsequent use in agricultural commodity processing facilities. The provision that coal exempted from the severance tax by

this section is not subject to sales and use taxes is deleted, because the sales tax statute already exempts coal that is exempted from the coal severance tax [see § 57-39.2-04(44)].

This concludes my prepared testimony. I will try to answer any questions you may have.