

2009 HOUSE FINANCE AND TAXATION

HB 1531

## 2009 HOUSE STANDING COMMITTEE MINUTES

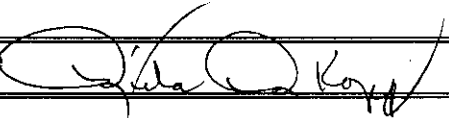
Bill/Resolution No. **HB 1531**

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: February 3, 2009

Recorder Job Number: 8440

Committee Clerk Signature 

Minutes:

**Chairman Belter:** We will open the hearing on HB 1531.

**Representative Pinkerton:** I am here today to present HB 1531. It is a short bill; I will go over it line by line. (Representative Pinkerton introduced the bill.) So what does this bill do?

As you remember, last session we had a change in the Minnesota regulations as far as power consumption. This assembly approved a million dollar allocation to fight that by hiring attorneys. It left a bitter taste in my mouth that we would have to use ND tax money to fight regulations imposed upon us by other states. This session the Senate has Bill 2021, which is essentially a \$7.5 million reduction in taxes that are going to be collected by the State of North Dakota to help offset the enormous cost of us meeting environmental challenges that are produced by states that are exceeding the federal limitation. I am not here this morning to say that we should or shouldn't have carbon capture. That is not my issue and I am probably much more environmental than many of the people in this room, but I think it is unfair to consumers in ND that we bear the burden, at least the initial charges, of meeting these environmental changes. I also think that this bill will help; what we need is a federal standard.

I think I do speak for the industry that we need environmental standards and federal standards so we know what is going to be going on. I hope that this bill represents more or less a

cannon shot across the Red River saying they have to be aware of how their changes affect us. I would certainly be available to answer questions.

**Representative Kelsh:** I don't disagree with this concept, but is it possible to measure exactly the number of electrons that were transferred out of state versus what is consumed here or is it just based on sales figures?

**Representative Pinkerton:** I have no idea, but I assume it is based on sales figures.

**Representative Belter:** When Representative Pinkerton came forward with this bill and asked me to sign on, I said yes. The reason I said yes is because North Dakota, as well as other states involved in the generation of power from coal-fired plants, are continually being attacked. I think this is just the tip of the iceberg on those attacks. Consequently, I think we are in the future going to be pressed more and more on these issues. It was my intent through

this bill that we bring to the attention of the consumers of ND, as well as hopefully the consumers of Minnesota, what they are actually doing by imposing these rules and regulations that are having an adverse effect on our utility rates. I understand the implications of commerce trade rules and everything that we need to comply with; but at some point, I think we need to stand up and say enough is enough. Back in either 2001 or 2002, I had the opportunity to sit down with several members of the board of directors of a Minnesota REC along with the Governor. We talked about transmission lines. At that particular meeting, one of directors in this Minnesota REC made the comment that "We have a lot of "goofies" in Minnesota that we have to deal with and that is going to create a lot of problems for us in getting adequate electricity to the customer". That certainly has come into play and so, committee members, I would just ask you to give this some serious consideration because at some point, we need to stand up and be counted. I guess that was the reason I signed on to

this legislation because I think it is time we make an effort to let our consumers know just what is happening to our utility rates and why they are going up.

**Representative Froseth:** How did you arrive at a 10% rate? Is there some formula you used to calculate what the cost is of our lawsuit in establishing our coal-fired plants to comply with all the regulations? How do you determine that the 10% is the right rate?

**Representative Belter:** That was some deep calculations that Representative Pinkerton made. You might want to have him address that.

**Representative Pinkerton:** I will address that. We didn't know the fiscal note until after we put the numbers in, but the cost for us to bring our power to the standards Minnesota would like us to have or perhaps that we need to be at, I am not denying that, is enormous. Unless the consumer that plugs that TV in realizes what that cost is, until we reach that point, we are not going to be able to move forward. That is what this bill is for--to make the consumer understand what is involved and what we have to do to make it work.

**Vice Chairman Drovdal:** Any other testimony in favor of HB 1531? Any opposition?

**Al Christianson, Great River Energy:** I am here to ask you for a "do not pass" on this bill. Great River Energy is a generation transmission coop that is owned by 28 distribution coops in the state of Minnesota that covers 70% of the land mass and serves a million customers. Our customers are already seeing 15-20% self-imposed rate increases. They are doing that to themselves. This bill on top of that would continue to make it unaffordable for them to live. I think they will come to their senses, vote other people in office, change their rules so I would say please do not pass this bill. Thank you.

**Representative Headland:** Just out of curiosity, how does the ND customer recoup the increased cost put forth by Minnesota residents when we don't have any ability to change those people out of office?

**Al Christianson:** In the case of Great River Energy, we sell no power in ND. All our customers are in Minnesota so our customers do bear what we have to do here. I think one of the other industry representatives will be able to answer that question.

**Representative Brandenburg:** Why when they put those mandates on in Minnesota, why don't they pay for those mandates that happen in ND?

**Al Christianson:** The fact that is happening in Great River Energy's case would speak to that because the renewable energy standards that they have in Minnesota where we have to meet certain goals for renewable energy, they are actually costing our customers now. What is happening is we have to have a certain amount of our energy renewable already. With wind as you know, it blows at certain times of the night and you must take wind into your grid. We are actually backing down our coal plants; we produce electricity in the low teens to allow wind to be on the grid. Our customers are paying for that so they are costing themselves money. We are hoping that everybody comes to their senses and takes a real look at this and understands that we have to make a fundamental change in how we are going to integrate renewables into the system. Right now our customers are paying for legislation they passed; that is in Great River Energy's case.

**Representative Pinkerton:** I guess I believe ND is in a good position to meet some CO2 standards because we have a place to put it—into our oil fields. But I don't understand why the consumers in Minnesota don't understand that they need to share the cost of developing them.

**Al Christianson:** I think that in the case with the CO2, I am all in favor of having them pay to sequester CO2 in ND; this bill doesn't relate to that as far as I can see. I think that yes, if plants in Minnesota want to bring their CO2 over here, they should have to pay to get it here no different than (inaudible). As far as CO2 sequestration, I agree with you that we need

federal legislation, not state to state; but in our case, our customers are going to have to pay for ours because we do sell all our electricity in Minnesota.

**Vice Chairman Drovdal:** Any other testimony in opposition to HB 1531?

**Curtis Jabs, Basin Electric Power Cooperative:** I understand your frustration with Minnesota and Montana passing environmental laws that affect coal-based generation. You are right; coal-based generation is under attack. I think we do need to develop the technologies so we can use coal in the future, certainly one of the goals of Basin Electric. I have to oppose this bill because as I read it, it says the tax commissioner shall collect that surtax from every entity selling electrical power that is ultimately consumed by retail customers. That would mean that Basin Electric would have to pay this surcharge because we sell into Minnesota and we sell into Montana. We sell wholesale; we don't sell retail but it says ultimately consumed by retail consumers. What does that mean? We sell about 454,000 megawatt hours in Montana and about 633 megawatt hours in Minnesota. It would be about \$3.6 million more because in Montana it is about \$5 million more than in Minnesota. Basin Electric would have to pay about \$8.6 million more, but that is a small token compared to what Great River would have to pay. How would Basin Electric do that? That is an added cost so then we would raise our rates and as a cooperative, we would raise our rates to every consumer in nine states. The result is because we have more consumers in ND; about 23% of that increase would be borne by consumers in ND because we would have to raise our rates. There is a provision that some of this could come back, but not to exceed 10%. But even if you did receive that back; ND consumers would receive about a 13% increase in their rates because of this. I think I appreciate what you are trying to do. I think we do need to raise funds for technology development. I think at the federal and state level, industry has to provide those. I stand in opposition to this bill. I think there are better ways.

**Representative Froelich:** What is a better way?

**Curtis Jabs:** Better ways. I think there are incentives. Representative Pinkerton did raise the issue in lines 20-21 to provide incentives for those who want to put carbon capture on their plants. There are also federal incentives; there is the clean coal power initiative providing federal funds--you apply for those types of things to demonstrate technology. I think incentives encouraging this type of development are a better way.

**Representative Froelich:** Then how do we send a message to Montana and Minnesota that they are wrong?

**Curtis Jabs:** I think some of the things that Minnesota has proposed we think violate interstate commerce law. You were provided \$500,000 to sue the state of Minnesota to deal with that. I think that is the kind of message we need to send.

**Representative Winrich:** Would you anticipate this added tax would reduce the amount of power that you sell in Minnesota? Would it change that kind of distribution, do you think?

**Curtis Jabs:** I don't think that would reduce the consumption of electricity. It would obviously become more expensive. I suppose it gets to a point where electricity gets so expensive that consumers will change their habits and try to conserve. There is another provision in Minnesota that forces utilities and consumers to try to conserve; I think it is 1.5% per year for ten years. Again, nobody knows exactly how to accomplish that. Eventually electricity would get so expensive that consumers will reduce their consumption.

**Representative Pinkerton:** On this bill on line 24, there is some question as to language that this bill is not designed to raise rates for North Dakotans. Do you see that there is difficulty with that language so that money would be reallocated back to an electrical users fund or something?

**Curtis Jabs:** As we calculated, a 23% increase for North Dakota consumers because of the megawatt hours consumed here, as I read it, it says not to exceed reduction of 10%; so even though that provision is there, I still would anticipate (inaudible). It is just our model and how cooperatives work. We share expense across the (inaudible).

**Representative Pinkerton:** So to construe the bill, the 10% that would be collected in Montana and in Minnesota, of course we would also have to charge the 10% in ND to stay within the commerce clause, but we rebate to the North Dakotans because they do not exceed federal standards or perhaps other states you sell power to that don't exceed federal standards too, that is correct, isn't it?

**Curtis Jabs:** These are the two states that I know of that don't exceed federal standards.

**Representative Pinkerton:** This bill probably could be redrawn in a way where that money is all returned to the states that are.....

**Curtis Jabs:** If it is returned to the retail consumers, Basin Electric does sell wholesale and the \$8.6 million will be an added increase to Basin Electric power rates. We will have to increase our class a rate so even though it is returned to the retail consumer in ND, it still wouldn't affect our retail rate. We would still increase that rate.

**Representative Brandenburg:** You produce about a million megawatts that goes out of state 454 and 633.

**Curtis Jabs:** It is about a million megawatt hours of sales a year.

**Representative Brandenburg:** I should say 1000 megawatts. \$8.6 million so North Dakota produced about 4000 megawatts overall generation in the state so if you're working out what the cost would actually be at 10%, you would raise over \$30 million, which probably isn't necessary. You could possibly put this down to 3% (inaudible) if everybody contributed in the



pot. It might be better waiting but I think 10% might be too high; probably 2-3% in that range if everybody puts in the pie. The question is can you afford that if you can't afford 10%?

**Curtis Jabs:** Minnesota has the renewable energy standard 25 by 25 and certainly that is an added expense to Basin Electric; they are obligated to fulfill that. What we have done to try to be equal to all of our states, (some states have no mandates and some have more stringent ones) so we have told our consumers that Basin Electric will meet up to 10% of renewable energy we will provide those credits for free. Anything above and beyond that will be their obligation. In that instance, we are treating consumers differently. If everybody had the same standards, we could.....

**Representative Brandenburg:** North Dakota uses 1000 megawatts and we export about 3000 million megawatts so actually we could not put the tax in ND and put it in other states.

Those people that want it could pay for it.

**Curtis Jab:** I think that was called (inaudible) and I think we went through that a couple of years ago.

**Dennis Boyd, MDU Resources Group: (Testimony 1). (27.22-31:29)**

**Harlan Fuglesten, ND Association of Rural Electric Cooperatives:** I too rise in opposition to HB 1531. Our association represents Basin Electric, Great River Energy, Minnkota Power, which together have created about 90% of the investment in the lignite industry in ND. With the passage of this legislation, however well intentioned, this will serve as a great penalty and additional costs on those who actually made the investment to build the industry we are trying to protect here. For those reasons, I join with the others here to ask the committee to recommend a "do not pass". Thank you.

**David Straley, North Dakota Lignite Energy Council: (32:47-33:20)**

**Sandi Tabor, Lignite Energy Council: (Testimony 2)** (33:44- 37:20) There were a couple of questions about what other avenues we have. Representative Pinkerton brought up the \$500,000; I think he said a million, but I think it was \$500,000, which was set aside last session to help the attorney general sue Minnesota for what we do believe is a violation of commerce laws. We have during the interim, and I say we because I was asked by the attorney general's office and the governor's office to join them in a series of meetings with executive branch leaders and some of their legislative leaders to try to explain the impact of what they are doing on our industry, the fourth largest industry in the state. They have been very receptive to those discussions. The reason we have been doing that is that at least one member of the industrial commission has been very hesitant to file a lawsuit. He encouraged the attorney general to try to have discussions before we enter into what will be a costly lawsuit, far more than \$500,000.

That is what we have been doing. I think we are making headway. The Minnesota session is a little bit slower to get started than you are all even though they started on the same day. As they move forward, we are monitoring what they are doing. We have an active coalition in Minnesota that is working to try and prevent any further bad legislation and to actually look at ways to take care of some of the more egregious provisions in the 2007 act. So there is something being done and there are people who are on the ground trying to deal with this. This bill is probably not going to help ND in the long run. Finally, I will just tell you that Minnesota and Montana may have some climate change legislation that is triggering some of the concerns today. Lest any of us forget, we have a President named Obama who has made some very vocal comments about coal's future and who also, I believe, wants to do something about climate change. Either through the Environmental Protection Agency or Congress, we will see legislation that will probably make Minnesota look good. Thank you for your time.

**Representative Pinkerton:** When we are seeking our national legislation that defines where (40:32) we are going to be at and who is going to pay for it, it is frustrating to me as a legislator to see my tax dollars go out to fund things that should be equally funded by all consumers of all electricity that is produced here plus my constituents do deal with the mercury levels of whatever kinds of environment issues, co2 coming out of the stacks. I think personally I have some patience at this point; but to be clear, that patience will eventually run out. Speaking only for myself and Representative Belter, we do need to see progress.

**Sandi Tabor:** No one in this room has more frustration that I do about this. We work not only on the Minnesota and North Dakota level; we also work on the federal level. I am personally involved in many things at the federal level; and believe me, our number one mantra is that this must be a national solution, not a state by state solution. More importantly, state regulations must be pre-empted. We say this every time we get a chance because if we don't think of pre-emption, it is the likes of California and Minnesota that are going to continue to raise the bar. You are absolutely right, it has to be at the national level and it has to have preemption. Let me just give you a little bit of insight into where some of the Minnesota legislators that I have spoken to have about the solution. When I say something about the impact of these laws on our fourth largest industry, they say, well we didn't mean to do any damage to you; but remember, you are making money off our consumers. You are generating the power and you are getting all of the money coming back to your power companies in ND. With the exception of Great River, because I don't know where all the money goes, they generate the power and virtually all of it goes to Minnesota. The fact of the matter is that they employ how many people in ND—450 directly. Minnesota says this is your economic development edge so they don't really worry about the other side because they think we are making money off it. I am not saying it is right or wrong. I am just trying to tell you how they are thinking about this.

**Representative Headland:** Where does Minnesota plan to get their power if they shut down the coal industry?

**Sandi Tabor:** I have no idea. I think they think it is just going to come from canola and wind. Here's the deal; we all know how we power our lives in the future is going to be different, at least if some of these federal things happen but it isn't going to happen by 2012. That is the problem we all have with what Minnesota is doing and, quite frankly, with the bills that the feds are doing. They all start in 2012 and we are all asking, how are you going to get there?

**Vice Chairman Drovdal:** Any questions? Any other opposition to 1531:

**Renee Pfenning, ND Electrical Workers and ND Building and Construction Trades**

**Council:** Our members work in the plants; they work at the plant turnaround; they do the construction sites; we have members that are coops and utilities. I respectfully ask for a "do not pass" on this bill.

**Vice Chairman Drovdal:** Other opposition to 1531? Any neutral testimony on 1531? Seeing none, I will close the hearing on HB 1531.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1531

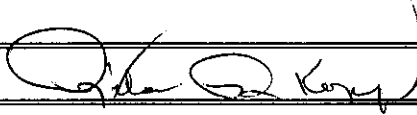
House Finance and Taxation Committee

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Hearing Date: February 3, 2009

Recorder Job Number: 8502

Committee Clerk Signature



Minutes:

**Chairman Belter:** Let's move to HB 1531, the Pinkerton-Belter bill. I have a motion for a **"do not pass"** on from Representative Grande and a second from Representative Weiler.

Any discussion? **A roll call vote resulted in 11 ayes, 1 nay, 1 absent/not voting.**

✓ **Representative Pinkerton will carry the bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/20/2009

Bill/Resolution No.: HB 1531

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

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

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

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

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

HB 1531 imposes a 10% surtax on certain electricity transmission into states that impose environmental restrictions which are more stringent than those contained in federal law.

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

It is not possible to estimate the fiscal effect of this bill from coal conversion privilege tax reports filed with the tax department by coal-fired generating plants. The current taxing structure does not include the retail price of electricity when it is sold, nor the location of the eventual retail customers, so there is no information upon which to base this fiscal impact.

Making some broad assumptions about the provisions in the bill, including assuming 75% of the 30 billion in KWH produced annually ends up with retail customers in a state imposing overly strict environmental controls, and further assuming the average retail cost is \$.04 per KWH, there would be up to \$90 million in surtax charged, and possibly collected and remitted to the remediation of environmental costs fund each year.

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

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

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

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

<b>Name:</b>	Kathryn L. Strombeck	<b>Agency:</b>	Office of Tax Commissioner
<b>Phone Number:</b>	328-3402	<b>Date Prepared:</b>	02/02/2009

Date: February 3, 2009

Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1531**

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended

Motion Made By Grande Seconded By Weiler

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich		/
Vice Chairman David Drovdal	/		Representative Kelsh	/	
Representative Brandenburg			Representative Pinkerton	/	
Representative Froseth	/		Representative Schmidt	/	
Representative Grande	/		Representative Winrich	/	
Representative Headland	/				
Representative Weiler	/				
Representative Wrangham	/				

Total (Yes) 11 No 1

Absent 1

Floor Assignment Representative Pinkerton

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



**REPORT OF STANDING COMMITTEE**

**HB 1531: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1531 was placed on the Eleventh order on the calendar.**

2009 TESTIMONY

HB 1531

Testimony on HB 1531  
Dennis Boyd  
MDU Resources Group, Inc.  
February 3, 2009

Good morning, Mr. Chairman and members of the committee. For the record, my name is Dennis Boyd. I am appearing this morning on behalf of MDU Resources Group and our utility division, Montana-Dakota Utilities Co. With all due respect to the sponsors, we are opposed to HB1531 because it does not recognize the reality of our world and will simply invite retaliation from other states. As such, we believe passage would be poor public policy.

We understand and appreciate the Legislature's frustration with the current state of affairs in Minnesota. As a partner in the Bigstone II plant, we share that frustration. However, Montana-Dakota Utilities does not serve electricity in Minnesota. Our customers are located in North Dakota, South Dakota, and Montana, and as an investor-owned utility company our retail electric rates are regulated by Public Service Commissions in those states. Our electric system is an integrated, interstate system, and we have both generation and transmission in all three states. This integrated system allows us to provide reliable electricity to all of our customers, and it protects our customers. In the event of an outage in one state we can generate more electricity in another state and move it to where it is needed. However, once an electron of electricity is put into the transmission system, it loses its identity and electricity generated at Beulah could end up being sold to a customer in Mobridge or Miles City.

Montana has already imposed mercury standards on coal-fired generation which are more stringent than federal standards. As a result, we anticipate incurring \$3 million in capital and operating costs at our generating station in Sidney, Montana. We are hopeful the Montana Public Service Commission will allow us to recover those additional costs in our Montana electric rates. However, if HB1531 were to become law, it is highly unlikely the Montana PSC would allow us to recover that ten percent surtax in our Montana electric rates. The result would be a ten percent tax on our company which we would be unable to recover. The end result could be the Balkanization of our electric system, and if we ever needed more electricity in Montana, we would probably look to place new generation in Montana rather than North Dakota, totally contrary and counterproductive to the purpose of HB1531.

Finally, Mr. Chairman and members of the committee, we believe passage of HB1531 is not good public policy because it will invite retaliation from other states. My understanding of economic history tells me protective tariffs and retaliatory measures seldom, if ever, work. They simply exacerbate and further complicate the flow of interstate commerce.

In conclusion, we appreciate the foresight and support the ND Legislature has historically given to the lignite industry. I have represented my companies before the ND Legislature for 32 years, and I cannot recall a single instance where the Legislature has done harm to our industry. We urge you to continue to base your decisions on sound science and to resist the urge to retaliate against those states which may be well intentioned, but misinformed. We respectfully ask for a Do Not Pass recommendation on HB1531.

That concludes my testimony, Mr. Chairman and members of the committee. I would be happy to try to answer any questions.

**Testimony on HB 1531  
Presented by Sandi Tabor  
Lignite Energy Council**

**February 3, 2009**

The Lignite Energy Council (LEC) is opposed to HB 1531. While the Council appreciates the sentiment behind the bill, creating a 10 percent surcharge on coal-fired electricity generated in North Dakota and sold in states with environmental restrictions more stringent than federal laws will serve to only harm our industry.

In October 2007 the LEC's Board of Directors adopted a climate change policy that provides direction to LEC staff as we review federal and state legislation. This policy, in part, supports energy policies that recognize and accommodate the future growth of North Dakota lignite-based facilities by placing lignite on a level playing field with other energy resources. We refer to this as the "do no harm" policy. Unfortunately, the legislative policy embodied in HB 1531 will do harm to lignite by removing what little is left of the "level" playing field with other energy resources. In fact, in this world where other states are looking for reasons to eliminate the usage of lignite, HB 1531 provides regulators from those states with one more significant argument. The impetus for introducing HB 1531 was to get the attention of regulators from other states in order to encourage those states to help shoulder the costs of environmental regulations. The reality, however, is that the bill will serve as one more way for out-of-state regulators to dissuade power companies from using lignite because the surcharge will increase the price of lignite-fired electricity.

We are also concerned that the scope of HB 1531 is not limited to climate change legislation, but applies to any environmental restrictions or conditions affecting coal-fired electrical generation which are more stringent than federal environmental restrictions. Many federal legislative programs, like the Clean Air Act and Clean Water Act, allow states to have primacy over the regulation of the programs in their respective states. The key to primacy is that the state's regulations must be at least as stringent as the federal law or regulation. In the areas of clean air and clean water regulation, it is conceivable that a state may adopt more stringent regulations in areas of particular concern to that state, and those regulations may affect coal-fired electrical generation in that state. Under HB 1531 the mere presence of an environmental restriction or condition more stringent than federal law would trigger the surcharge. This seems on its face to be overly broad.

Finally, there is a question as to how this bill will be implemented by the tax department. Under normal circumstances, power plants produce electricity to serve an identifiable customer base. Remember, however, that the flow of electricity once it leaves the plant is controlled by regional transmission operators, like the Midwest Independent System Operator (MISO). During peak demand times, MISO controls the movement of electricity on the transmission grid to those areas in need of more power. It is unclear how companies will comply with HB 1531 during peak demand times because MISO makes the decisions as to where the electricity will be sold. It

will be very difficult and (perhaps add additional cost) for the companies to determine how much of their generation was sold in Minnesota or in other states with more restrictive regulations during those peak times.

In light of all of these concerns, the Lignite Energy Council requests a "do not pass" recommendation from the Committee.