2025 HOUSE FINANCE AND TAXATION

HB 1279

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
2/3/2025

Relating to an exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

9:17 a.m. Chairman Headland opened the hearing.

Members Present: Chairman Headland, Vice Chair Hagert, Representatives Anderson, Dockter, Dressler, Foss, Grueneich, Ista, Motschenbacher, Nehring, Olson, Porter, Steiner, Toman

Discussion Topics:
- Insurance Access
- Environmental, Social, and Governance (ESG) pressures
- Long term economic viability
- Changing administration
- Infrastructure costs to small towns

9:17 a.m. Representative Novak introduced the bill and submitted testimony #33728.

9:20 a.m. Jonathan Fortner, VP of Government Relations, Lignite Energy Council, testified in favor and submitted testimony #33570, #33571, and #33572.

9:34 a.m. Jessica Bell, Director of Government and Public Affairs, Rainbow Energy Center testified in favor and submitted testimony #33745.

9:39 a.m. Ryan Norrell, VP Government Relations, Basin Electric Power Cooperative, testified in favor and submitted testimony #33582.

9:43 a.m. Carlee Mcleod, External Affairs, Minnkota Power Cooperative, testified in favor.

9:44 a.m. Andrea Pfennig, Vice President Government Affairs, GNDC, submitted testimony in favor #33404.

9:45 a.m. Geoff Simon, Western Dakota Energy Association, testified in favor and submitted testimony #33535 and #33534.

9:48 a.m. Casey Voigt testified in opposition and submitted testimony #33755 and #33765.

10:11 a.m. Rory Hochsprung, testified in opposition.

Additional written testimony:

Zach Martin, Government Affairs Manager, ALLETE, Inc., submitted testimony in favor

#33483.

Mark Bring, Otter Tail Power Company, submitted testimony in favor #33602.

10:14 a.m. Chairman Headland closed the hearing.

Janae Pinks, Committee Clerk

GREATER NORTH DAKOTA CHAMBER
HB 1279
House Finance & Taxation Committee
Chair Craig Headland
February 3, 2025

Mr. Chairman and members of the Committee, my name is Andrea Pfennig, and I am the Vice President of Government Affairs for the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization, with membership represented by small and large businesses, local chambers, and trade and industry associations across the state. We stand in **support** of House Bill 1279.

From small retail shops to large manufacturing facilities, every business relies on consistent and cost-effective energy to operate and succeed. From a capital attraction standpoint, affordable and reliable energy is a key factor for many businesses evaluating where to invest and expand.

Lignite power plants play an essential role in meeting these energy needs by providing dependable electricity. This bill provides a practical solution to support critical infrastructure by extending the coal conversion tax relief for ten years. This will give lignite power plants the financial stability they need to manage rising costs associated with maintenance, upgrades, and regulatory compliance.

This is an important step in maintaining the energy resources that power our state's economy. We urge you to support this bill to ensure North Dakota businesses have the reliable electricity they need to innovate, grow, and succeed in an increasingly competitive marketplace.

701.222.0929 ndchamber@ndchamber.com ndchamber.com PO Box 2639 • Bismarck, ND 58502

PHONE (701) 355-5588

BNI coal
A BNI ENERGY COMPANY

FAX (701) 794-3125

February 3, 2025

Chair Headland and members of the House Finance and Taxation Committee,

On behalf of BNI Coal, we write in strong support of House Bill 1279 which extends the coal conversion facilities tax by another ten years from June 30, 2026 to June 30, 2036 and provides continued tax relief to a cornerstone sector in North Dakota's energy industry. We thank Representative Novak and all other sponsors for their leadership on this issue and encourage the committee with a "Do Pass" recommendation.

BNI Coal, a subsidiary of ALLETE, Inc., owns and operates the Center Mine located 35 miles northwest of Bismarck, ND. We are a historic North Dakota company having founded our operations in Divide County in 1929. Our primary business today is to supply coal to Minnkota Power Cooperative's Milton R. Young Station and, just as importantly, reclaim every acre of land we disturb in the process. We currently employ about 180 people and our identified coal reserves are capable of fueling the Milton R Young Station for another century.

Our future is heavily dependent upon our customer's ability to compete in the electrical generation marketplace. Today's legislation provides them with tax relief required to strengthen the financial position of coal-powered power plants **and** therefore the suppliers like BNI Coal that source lignite. As our industry continues to face difficult regulatory environments, especially rulemakings that originate with the U.S. Environmental Protection Agency, it is important that the legislature continues to recognize the vital importance the lignite industry plays in producing affordable and reliable electricity that businesses and families depend on daily.

It is also important to note for this committee that even if today's legislation becomes law, the lignite industry will continue to generate about $100 million in annual tax revenue to local county units and the state. The bill also preserves the coal conversion tax revenue for counties so they can plan ahead and continue to offer critical services to their residents.

HB1279 will provide the lignite industry with 10 years of longer-term certainty. This pause will support the industry's ability plan our economic futures, to continue to make investments in the state, and to provide critical electric services. With that, we ask that you support HB1279. Thank you for your consideration and do not hesitate to reach out with any questions related to today's bill.

Sincerely,

Mike Heger
President
BNI Coal, Inc.

BNI COAL
2360 35th AVE SW, Center, ND 58530-9499

WESTERN DAKOTA ENERGY ASSOCIATION

February 2, 2025

Testimony of:
Geoff Simon, Lobbyist #144
in support of HB 1279 – Coal Tax Holiday Extension
House Finance and Taxation Committee

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

On behalf of the city, county and school district members of the Western Dakota Energy Association (WDEA), notably those in the coal-producing counties, we wish to express our strong support for House Bill 1279 that would extend a reduction in the coal conversion tax to operators of coal-fired generating plants.

North Dakota's lignite plants have been forced to comply with a slew of expensive federal regulations, most of which provided marginal environmental improvements at best, while other sources of electric generation received generous tax subsidies that reduced their cost of production. Even though the state's lignite generation is among the lowest-cost sources of baseload power in the country, plants have been forced to back down their production because their subsidized competition is able to provide power at a lower cost, even offering power at negative prices thanks to the federal government's warped energy policy. The Trump administration will undoubtedly reverse many of these senseless energy policies, but North Dakota's power producers must still fight their way through legal battles against the anti-fossil fuel regulations, and continue to remain on guard should the pendulum swing back in four years.

Importantly to WDEA members, the tax holiday was crafted in a way that it reduced only the state's portion of the conversion tax, while continuing to deliver tax revenue to the cities, counties and school districts in the coal-producing counties. Current law provides an 85-15 state-local split of conversion tax revenue. WDEA's coal county members would like the legislature to consider if this legislation might provide an opportunity to amend the tax statute to provide a larger share to local government. The conversion tax is an "in-lieu-of" tax, meaning it is paid rather than property taxes. Revenue from the conversion tax has remained relatively flat the past 10 years, while other property tax payers in the three coal-producing counties have experienced sizable increases. Amending this legislation to provide a greater share of the conversion tax to local government would be a means of providing modest property tax relief.

We hope the committee will consider a change in the 85-15 revenue split, but if that is not the wish of the legislature, we would continue to urge your support for HB 1279. We believe the modest fiscal note is justified, given the more than $5 billion economic impact of the lignite industry, which includes more than 13,000 direct and indirect jobs.

WDEA wishes to thank Representative Novak and Senator Boehm for introducing this important legislation, and urges the committee to support the passage of HB 1279.

Western Dakota Energy Association
1661 Capitol Way, Bismarck ND 58501
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Coal Conversion Tax

CURRENT LAW - IMPOSITION, RATE, AND ADMINISTRATION

The coal conversion facilities privilege tax is imposed on the operator of a coal conversion facility for the privilege of producing electricity or other products from coal conversion plants. A coal conversion facility is defined as (1) an electrical generating plant which has at least one unit with a generating capacity of 10,000 kilowatts or more of electricity, (2) a plant other than an electrical generating plant which processes or converts coal and uses or is designed to use over 500,000 tons of coal per year, or (3) a coal beneficiation plant.

The coal conversion tax is in lieu of property taxes on the plant itself, while the land on which the plant is located remains subject to property tax. The tax is paid monthly.

Electrical Generating Plants Electrical generating plants, as defined above, are subject to two separate levies. One levy is .65 mill times 60% of installed capacity times the number of hours in the taxable period and the other levy is .25 mill per kwh of electricity produced for sale. Installed capacity means the rating shown on the nameplate assigned to the turbine of the power unit.

Other Coal Conversion Plants A coal gasification plant is subject to a monthly tax measured by 13½ cents per thousand cubic feet of gas produced for sale or 2% of gross receipts, whichever is greater. Plants converting coal to products other than gas are taxed at 2% of gross receipts. The tax rate for a coal beneficiation plant is 20 cents per ton of beneficiated coal produced for sale or 1.25% of gross receipts, whichever is greater.

EXEMPTIONS

Exemptions to the coal conversion tax are as follows:

- Synthetic natural gas produced in excess of 110 million cubic feet per day. N.D.C.C. Ch. 57-60-02(4).
- Income from by products of a coal gasification plant to a maximum of 20% of gross receipts.
- Revenue derived from the sale and transportation of carbon dioxide for use in the enhanced recovery of oil or natural gas. N.D.C.C Ch. 57-60-02.1.
- Beneficiated coal produced in excess of 80% of plant design capacity. N.D.C.C Ch. 57-60-02(6).
- Beneficiated coal produced for use within a coal conversion plant. N.D.C.C. Ch. 57-60-02(6)(b).
- A coal conversion facility that achieves a 20% capture of carbon dioxide emissions during a taxable period receives a 20% reduction in the State General Fund share of the coal conversion tax, and an additional reduction of 1% for every additional two percentage points of its capture of carbon dioxide emissions, up to 50% reduction for 80% or more capture. The reduction is available for ten years from the date of first capture or from the date the facility is eligible to receive the credit. N.D.C.C. Ch. 57.60-02.1.
- A new or re-powered coal-burning electrical generating unit is exempt from the State General Fund portion of both levies for five years. The county may grant an exemption for up to five years from the county's 15% share of the levy on installed capacity. N.D.C.C. Ch. 57-60-02(3)(b).
- All new coal conversion plants other than electrical generating plants are exempt from the State General Fund portion (85%) of the tax for five years. N.D.C.C. Ch. 57-60-02(5). The county may grant a partial or complete exemption from the county's 15% share for up to five years.

DISTRIBUTION OF REVENUE

Electrical Generating Plants The revenue from the .25 mill levy on production is deposited in the State General Fund. The revenue from the .65 mill levy on installed capacity is distributed as follows:

- 85% to the State General Fund is exempt through June 30, 2026. Five percent of all funds allocated to the State General Fund must be allocated to the Lignite Research Fund.
- 15% to the county in which the plant is located. The amount distributed to each county is apportioned as follows: 40% is deposited in the county general fund; 30% is divided among all incorporated cities in the county according to population; and 30% is divided among all school districts in the county on the basis of average daily membership.

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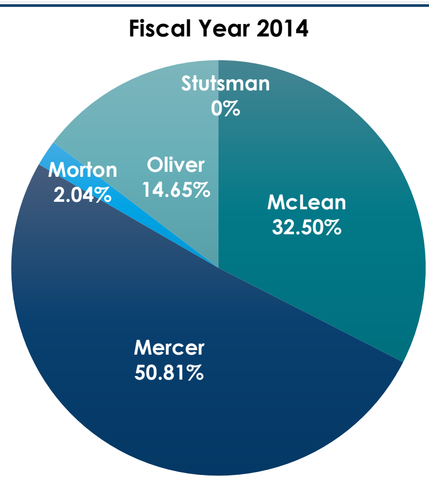
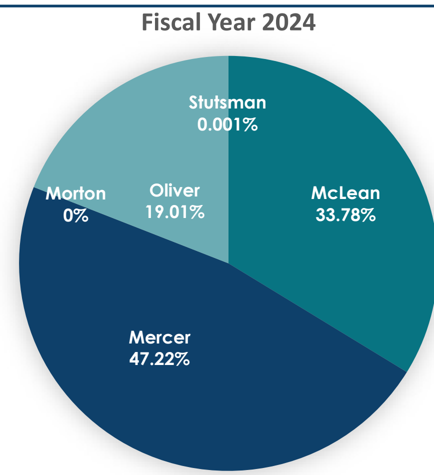
Source: Office of State Tax Commissioner **tax.nd.gov.**

Coal Conversion Tax Collections and Distribution

FISCAL YEAR	TOTAL COLLECTIONS	DISTRIBUTED TO STATE GENERAL FUND	DISTRIBUTED TO COUNTIES	DISTRIBUTED TO LIGNITE RESEARCH
2014	$24,937,582	$19,861,085	$3,896,326	$1,180,171
2015	$27,253,229	$21,649,766	$4,310,397	$1,293,067
2016	$26,785,652	$21,481,949	$4,081,631	$1,222,071
2017	$25,779,352	$20,635,901	$3,954,407	$1,189,043
2018	$26,237,709	$21,636,645	$3,429,150	$1,171,914
2019	$26,690,136	$22,048,118	$3,484,761	$1,157,257
2020	$25,040,729	$20,657,842	$3,274,231	$1,108,656
2021	$25,641,128	$20,913,417	$3,584,769	$1,142,942
2022	$6,671,229	$1,107,359	$4,188,704	$1,375,166
2023	$5,102,099	$0	$4,011,283	$1,293,119
2024	$4,025,691	$0	$4,291,238	$1,114,959

County Breakdown - Kilowatt Hours (KWH) Produced
Subject to Coal Conversion Tax

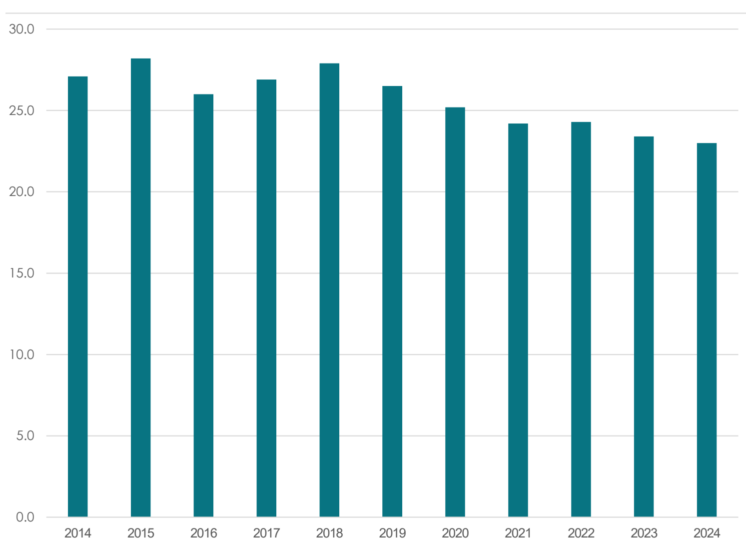




**Please note, Morton County had kilowatt hours in FY 2014 but not in FY 2024.*

**Stutsman County did not have kilowatt hours in FY 2014 and the kilowatt hours in FY 2024 and comprise only 0.001% of the total.*

KWH Produced (Billions)
Subject to Coal Conversion Tax - Fiscal Years



Source: Office of State Tax Commissioner **tax.nd.gov.**

Lignite Energy Council
LEADING THROUGH ADVOCACY AND INNOVATION

February 3, 2025

Chairman Headland and Members of the House Finance and Taxation Committee,

I appreciate the opportunity to testify in support of HB1279, which seeks to provide essential tax relief to North Dakota's lignite industry. This legislation is necessary to help offset the economic, regulatory, and political challenges facing our coal-based power generation. Without this support, the ability to provide affordable, reliable electricity for North Dakotans and maintain a strong rural economy is at risk.

The financial landscape for coal-fired power plants has dramatically shifted over the past five years due to Environmental, Social, and Governance (ESG) policies and coordinated efforts by well-funded anti-coal organizations. ESG-driven financial restrictions have severely limited access to capital and insurance, significantly increasing operational costs. In North Dakota, one coal mine has seen a 350% increase in insurance premiums, despite having no major claims. At the same time, the Sierra Club's Beyond Coal initiative, backed by over a billion dollars, continues to target coal plants through litigation, regulatory pressure, and aggressive federal and state-level activism, contributing to the push for Green New Deal-style policies. These coordinated attacks are not shutting down coal plants due to market forces but rather through intentional political and financial pressure, threatening grid reliability, affordable electricity, and thousands of high-paying jobs.

The federal government's tax policy has further distorted electricity markets, creating an uneven playing field. From 2008 to 2023, wind energy alone received $38.9 billion in Production Tax Credits (PTC), and with the passage of the Inflation Reduction Act (IRA), an additional $39.3 billion will be allocated to wind subsidies from 2023 to 2027. This means that in just five years, wind will receive the same level of subsidy that it took 15 years to accumulate previously. These policies allow intermittent energy sources to undercut baseload power, forcing coal plants to operate under severe economic constraints, despite their critical role in grid stability.

The Midcontinent Independent System Operator (MISO) and federal energy regulators (NERC & FERC) have repeatedly warned about growing risks to grid reliability, particularly due to premature coal plant retirements. The increasing reliance on intermittent resources has made the grid more vulnerable to extreme weather events. Winter Storms Uri and Elliott exposed these vulnerabilities, leading to rolling blackouts in other regions. Unlike wind and solar, lignite power plants operate at over 90% capacity and can provide reliable, 24/7 baseload power, ensuring grid stability when it's needed most.

Beyond market distortions and reliability concerns, federal regulations have placed a heavy burden on North Dakota's coal industry. The EPA and Bureau of Land Management (BLM) have imposed numerous costly rules, including the EPA Greenhouse Gas Rule, Coal Combustion Residuals Rule, Regional Haze Rule, MATS (Mercury) Rule, and the BLM Resource Management Plan. These policies raise compliance

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Lignite Energy Council
LEADING THROUGH ADVOCACY AND INNOVATION

costs and force operators into costly legal battles, with industry members spending over $5 million in just the past two years to defend against these unnecessary regulations.

Additionally, inflation and supply chain disruptions have further increased costs for power plant operations. Major maintenance outages, which occur every two to three years, now cost tens of millions of dollars, with rising costs for materials, labor, and equipment. These financial pressures make it more difficult for plants to stay online, impacting electricity affordability and reliability.

Despite these challenges, North Dakota's lignite industry remains a cornerstone of the state's economy. With an 800-year supply of lignite—the second-largest deposit in the world—our mine-mouth operations continue to provide some of the most affordable electricity in the country. North Dakota consistently ranks among the top three states with the lowest residential electricity rates, ensuring cost savings for families and businesses. The industry supports 12,000 high-wage jobs, particularly in Oliver, Mercer, and McLean Counties, where average wages rank among the highest in the state.

Furthermore, the lignite industry will continue to generate approximately $100 million in annual tax revenue—regardless of whether this bill passes—supporting state, county, and local governments. **Importantly, this bill does not reduce coal conversion tax revenue allocated to counties, ensuring they remain financially whole.**

Looking forward, North Dakota has major opportunities in energy and technology, including data centers, carbon capture and enhanced oil recovery (EOR), critical mineral production, and new uses for lignite in building materials and agricultural products. However, coal plants must survive the next decade for these opportunities to materialize.

HB 1279 is a crucial investment in North Dakota's energy future. This bill extends the current coal conversion tax relief from the state general fund for ten years and helps level the playing field for coal in the face of federal regulations and activist-driven financial challenges. Supporting this legislation means safeguarding grid reliability, preserving high-paying jobs, and fostering long-term economic stability. I urge you to give HB 1279 a "Do Pass" recommendation to keep North Dakota's energy industry strong.

Thank you for your consideration,

Jonathan Fortner
VP of Government Relations
Lignite Energy Council

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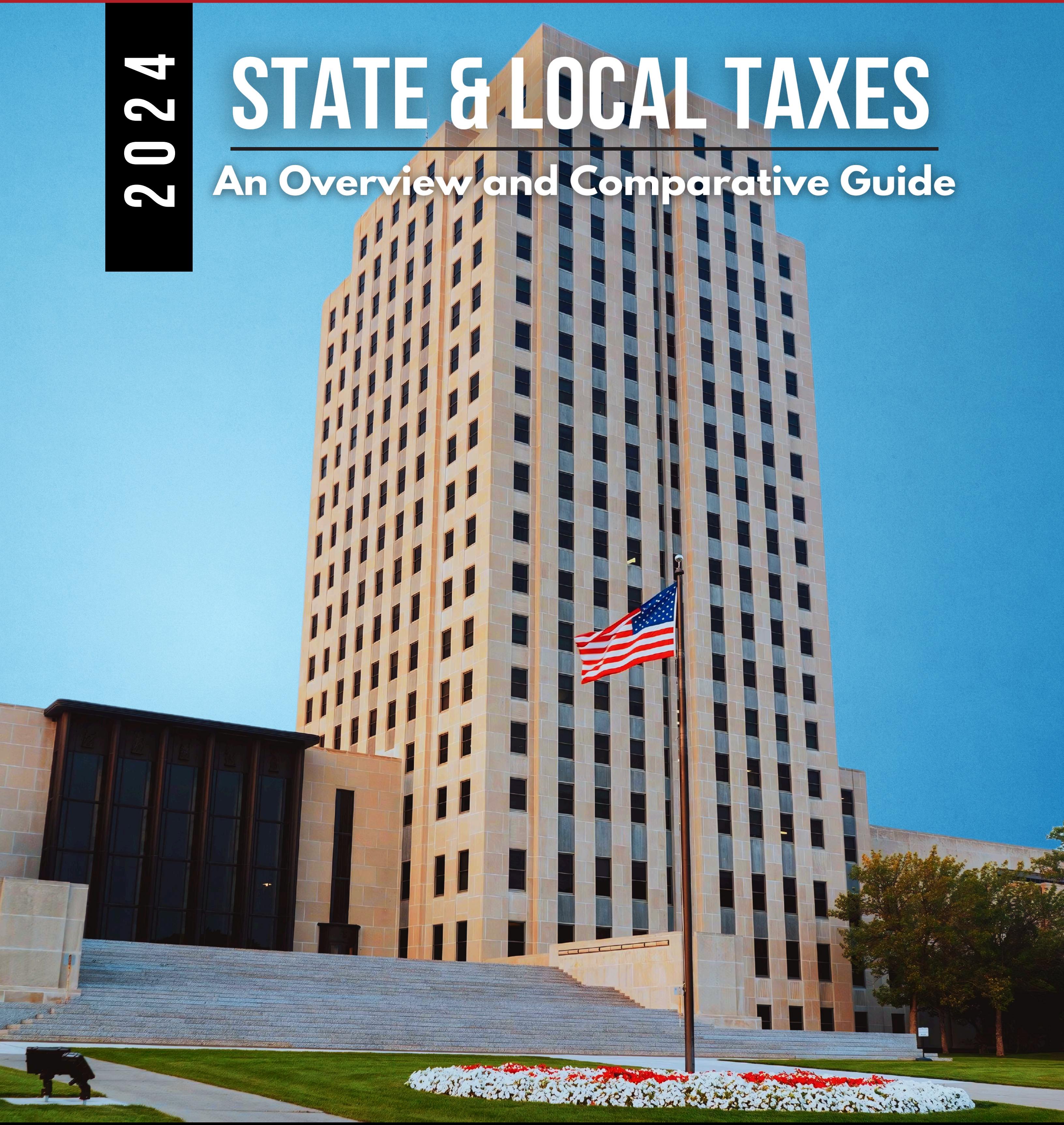
#33571

2024

STATE & LOCAL TAXES

An Overview and Comparative Guide



tax.nd.gov 701-328-7088 taxinfo@nd.gov

ND Tax NORTH DAKOTA

Coal Conversion Tax

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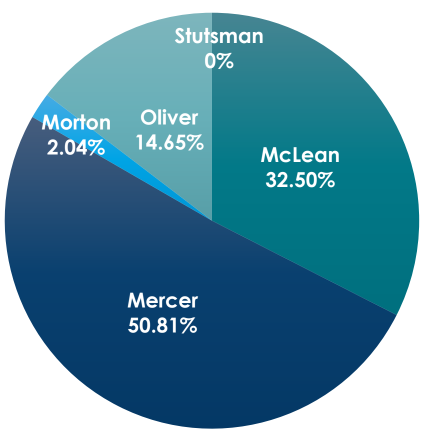
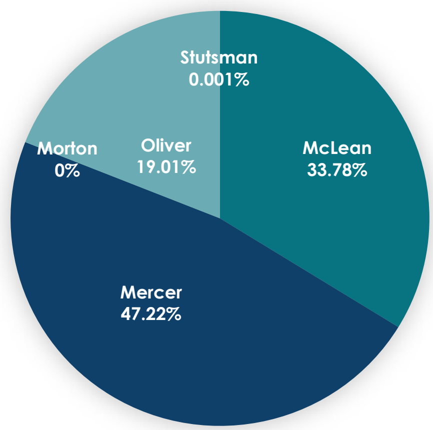
County Breakdown - Kilowatt Hours (KWH) Produced
Subject to Coal Conversion Tax

Fiscal Year 2014



Fiscal Year 2024



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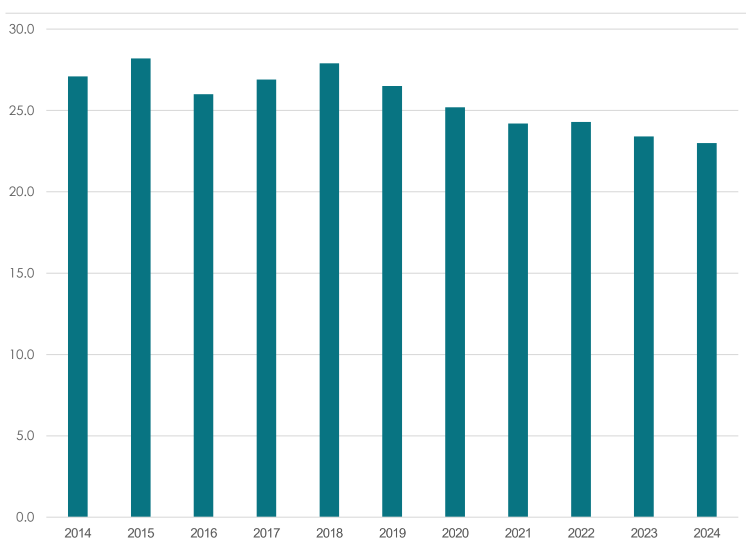
KWH Produced (Billions)
Subject to Coal Conversion Tax - Fiscal Years



Source: Office of State Tax Commissioner **tax.nd.gov.**

NDSU Agribusiness and Applied Economics Report No. 825-S January 2025

North Dakota Lignite Energy Industry

Economic Contribution Analysis

Report Content

Preface

This report is the latest biennial assessment of the economic contribution of the North Dakota lignite energy industry.

Data for this study came from industry surveys, state and federal agencies, and other secondary sources,

The definition of the lignite energy industry and methods used to estimate its economic contribution are consistent with studies examining the economic contribution of other industries in the state. As usual, these studies are snapshots in time and economic contributions often vary from year to year with commodity-based industries.

Industry Highlights

The following figures are based on activity during 2023 and projections of industry output in 2024. All values include direct and secondary economic output.

North Dakota Lignite Energy Industry in 2023

- $5.54 billion gross business volume
  - $0.87 billion from mining
  - $3.16 billion from coal conversion and electricity generation
  - $1.51 billion from transmission/distribution
- 12,030 jobs (direct and secondary)
  - 3,400 jobs supported by mining
  - 7,400 jobs supported by coal conversion and electricity generation
  - 1,200 jobs supported by transmission/distribution
- $107 million in local and state government revenues

North Dakota Lignite Energy Industry in 2024

- $5.49 billion gross business volume
  - $0.93 billion from mining
  - $3.03 billion from coal conversion and electricity generation
  - $1.53 billion from transmission/distribution
- 11,910 jobs (direct and secondary)
  - 3, 400 jobs supported by mining
  - 7,310 jobs supported by coal conversion and electricity generation
  - 1,160 jobs supported by transmission/distribution
- $100 million in local and state government revenues

**Bangsund is a Research Scientist, Department of Agribusiness and Applied Economics and Hodur is Director, Center for Social Research, North Dakota State University

Understanding the Numbers

Economic contribution assessments measure the gross size of an industry or economic sector.

Size is estimated by combining ***direct*** or first-round effects (i.e., sales, spending, and/or employment) with economic modeling to estimate secondary effects of business-to-business transactions (***indirect***) and household spending for goods and services (***induced***).

Economic measures frequently used in economic contribution assessments:
- **Labor income** – earnings of workers and sole proprietors
- **Employment** – wage and salary jobs and sole proprietor/self-employed jobs
- **Gross business volume** – includes direct sales of products and services of the industry being measured, and sum of all business-to-business and household-to-business transactions associated with indirect and induced economic activity
- **Value-added** – represents share of gross state product

An overview and additional information on study methods, data sources, and economic definitions are appended to the end of this report.

Composition of Lignite Energy Industry

Coal Mining: this segment involves the process of extracting lignite coal and delivering it to conversion facilities.

Coal Gasification: this segment involves converting lignite coal into chemicals and other products. It is grouped with electricity generation segment of the industry.

Electricity Generation: this segment burns lignite coal to produce electricity.

Transmission and Distribution: this segment includes moving electricity to local (in-state) distributors and exporting electricity to out-of-state markets.

Industry Contribution 2023

Coal mining had 1,177 direct jobs; business activity relating to coal mining operations supported another 1,155 jobs. Personal spending on goods and services by employees working in the coal mining sector and employees of businesses affected by coal mining supported an additional 1,060 jobs. The combined effects on statewide employment from coal mining was estimated at 3,400 jobs. Other economic effects from coal mining included $345 million in labor income and $874 million in gross business volume.

Coal conversion and electricity generation from lignite was estimated to have nearly 1,500 direct jobs, and business activity relating to those lignite operations supported another 4,650 jobs. Personal spending on goods and services by employees working in the coal conversion and generation activities and employees of businesses affected by those activities supported an additional 1,300 jobs. The combined direct, indirect, and induced effects on statewide employment from coal conversion and electricity generation was estimated at 7,400 jobs. Other economic effects from coal conversion and electricity generation included $570 million in labor income and nearly $3.16 billion in gross business volume.

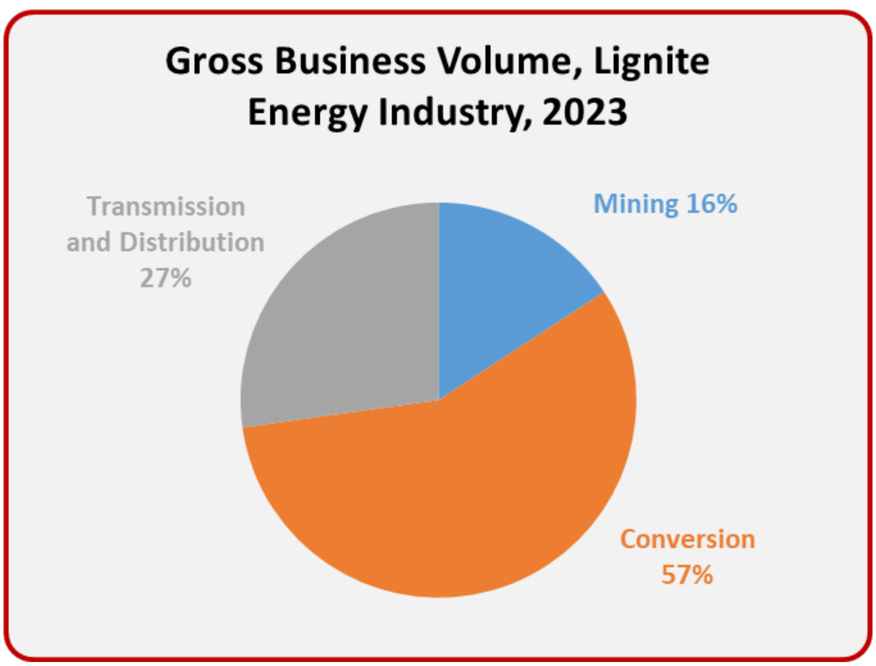
Electricity transmission and generation from lignite-based activities was estimated to have 569 direct jobs; business activity relating to those lignite operations supported another 320 jobs. Personal spending on goods and services by employees working in coal-related electricity transmission and distribution and employees of businesses affected by those activities supported an additional 330 jobs. The combined direct, indirect, and induced effects on statewide employment from coal-related electricity transmission and distribution was estimated at 1,220 jobs. Other economic effects from transmission and distribution included $105 million in labor income and $1.5 billion in gross business volume.

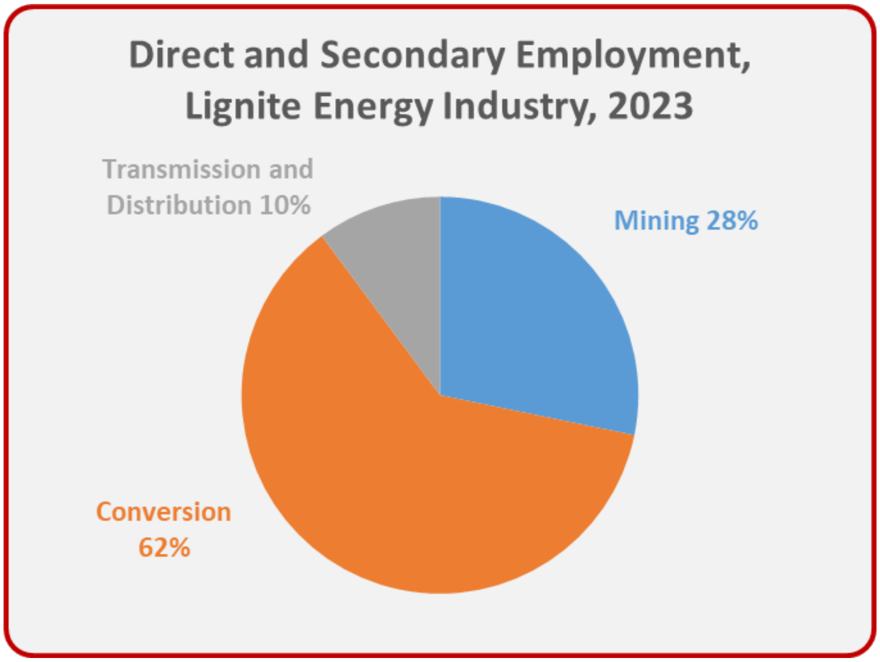
The combination of coal mining, coal conversion, coal-fired electricity generation, and electricity transmission and distribution was estimated to have 3,228 direct jobs in North Dakota in 2023. These lignite coal activities supported about 6,130 jobs through business purchases of goods and services in the state. The combined personal spending of employees in the Lignite Industry, and employees of businesses involved with supplying goods and services to the industry supported another 2,675 jobs. Collectively, the industry was estimated to support 12,030 jobs in the state.

The lignite industry also generated over $1 billion in labor income, which represents wages, salaries, benefits, and sole proprietor's income. The industry also contributed $2 billion to the state's gross domestic product, and the industry's gross business volume was estimated at $5.5 billion.

Direct, Indirect, and Induced Economic Effects, Key Economic Metrics, North Dakota Lignite Industry, 2023				
Industry Segment/Type of Economic Effect	Employment[1]	Labor Income	Value-added	Output
Coal Mining		-------------------- millions 2023 $	--------------------	
Direct effects	1,177	208	249	565
Indirect effects	1,155	79	126	215
Induced effects	1,064	59	96	95
Total economic effects	3,396	345	472	874
Electricity Generation and Coal Conversion				
Direct effects	1,482	173	513	1,804
Indirect effects	4,654	325	644	1,142
Induced effects	1,277	70	116	212
Total economic effects	7,413	568	1,273	3,158
Electricity Transmission and Distribution				
Direct effects	569	59	222	1,314
Indirect effects	323	28	60	139
Induced effects	331	18	30	55
Total economic effects	1,223	105	312	1,508

[1] Employment represents total jobs, and does not represent employment in FTE.





Direct, Indirect, and Induced Economic Effects, Key Economic Metrics, North Dakota Lignite Industry, 2023

Type of Economic Effect	Employment[1]	Labor Income	Value-added	Output
ND Lignite Industry		-------------------- millions 2023 $	--------------------	
Direct	3,228	439	985	3,683
Indirect	6,131	432	830	1,495
Induced	2,673	147	242	362
Total	**12,032**	**1,018**	**2,057**	**5,540**

[1] Employment represents total jobs, and does not represent employment in FTE.

Industry Contribution 2024 (projected)

The following figures and values were based on an industry survey soliciting estimates of calendar year 2024 business activities, although the survey was administered prior to yearend. Firms were asked to estimate what their 2024 revenues and expenditures would be based on data available at the time of the survey and augment that information with expected activities for the remaining months in 2024. Data provided by the industry for 2024 is treated as a projection. However, the projection is considered a reasonable estimate of 2024 since, in many cases, the estimates included actual revenues and expenditures for 10 to 11 months of 2024.

Coal mining had 1,196 direct jobs; business activity relating to coal mining operations supported another 1,168 jobs. Personal spending on goods and services by employees working in the coal mining sector and employees of businesses affected by coal mining supported an additional 1,065 jobs. The combined effects on statewide employment from coal mining was estimated at 3,429 jobs. Other economic effects from coal mining included $356 million in labor income and $931 million in gross business volume.

Coal conversion and electricity generation from lignite was estimated to have 1,407 direct jobs, and business activity relating to those lignite operations supported another 4,684 jobs. Personal spending on goods and services by employees working in the coal conversion and generation activities and employees of businesses affected by those activities supported an additional 1,226 jobs. The combined direct, indirect, and induced effects on statewide employment from coal conversion and electricity generation was estimated at 7,316 jobs. Other economic effects from coal conversion and electricity generation included $581 million in labor income and over $3.0 billion in gross business volume.

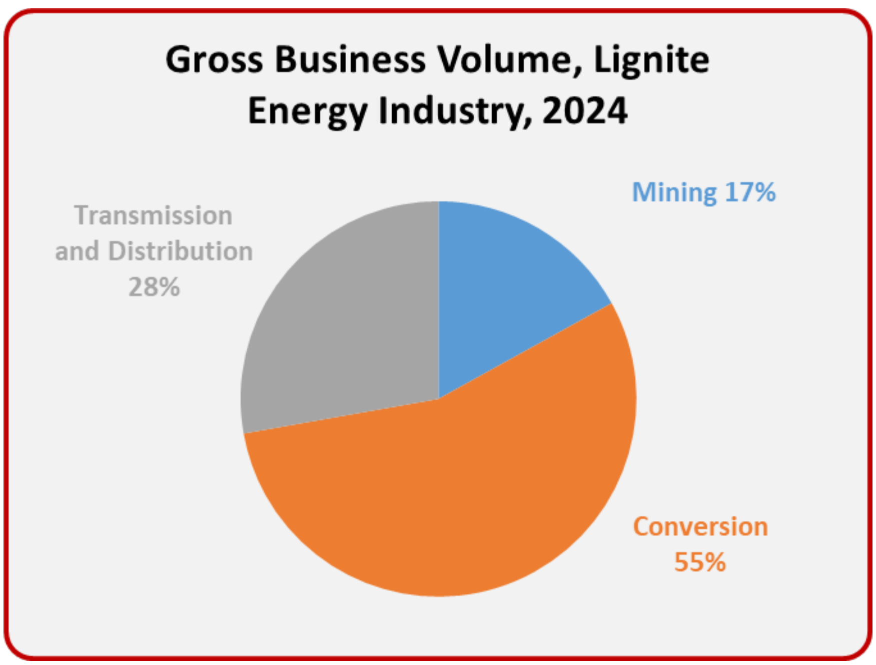
Electricity transmission and generation from lignite-based activities was estimated at 543 direct jobs; business activity relating to those lignite operations supported another 332 jobs. Personal spending on goods and services by employees working in coal-related electricity transmission and distribution and employees of businesses affected by those activities supported an additional 287 jobs. The combined direct, indirect, and induced effects on statewide employment from coal-related electricity transmission and distribution was estimated at 1,162 jobs. Other economic effects from transmission and distribution included $96 million in labor income and $1.5 billion in gross business volume.

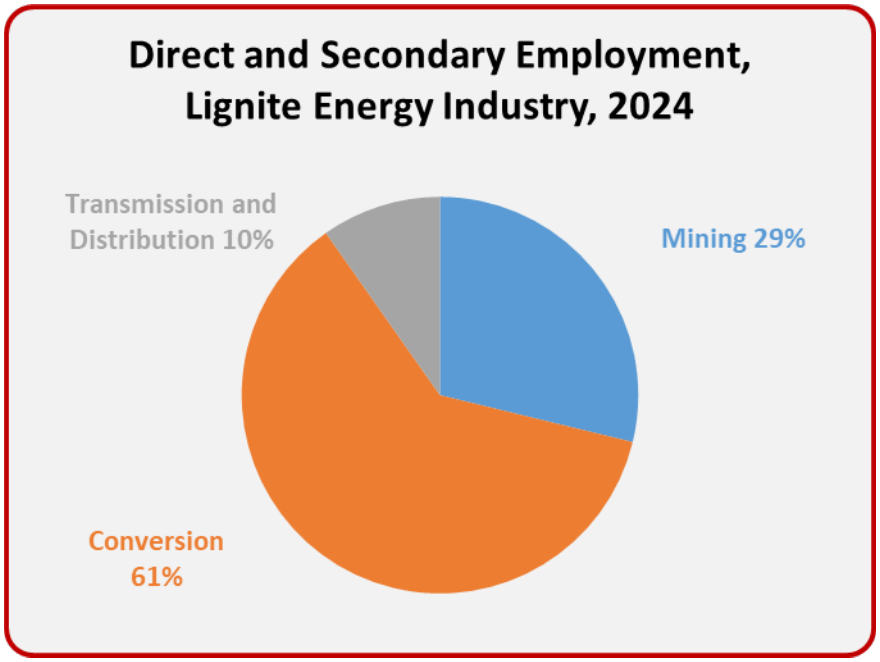
The combination of coal mining, coal conversion, lignite coal-fired electricity generation, and electricity transmission and distribution was estimated to have 3,146 direct jobs in North Dakota in 2024. These lignite coal activities supported about 6,184 jobs through business purchases of goods and services in the state. The combined personal spending of employees in the Lignite Industry, and employees of businesses involved with supplying goods and services to the industry supported another 2,578 jobs. Collectively, the industry was estimated to support 11,907 jobs in the state.

The lignite industry also generated over $1 billion in labor income, which represents wages, salaries, benefits, and sole proprietor’s income. The industry also contributed $2.0 billion to the state’s gross domestic product, and the industry’s gross business volume was estimated at $5.5 billion.

Direct, Indirect, and Induced Economic Effects, Key Economic Metrics, North Dakota Lignite Industry, Projected 2024				
Industry Segment/Type of Economic Effect	Employment[1]	Labor Income	Value-added	Output
Coal Mining		--------------------- millions 2023 $	---------------------	
Direct effects	1,196	216	240	609
Indirect effects	1,168	82	134	228
Induced effects	1.065	59	97	95
Total economic effects	3,429	356	470	931
Electricity Generation and Coal Conversion				
Direct effects	1,407	181	502	1,816
Indirect effects	4,684	333	583	1,015
Induced effects	1,226	67	111	204
Total economic effects	7,316	581	1,196	3,034
Electricity Transmission and Distribution				
Direct effects	543	58	275	1,350
Indirect effects	332	23	56	129
Induced effects	287	16	26	48
Total economic effects	1,162	96	358	1,527

[1] Employment represents total jobs, and does not represent employment in FTE.





Direct, Indirect, and Induced Economic Effects, Key Economic Metrics, North Dakota Lignite Industry, 2024 (projected)				
Type of Economic Effect	Employment[1]	Labor Income	Value-added	Output
ND Lignite Industry		--------------------	millions 2023 $	--------------------
Direct	3,146	454	1,017	3,775
Indirect	6.184	438	773	1,372
Induced	2,578	142	234	346
Total	**11,907**	**1,034**	**2,024**	**5,493**

[1] Employment represents total jobs, and does not represent employment in FTE.

Government Revenues 2023

Government revenues are often used as a measure of how effectively an industry supports public services. In North Dakota, the most common sources of in-state public revenues are severance taxes, sales and use taxes, property taxes, and income taxes. A host of other taxes and revenue sources are often tracked in economic contribution and impact assessments, but those sources have varying levels of contribution to government revenue.

The lignite industry was estimated to contribute $52.9 million in government revenues directly from firms in the industry. Tax revenues arising from secondary business activity were estimated to generate an additional $54.4 million in state and local government revenues. A total of $107 million in state and local tax revenues were generated by the Lignite Industry in North Dakota in 2023.

Coal conversion and coal severance taxes were estimated at $13.6 million. Other substantial contributions to state and local government revenues from secondary economic effects were from sales taxes ($25 million) and property taxes ($17.6 million).

State and Local Government Revenues, Lignite Industry, North Dakota, 2023

Government Revenue	Paid Directly by the Industry	Collected from Indirect and Induced Activity	Total Collections
	---------------------- 000s 2023 $ ----------------------		
Coal Severance Tax	9,379	---	9,378
Coal Conversion Tax	4,223	---	4,223
Sales, Property, and Corporate Income Taxes (reported in survey data)	30,920	---	30,920
Social Insurance Tax	1,489	1,263	2,751
Personal Income Tax	3,053	3,087	6,139
Sales Tax	see above	25,287	25,287
Property Tax	see above	17,582	17.582
Corporate Income Tax	see above	2,151	2,151
Other Taxes	1,088	1,125	2,213
Non Taxes	2,728	3,856	6,584
Totals	**52,880**	**54,350**	**107,231**

Government Revenues 2024 (projected)

The lignite industry was projected to contribute $49.8 million in government revenues directly from the firms in the industry. Tax revenues arising from secondary business activity, based on projections of industry activity, were estimated to generate an additional $50.3 million in government revenues. A projected total of $100.1 million in state and local tax revenues were created by the Lignite Industry in North Dakota in 2024.

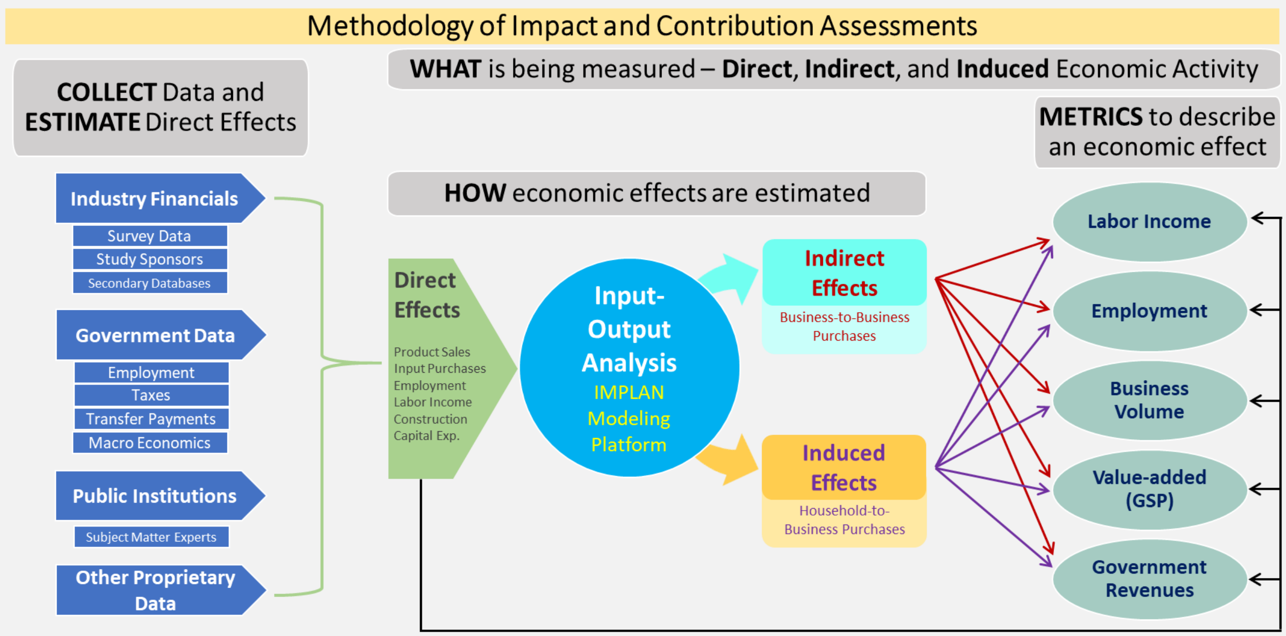
Coal conversion and coal severance taxes were estimated at $15.8 million. Other substantial contributions to state and local government revenues from secondary economic effects were from sales taxes ($23 million) and property taxes ($16 million).

State and Local Government Revenues, Lignite Industry, North Dakota, 2024 (projected)			
Government Revenue	Paid Directly by the Industry	Collected from Indirect and Induced Activity	Total Collections
	---------------------- 000s 2023 $ ----------------------		
Coal Severance Tax	9,379	---	9,379
Coal Conversion Tax	4,223	---	4,223
Sales, Property, and Corporate Income Taxes (reported in survey data)	32,463	---	32,463
Social Insurance Tax	1,489	1,302	2,791
Personal Income Tax	3,053	3,191	6,244
Sales Tax	see above	22,995	22,995
Property Tax	see above	15,988	15,988
Corporate Income Tax	see above	2,145	2,145
Other Taxes	1,088	1,023	2,111
Non Taxes	2,728	3,636	6,364
Totals	**54,423**	**50,280**	**104,703**

Supplemental Materials

Economic Contribution Analysis

An economic contribution assessment measures the gross size of some aspect or component of an economy, and is usually measured in conjunction with the overall size of a given economy over a specified period. Size is estimated by combining direct or first-round effects (e.g., industry expenditures, business sales, new employment) with economic modeling to estimate how those first round effects generate business-to-business transactions and household spending on consumer goods and services. Both of those conduits for economic output can be framed using labor income, employment, value-added, gross business volume and government revenues.



Source: DA Bangsund, Agribusiness and Applied Economics, North Dakota State University

Key Terms and Concepts

Direct Effects: First-round of payments for services, labor, and materials and/or sales of an industry's products.

Indirect Effects: Economic activity created through purchases of goods and services by businesses.

Induced Effects: Economic activity created through purchases of goods and services by households.

Industry Output and Gross Business Volume: Industry output is the value of all goods and services produced and supported by an industry. In most industries, output is largely synonymous with sales; however, for some sectors output also includes changes in product inventory. For oil and gas production, direct output includes both sales and inventory adjustments.

When output from business-to-business transactions (*indirect*) and households-to-businesses (*induced*) are measured, they also are described as the *sum of gross receipts* as annual adjustments to inventories are largely unquantified and not distinguished from sales. *Gross business volume* (GBV) therefore includes direct output/sales and includes secondary sales from indirect and induced economic activity.

Value-added: Value-added is synonymous with measures of gross domestic product (GDP) and gross state product (GSP), are some of the most commonly used economic measures to indicate the economic size and change in economic output. However, official government estimates of GDP and GSP do not include secondary economic effects generated by any industry. For lignite energy industry, official government estimates are primarily limited to coal mining, coal conversion, and transmission/distribution. Economic contribution assessments include secondary economic effects, and include GSP from those effects, thereby providing a more realistic and representative portrait of an industry.

Key components of value-added include labor income, consumption of fixed capital, profits, business current transfer payments (net), and income derived from dividends, royalties, and interest. In nontechnical terms, value-added is equal to product value minus production inputs. For example, value-added from coal mining would be the value of coal sold less the value of the inputs consumed in mining the coal. Depreciation charged to durable assets (e.g., buildings, pipelines, processing equipment) are not included in value-added measures.

Employment Compensation: Wages, salaries, and benefits earned by an employee.

Proprietor Income: Payments received by self-employed individuals and unincorporated business owner/operators.

Labor Income: Wages, salaries, and benefits for employees and compensation for self-employed individuals.

Input-output Analysis (I-O): Mathematical application of the interdependence among producing and consuming sectors in an economy.

I-O Matrix: Depiction of an economy using a grid of rows and columns that represents consumption and production for each economic sector in an economy.

Intermediate Inputs: Goods and services consumed in one year to produce another good or service. Intermediate inputs do not include expenditures for capital inputs used for multiple production seasons (e.g., machinery, buildings).

Capital Inputs: Represent the use of inputs to produce another good or service that are not consumed in one production season and are subject to depreciation. *Capital expenditures* represent the purchase of those depreciable assets.

Industry Balance Sheet: Dividing an industry or economic sector into various components for use in estimating the economic effects using input-output analysis. Components of the balance sheet include measures of output, wage and salary employment, self-employment, payroll and proprietor income, other property type income, taxes on production and imports, and intermediate inputs.

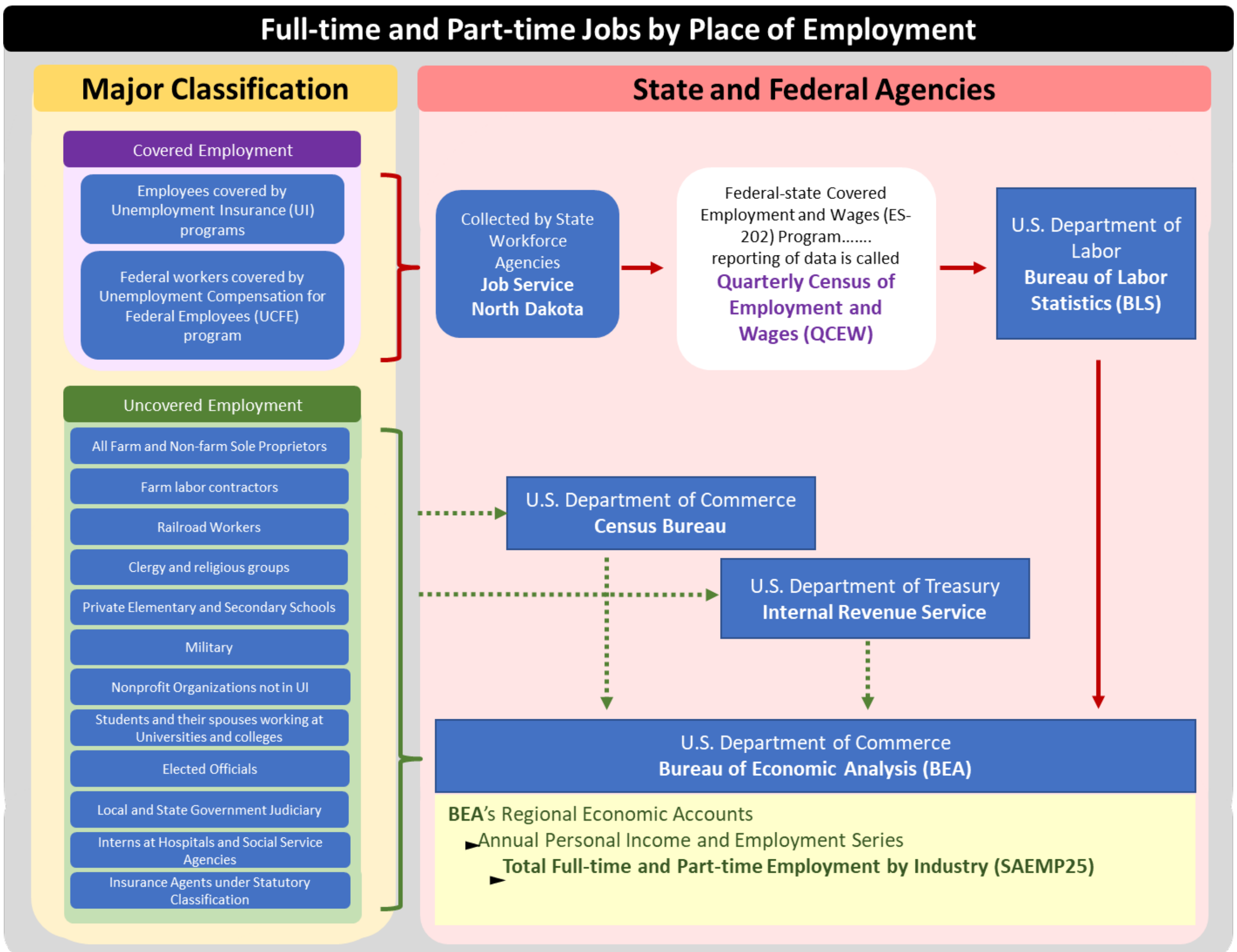
Institutions: Represent governments and other non-private entities consuming goods and services in an economy.

Households: Represent one or more individuals in a specific living arrangement for which income from all sources is used to purchase goods and services.

North American Industry Classification System (NAICS): Government classification system for all goods and services produced in the economy.

Employment Sources and Measures

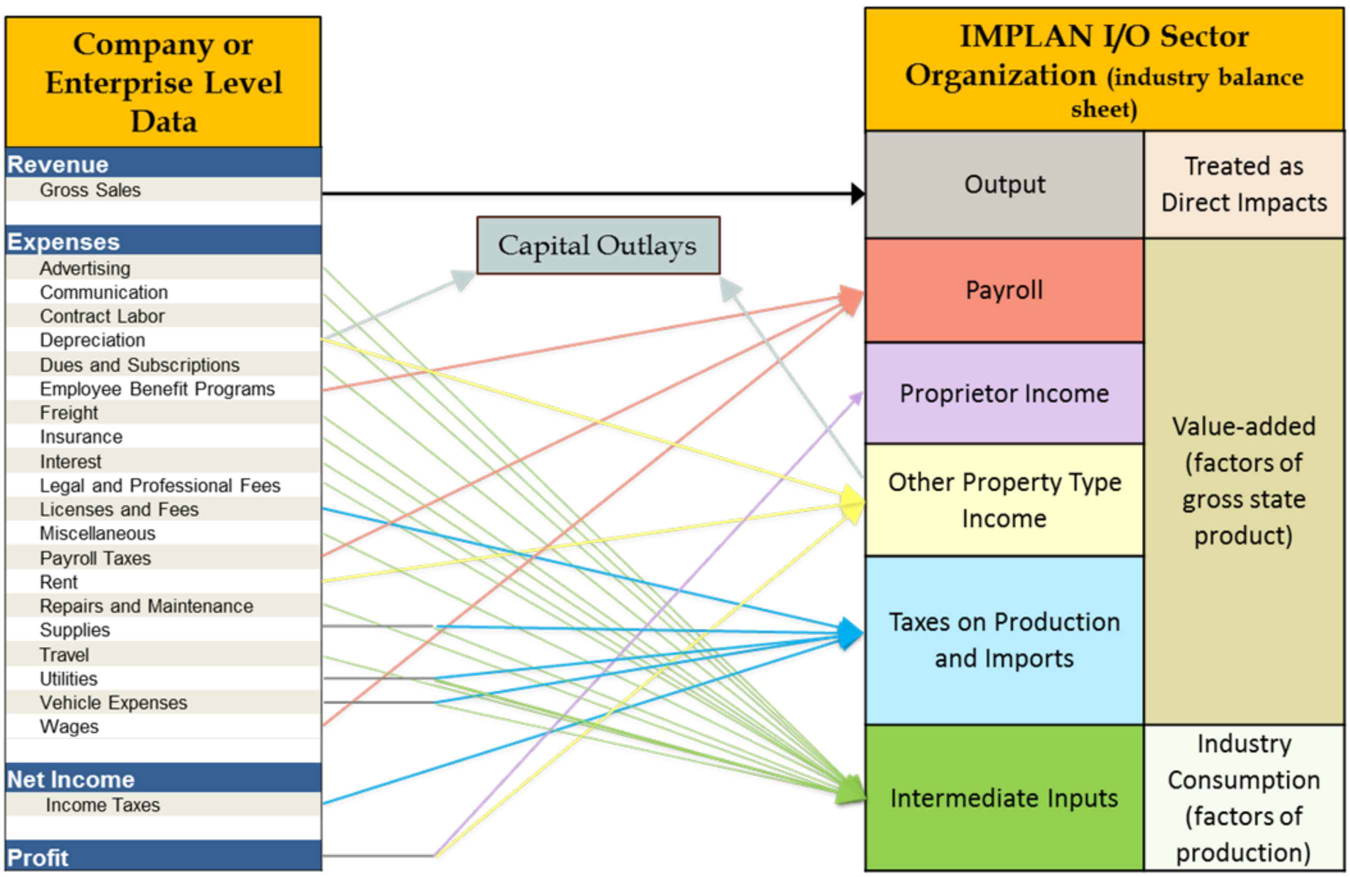
Employment is broadly measured in two distinct categories: covered and uncovered. Covered workers are those that are employed by a business, institution, or government agency, receive a wage or salary, and are subject to unemployment insurance (UI). Jobs that fall under an UI program are called 'covered' employment. Quarterly Census of Employment and Wages (QCEW) employment reported by Job Service North Dakota is 'covered' employment. QCEW data are collected for each state and reported by the U.S. Bureau of Labor Statistics (BLS). Therefore, employment statistics for self-employed individual cannot be derived from QCEW data.



Developing Economic Sector Profiles

An industry balance sheet or economic profile is one of the most important elements in economic contribution studies. Nearly all key economic metrics have their origin within an industry's economic profile/sector. Information and data to create economic sector profiles were collected from surveys of industry firms and data from government agencies.

While the IMPLAN modeling platform provides baseline economic profiles generated from proprietary estimation techniques applied to government data, this study relied on state-sourced data and industry input to create a customized IO matrix. The process of developing study-specific economic profiles and then modifying an IO matrix is time consuming and requires considerable empirical analysis, but the results from those efforts produce a credible and transparent evaluation of an industry's role in an economy.



General Transposition of Financial Information into IMPLAN Economic Sector Profiles

Source: DA Bangsund, Department of Agribusiness and Applied Economics, NDSU

Treatment of Traditional Economic Sectors Supporting Lignite Energy Industry

This summary omits specific details of how the secondary economic effects are distributed among the state's numerous economic sectors and sub-sectors. Several economic sectors support the lignite energy industry by providing inputs and services to various segments of the industry. Examples include manufacturing, financial institutions, legal representation, business services, industrial equipment and machinery, among others. Under some definitions, those activities and sectors are presented as "direct" segments of the industry. However, from the perspective of how this study's input-output analysis was structured, those sectors represent "indirect" economic output of the industry, meaning those sectors are supported and sustained from purchases relating to lignite energy industry mining, conversion, and transportation/distribution.

Acknowledgments

Special thanks are extended to Jason Bohrer, President, Lignite Energy Council, for his leadership, guidance, and information throughout the study, and to Kay LaCoe, Vice President of Communications, Lignite Energy Council who assisted with the surveys and soliciting industry cooperation for the study.

The study authors and study sponsors would like to thank all the companies and individuals that took the time to complete and return the survey materials. This study, with its reliance on industry data, would not have been possible without industry cooperation.

Financial support was provided by the North Dakota Lignite Energy Council. We express our appreciation for their support.

We wish to thank Edie Nelson, Department of Agribusiness and Applied Economics, for document preparation.

February 3, 2025

Chairman Headland and House Finance and Taxation Committee Members,

Basin Electric Power Cooperative (**Basin Electric**) submits this testimony in support of House Bill 1279 and the relief it provides lignite power plants in North Dakota.

Basin Electric is a regional, member-owned, generation and transmission cooperative formed in 1961 to supply supplemental power to a consortium of rural electric distribution cooperatives. Basin Electric's core business is generating and delivering electricity to wholesale customers, primarily our member systems. Basin Electric owns and operates over 5,000 MW of electric generating capacity including coal, wind, and natural gas. Basin Electric supplies 140 rural electric member cooperative systems with wholesale electric power who in turn serve approximately 3 million consumers in a nine-state area, including 16 cooperatives across North Dakota.

As part of this generation portfolio, Basin Electric owns and operates two lignite coal power plants in the state, Antelope Valley Station and Leland Olds Station, as well as the Dakota Gasification Company (DGC) which also converts coal to byproducts.

HB1279 is an extension of coal conversion tax relief and maintains the status quo for coal plant operators. Over the past five years, the existing tax relief has saved Basin Electric over $60 million dollars; extending this relief for another 10 years is estimated to save Basin Electric another $120 million or more. These savings are passed on to our members and help to maintain affordable reliable energy in the State. Currently, changing fuel markets, federal policies, and regulations distort energy markets, and favor intermittent electrical generation. Further, an aggressive Federal government has made it harder to operate coal plants in recent years. To remain competitive in this environment, lignite coal-based power plants and conversion facilities require economic relief to sustain the viability of baseload generation, protect North Dakota's lignite industry, and ensure coal-based power remains a reliable and economically viable resource in wholesale power markets.

Basin Electric has recently announced historic investments to its generation and transmission systems in the State of North Dakota. While inflation, litigation, and regulation may pose challenges to our industry, we ask this committee to maintain its commitment to favorable taxation so as support these critical investments and ensure affordable and reliable energy for North Dakota.

Ryan Norrell
Vice President of Government Relations
Basin Electric Power Cooperative

Testimony of Mark Bring
Director of Public Policy and Government Affairs
Otter Tail Power Company

In Favor of HB 1279

Before the House Finance & Taxation Committee
February 3, 2025

Chairman Headland and members of the Committee, my name is Mark Bring and I serve as Director of Public Policy and Government Affairs for Otter Tail Power Company. I have been licensed as an attorney in North Dakota since 1992 and have been employed continuously in the electric industry since 1997. I respectfully submit this testimony regarding our company's support for House Bill 1279.

Otter Tail Power Company is one of the smallest investor-owned utilities in the nation and is a subsidiary of Otter Tail Corporation, which is traded on the NASDAQ as OTTR. Otter Tail Corporation also owns several manufacturing companies engaged in metal fabricating, custom plastic parts manufacturing, and PVC pipe manufacturing. These non-energy businesses include Northern Pipe Products in Fargo.

Otter Tail Power Company provides electricity and energy services to more than 133,000 customers spanning 70,000 square miles in western Minnesota, eastern North Dakota, and northeastern South Dakota. Our service area is predominantly rural and agricultural. By way of example, a median-sized community we serve in North Dakota is Michigan in Nelson County. According to the most recent U.S. Census Bureau statistics, Michigan has a population of 263 people. We serve many towns that are smaller yet, including my hometown, Galesburg, in Traill County. The largest North Dakota communities served by our company are Devils Lake, Jamestown, and Wahpeton. Following its incorporation in 1907, our company began serving its very first customer in Wahpeton in 1909.

Otter Tail Power Company is a 35% co-owner and is the operating agent of Coyote Station, a 427-megawatt lignite coal-fired plant near Beulah. Coyote Station is jointly owned with Montana-Dakota Utilities Co. (25%), Northern Municipal Power Agency (30%), and NorthWestern Energy (10%). Coyote Station began producing electricity in 1981. Approximately 80 employees operate and maintain the plant.

HB 1279 would extend the sunset of 2021 legislation that provided meaningful coal conversion tax relief. In the case of Coyote Station, this relief reduced coal conversion taxes by approximately $1.7 million in 2024, thereby benefiting customers of the four co-owners and ensuring a consequential reduction in the cost of energy production at the plant. The reduction in the cost of energy production results in Coyote Station achieving higher dispatch rates and using greater amounts of lignite coal than it otherwise would. This, in turn, keeps Coyote Station competitive in the marketplace, contributing to the vibrancy of coal country and benefitting a key industry for our state.

The lignite industry continues to face challenges. In a marketplace that is regional in nature, HB 1279 represents a tangible way in which North Dakota can help lignite coal-fired generation remain competitive.

We urge a DO PASS on HB 1279.

Legislative Assembly

North Dakota
House of Representatives

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BISMARCK, ND 58505-0360

Representative Anna Novak
District 33
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anovak@ndlegis.gov

COMMITTEES:
Education
Energy and Natural Resources (Vice Chair)

February 3, 2025

Chairman Headland and Members of the House Finance and Taxation Committee,

Thank you for allowing me to testify today in support of House Bill 1279. For the record, I am Representative Anna Novak from District 33, where lignite power plants are more than just facilities—they are lifelines for our communities. This bill isn't just about helping an industry; it's about protecting affordable energy for every North Dakotan and ensuring a reliable power grid that sustains our way of life.

Lignite power plants are the backbone of North Dakota's energy grid, providing power 24/7, rain or shine, cold snap or heatwave. For ratepayers, this means affordable electricity that doesn't fluctuate wildly with market demands or weather conditions. With increasing reliance on intermittent energy sources like wind and solar, it's crucial to maintain a stable, always-available energy source that keeps our grid reliable and energy prices consistent.

I have had a few of my constituents ask me why I am in favor of eliminating taxes for the coal industry, because they are concerned of the impact it would have on our local political subdivisions. I would like to clarify that the coal industry pays two separate taxes. The coal severance tax is the tax the coal mines pay for removal of the coal from the ground. That tax is not impacted by this bill, locally or statewide. The tax that this bill targets is the coal conversion tax, which is the tax the lignite power plants pay for converting the coal for electricity generation. The local portion of the coal conversion taxes will not be impacted by this bill; however, the power plant facilities will get a 10-year tax holiday at the state level.

HB1279 provides lignite power plant operators with the financial stability needed to manage the rising costs of maintenance, upgrades, and legal challenges driven by federal overreach and inflation—costs that would otherwise trickle down to ratepayers. By extending the coal conversion tax relief, the bill helps keep these expenses manageable, protecting families and businesses from unexpected increases in their electricity bills. At the same time, the bill is a forward-looking measure that ensures lignite remains a cornerstone of affordable and reliable energy for North Dakota, not just for today but for the next decade and beyond. It supports predictable and fair electricity rates while enabling continued investment in innovative technologies, making this vital resource more sustainable for the future.

I urge this committee to support HB1279, not just for the sake of the industry, but for the sake of the hardworking ratepayers who deserve affordable and reliable power. Let's keep North Dakota's energy affordable, stable, and independent.

Thank you for your time and consideration, Mr. Chairman and members of the committee. With that, I'll stand for any questions.

Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1279

Introduced by

Representatives Novak, Berg, Hagert, Headland, J. Olson, S. Olson, Porter, Tveit

Senators Boehm, Patten, Thomas

A BILL for an Act to amend and reenact sections 57-60-02, 57-60-02.2, 57-60-14, and 57-61-01 of the North Dakota Century Code, relating to an exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-60-02. Imposition of taxes. (Effective through June 30, ~~2026~~2036)

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

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the

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

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

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

7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, ~~2026~~2036. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply.

Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.

Imposition of taxes. (Effective after June 30, ~~2026~~2036) There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

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

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

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

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

6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the

preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.

SECTION 2. AMENDMENT. Section 57-60-02.2 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02.2. Coal conversion facility tax - Exemption - Lignite research tax - Imposition. (Effective through June 30, ~~2026~~2036)

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

SECTION 3. AMENDMENT. Section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

57-60-14. Allocation of revenue - Continuing appropriation. (Effective through June 30, ~~2026~~2036)

1. At least quarterly, the state treasurer shall allocate:
   a. The lignite research tax collections under section 57-60-02.2 to the lignite research fund for the purposes under section 57-61-01.5.
   b. The remaining coal conversion tax collections under section 57-60-02 to the county.
2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the

required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

Allocation of revenue - Continuing appropriation. (Effective after June 30, ~~2026~~<u>2036</u>)

1. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty-five percent to the state general fund, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which must be deposited in the state general fund. Five percent of all funds allocated to the state general fund pursuant to this chapter must be allocated to the lignite research fund, for the purposes defined in section 57-61-01.5.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a

continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

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

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective through June 30, ~~2026~~2036)

1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.
2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, ~~2026~~2036. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02.

Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective after June 30, ~~2026~~2036) There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable production beginning after June 30, 2025.

FISCAL NOTE
HOUSE BILL NO. 1279
LC# 25.0895.01000
01/17/2025
Revised - 01/17/2025

1 - 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.

	2023-2025 Biennium		2025-2027 Biennium		2027-2029 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(21,350,000)		$(42,700,000)	
Expenditures						
Appropriations						

2 - County, City, School District, and Township Fiscal Effect

Identify the fiscal effect on the appropriate political subdivision.

	2023-2025 Biennium	2025-2027 Biennium	2027-2029 Biennium
Counties			
Cities			
School Districts			
Townships			

3 - 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 1279 extends the existing coal conversion facilities privilege tax.

4 - Fiscal Impact Sections Detail

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.

Section 2 extends the existing coal conversion facilities privilege tax that was originally enacted by HB 1412 during the 2021 session. If enacted, HB 1279 is expected to reduce state general fund revenues.

5 - Revenues Detail

For information shown under state fiscal effect in 1 or 2, please explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

If enacted, HB 1279 is expected to reduce state general fund revenues by an estimated $21.35 million in the 2025-2027 biennium and $42.7 million 2027-2029 biennium, contingent upon production activity remaining consistent with past production.

6 - Expenditures Detail

For information shown under state fiscal effect in 1 or 2, please explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

7 - Appropriations Detail

For information shown under state fiscal effect in 1 or 2, please explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.

Contact Information

Name: Shailyn Hieb

Agency: Office of State Tax Commissioner

Telephone: 7013283007

Date Prepared: 01/17/2025

#33745

RAINBOW ENERGY CENTER

NEXUS LINE

House Bill 1279

Testimony of Jessica Bell

House Finance and Taxation Committee

February 3, 2025

Chairman Headland and members of the Committee, my name is Jessica Bell, and I am appearing on behalf of Rainbow Energy Center today to speak in favor of House Bill 1279. House Bill 1279 seeks to provide essential tax relief to North Dakota's lignite industry, including Coal Creek Station.

On June 30, 2021, Rainbow Energy Center and its affiliate, Nexus Line, entered into definitive agreements with Great River Energy for the acquisition of Coal Creek Station and the 400-mile high-voltage direct current (HVDC) transmission line that transmits power produced from Coal Creek Station to a converter station located near Buffalo, Minnesota. On May 2, 2022, the purchase and sale to Rainbow was complete. The process of Rainbow acquiring Coal Creek Station began with the vision of the team at Rainbow Energy. It is a vision that continues to be executed today and will preserve Coal Creek Station and the over 1,000 careers at the plant and mine for generations.

The response from stakeholders such as yourselves ensured that vision for Coal Creek Station could be executed. Those changes allowed us to put our heads down and get to work. In the nearly three years Rainbow Energy has operated the plant, we have all learned many lessons.

Rainbow has taken an innovative approach when it comes to securing and providing reliable and affordable power as an independent power producer. Long-term contracts to provide power to IOUs, cooperatives and data centers at a price certain was part of our original vision and is critical to our long-term business plan. Market prices remain constrained due to many factors and inhibit reliable generators such as Coal Creek Station to remain economically viable solely utilizing the real-time and day-ahead markets in regional transmission operations such as Midcontinent Independent System Operator (MISO) and Southwest Power Pool (SPP).

Fulfilling these contracts require Coal Creek Station to operate at maximum efficiency. This means significant investments must be made to ensure power is available when needed. Preventative maintenance, increased efficiency in power distribution and innovative projects that shift waste to beneficial use projects are just some of the investments made at Coal Creek Station over the past three years to help ensure not only long-term economic viability, but long-term economic growth for the surrounding vibrant communities of Underwood and Washburn.

Constrained markets, a weaponized EPA, inflation and limited access to capital and higher insurance costs due to ESG pressures are all contributing factors in complicating our ability to do business. While all these factors come from outside pressures, the state's support presently and as we look to the future will help plants like Coal Creek Station endure these trying times and changing dynamics in the power production market. The ten-year exemption period helps provide a level of predictability when so many other outside factors are incredibly volatile and outside our and your control.

In closing, I urge you to adopt HB 1279 as proposed. The relief the state has provided up to this point has made all the difference for us at Rainbow Energy as an independent power producer. Looking to the future, this support will help in our ability to navigate inevitable upcoming challenges over the next decade. I would be happy to answer any questions you may have.

My name is Casey Voigt, I am a rancher from south of Zap.
I am here today in opposition of HB1279.

This is very difficult for me.
I do support the coal industry.
However, I can not support HB1279 as written.

I am a Mercer County Commissioner, but today I testify before you as a tax paying citizen of Mercer County.

Over 1/2 of the Coal Industry, in the great state of ND, is in Mercer County.
The financial burden of the Coal Industry weighs heavy on our small community.
Taxes are needed for:
1). Maintaining infrastructure in Mercer County.
2). Maintaining infrastructure in the cities of Golden Valley, Zap, Beulah, Hazen, Stanton and Pick City.
3). Supporting our school districts in Beulah and Hazen.
4). Funding for law enforcement and other government services.
5). and building for the future.

Mercer County is about 100 million dollars behind on infrastructure maintenance on roads, bridges, etc...
The City of Beulah has an estimate for 40 million dollars to replace water and sewer lines. That estimate was done 4 years ago. We all know that inflation is sky rocketing.
The Beulah School district has an assessment for 22M.

How are we suppose to fund these projects?
Recently the Beulah School District did a bond referendum for 10 million dollars to update the High School.
The district is paying for that through mill levies to the residents.

Last year the city of Beulah had to do a Special Assessment for 8 million dollars to replace water and sewer lines and resurface Main street.
Mill levies and Special Assessments are both assessed through property taxes.
All of these financial burdens are falling squarely on the shoulders of our residents!

The former mayor of Beulah, Darrell Benz, worked with former Governor Art Link. They established the Coal Severance tax at 75 cents and Coal Conversion tax at 4.1%.

One thing that bothers me about HB1279 is the timing.
HB1279 was introduced on January 13th, scheduled on Friday, January 31 for a hearing on Monday, February 3rd.
The last Mercer County Commission meeting was January 15th. The next MCC meeting is February 6th.
That leaves very little chance for public input.

Something else is the Fiscal Note for HB1279 shows $(21,350,000) for 2025-2027 biennium and $(42,700,000) for 2027-2029 biennium.
$(64,050,000) total of the 4 years.
HB1279 requests an exemption for 10 years.
What is the fiscal effect for the last 6 years?

Numerous times the 2024 Red Book mentions a 5 year exemption. Now HB1279 wants to extend that to 10 years.

According to the 2024 Red Book:

<u>Coal Severance Tax</u> - - (which is in lieu of sales tax).

Local county: 70%
37.5 x 70% = 26.25 cents (26.25 cents per ton is approximately 1% sales tax).
10.5 cents to county
7.88 cents to the cities
7.88 cents to the school districts

State: 30%
37.5 x 30% = 11.25 cents
15% Coal Development Trust Fund = 5.6 cents
15% Lignite Research Fund = 5.6 cents
*an additional 2 cents per ton tax to the Lignite Research Fund (7.6 cents).

<u>Coal Conversion</u> - - (which is in lieu of property tax).

2% of gross receipts
2% x 85% = 1.7% to the State General Fund is exempt.
2% x 15% = 0.3% to the local county is divided:
0.3% x 40% = 0.12% to county general fund
0.3% x 30% = 0.09% is divided between all incorporated cities in the county.
0.3% x 30% = 0.09% is divided between all school districts in the county.

From the Red Book page 13:

Counties may grant a partial or complete exemption from the counties' portion of the taxes.

Currently our local small businesses are paying 5% state sales tax and 2% city sales tax.
Local small businesses pay 7% sales tax; the Coal Severance pays only 1% sales tax. Why?

Currently our county property taxes have doubled or even tripled in the last 15 years.
While, Coal Conversion taxes paid in lieu of property taxes have been frozen with no increases.

The Amendments to HB 1279

I would like to request the amendments as follows for:

NDCC Chapter 57-60-02 For Coal Conversion taxes
A). Allocation of revenue should be:
40 percent to the state general fund
60 percent for local county

NDCC Chapter 57-62-02 Coal Severance taxes
B). Set at $1.25 per ton of coal, or at least 5% of sales.
C). Taxes for the Lignite Research Fund should be reduced.
D). If there is an exemption for State General Funds, that should be limited to 5 years.

I feel these changes could save the Coal Industry.

Thank you for your time.
I will stand for any questions.

#33765

Voigt

Beulah School District #27
204 5th St NW
Beulah, ND 58523
Phone: 701-873-2237
Carl Blackhurst, Superintendent

To: North Dakota State Legislators

Subject: Consideration for Ratification of HB 1279

Dear North Dakota Legislators,

As Superintendent of Beulah Public Schools, I am writing in regard to HB 1279 and to request your consideration of necessary adjustments to the proposed coal severance and conversion formula. I am a steadfast supporter of the coal industry and am deeply grateful to have this valuable resource in Mercer County. The coal industry has long been a pillar of our local economy, providing jobs and essential revenue that directly benefit our communities, municipalities, and schools.

However, as our district continues to face rising operational and infrastructure costs, it is imperative that we examine ways to ensure continued financial stability without placing an undue burden on local taxpayers. The in-lieu-of-tax dollars generated by coal production are a vital component of my district's budget, helping to sustain essential educational services and facility maintenance. In light of increasing costs, I respectfully request adjustments to the coal severance and conversion formula that would enhance contributions made by the coal industry to better support our schools, municipalities, and local governments.

To illustrate our district's financial needs, we have recently completed a $10.1 million high school renovation project to maintain and improve educational facilities for our students. Additionally, the rising costs of supplies, consumables, and transportation continue to challenge our ability to provide the necessary resources for quality education. Looking ahead, Beulah Public Schools is facing between $16.2 million and $22.2 million in deferred maintenance costs to ensure that our facilities remain safe, functional, and capable of supporting student success. These financial challenges underscore the need for increased revenue sources that do not solely rely on increased taxation for local patrons.

By adjusting the percentages applied to the coal severance and conversion formula, we can ensure that coal-producing counties, cities, and school districts receive a fair share of the revenue generated by this industry. Such an increase would provide a significant financial boost to Coal Country municipalities, allowing us to meet the demands of maintaining and improving public infrastructure while continuing to provide high-quality educational opportunities for our students.

I appreciate your time and consideration of this request. I urge you to support the necessary adjustments to HB 1279 to strengthen our communities, sustain our schools, and ensure a balanced approach to funding our essential services. Please do not hesitate to reach out if you would like to discuss this matter further.

Sincerely,

Carl Blackhurst

Carl Blackhurst
Superintendent

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
2/4/2025

Relating to an exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

3:57 p.m. Chairman Headland opened the meeting.

Members Present: Chairman Headland, Vice Chairman Hagert, Representatives D. Anderson, Dockter, Dressler, Foss, Grueneich, Motschenbacher, Nehring, Olson, Porter, Steiner, Toman
Members Absent: Representative Ista

Discussion Topics:
- Federal incentives
- Double dipping
- 10-year period

3:59 p.m. Jonathan Fortner, Lignite Energy Council, stood for questions from the committee.

4:04 p.m. Representative Porter moved a Do Pass.

4:04 p.m. Representative D. Anderson seconded the motion.

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Jason Dockter	Y
Representative Ty Dressler	Y
Representative Jim Grueneich	Y
Representative Mike Motschenbacher	Y
Representative Dennis Nehring	Y
Representative Jeremy Olson	Y
Representative Todd Porter	Y
Representative Vicky Steiner	N
Representative Nathan Toman	Y
Representative Austin Foss	N
Representative Zachary Ista	AB

4:05 p.m. Motion passed 11-2-1.

4:05 p.m. Representative D. Anderson will carry the bill.

4:06 p.m. Chairman Headland closed the meeting.

Janae Pinks, Committee Clerk

REPORT OF STANDING COMMITTEE
HB 1279 (25.0895.01000)

Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1279 was placed on the Eleventh order on the calendar.

2025 SENATE FINANCE AND TAXATION

HB 1279

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1279
3/17/2025

Relating to an exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

2:34 p.m. Chairman Weber opened the hearing.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

Discussion Topics:

- Dependable and cost effective energy
- Energy industry regulations

2:35 p.m. Representative Novak, District 33, introduced HB 1279, testified in favor and submitted testimony #42485.

2:41 p.m. Jonathan Fortner, Interim President and CEO, Lignite Energy Council, testified in favor and submitted testimony #42065.

2:48 p.m. Geoff Simon, Western Dakota Energy Association, testified in favor.

2:51 p.m. Jean Schafer, Senior Legislative Representative, Basin Electric Power Cooperative, testified in favor and submitted testimony #42284.

2:56 p.m. Ken Blickensberder, Lobbyist, KPB Consulting, introduced Jessia Bell, Vice President of External Affairs, Rainbow Energy Center.

2:56 p.m. Jessia Bell, Vice President of External Affairs, Rainbow Energy Center, testified in favor and submitted testimony #42484.

3:07 p.m. Carlee McLeod, Minnkota Power Cooperative, testified in favor and submitted testimony #42314.

3:16 p.m. David Straley, Vice President of External Affairs, North American Coal, testified in favor.

3:16 p.m. Zac Smith, Director of Communications and Government Relations, NDAREC, testified in favor and submitted testimony #42286.

3:27 p.m. Jonathan Fortner, Interim President and CEO, Lignite Energy Council, answered committee questions.

Additional written testimony:

Mark Bring, Director of Public Policy and Government Affairs, Otter Tail Power Company, submitted written testimony in favor #42439.

Mike Heger, President, BNI Coal, submitted written testimony #41721.

Andrea Pfenning, Vice President of Government Affairs, Greater North Dakota Chamber, submitted written testimony #41869.

3:33 p.m. Chairman Weber adjourned the meeting.

Chance Anderson, Committee Clerk

PHONE (701) 355-5588

BNI coal
A BNI ENERGY COMPANY

FAX (701) 794-3125

March 17, 2025

Chair Weber and members of the Senate Finance and Taxation Committee,

On behalf of BNI Coal, we write in strong support of House Bill 1279 which extends the coal conversion facilities tax by another ten years from June 30, 2026 to June 30, 2036 and provides continued tax relief to a cornerstone sector in North Dakota's energy industry. We thank Representative Novak and all other sponsors for their leadership on this issue and encourage the committee with a "Do Pass" recommendation.

BNI Coal, a subsidiary of ALLETE, Inc., owns and operates the Center Mine located 35 miles northwest of Bismarck, ND. We are a historic North Dakota company having founded our operations in Divide County in 1929. Our primary business today is to supply coal to Minnkota Power Cooperative's Milton R. Young Station and, just as importantly, reclaim every acre of land we disturb in the process. We currently employ about 180 people and our identified coal reserves are capable of fueling the Milton R Young Station for another century.

Our future is heavily dependent upon our customer's ability to compete in the electrical generation marketplace. Today's legislation provides them with tax relief required to strengthen the financial position of coal-powered power plants **and** therefore the suppliers like BNI Coal that source lignite. As our industry continues to face difficult regulatory environments, especially rulemakings that originate with the U.S. Environmental Protection Agency, it is important that the legislature continues to recognize the vital importance the lignite industry plays in producing affordable and reliable electricity that businesses and families depend on daily.

It is also important to note for this committee that even if today's legislation becomes law, the lignite industry will continue to generate about $100 million in annual tax revenue to local county units and the state. The bill also preserves the coal conversion tax revenue for counties so they can plan ahead and continue to offer critical services to their residents.

HB1279 will provide the lignite industry with 10 years of longer-term certainty. This pause will support the industry's ability plan our economic futures, to continue to make investments in the state, and to provide critical electric services. With that, we ask that you support HB1279. Thank you for your consideration and do not hesitate to reach out with any questions related to today's bill.

Sincerely,

Mike Heger
President
BNI Coal, Inc.

BNI COAL
2360 35th AVE SW, Center, ND 58530-9499

Greater North Dakota Chamber

GREATER NORTH DAKOTA CHAMBER
HB 1279
Senate Finance & Taxation Committee
Chair Mark Weber
March 17, 2025

Mr. Chairman and members of the Committee, my name is Andrea Pfennig, and I am the Vice President of Government Affairs for the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization, with membership represented by small and large businesses, local chambers, and trade and industry associations across the state. We stand in **support** of House Bill 1279.

From small retail shops to large manufacturing facilities, every business relies on consistent and cost-effective energy to operate and succeed. From a capital attraction standpoint, affordable and reliable energy is a key factor for many businesses evaluating where to invest and expand.

Lignite power plants play an essential role in meeting these energy needs by providing dependable electricity. This bill provides a practical solution to support critical infrastructure by extending the coal conversion tax relief for ten years. This will give lignite power plants the financial stability they need to manage rising costs associated with maintenance, upgrades, and regulatory compliance.

This is an important step in maintaining the energy resources that power our state's economy. We urge you to support this bill to ensure North Dakota businesses have the reliable electricity they need to innovate, grow, and succeed in an increasingly competitive marketplace.

Lignite Energy Council
LEADING THROUGH ADVOCACY AND INNOVATION

March 17, 2025

Chairman Weber and Members of the Senate Finance and Taxation Committee,

I appreciate the opportunity to testify in support of HB1279, which seeks to provide essential tax relief to North Dakota's lignite industry. This legislation is necessary to help offset the economic, regulatory, and political challenges facing our coal-based power generation. Without this support, the ability to provide affordable, reliable electricity for North Dakotans and maintain a strong rural economy is at risk.

The financial landscape for coal-fired power plants has dramatically shifted over the past five years due to Environmental, Social, and Governance (ESG) policies and coordinated efforts by well-funded anti-coal organizations. ESG-driven financial restrictions have severely limited access to capital and insurance, significantly increasing operational costs. In North Dakota, one coal mine has seen a 350% increase in insurance premiums, despite having no major claims. At the same time, the Sierra Club's Beyond Coal initiative, backed by over a billion dollars, continues to target coal plants through litigation, regulatory pressure, and aggressive federal and state-level activism, contributing to the push for Green New Deal-style policies. These coordinated attacks are not shutting down coal plants due to market forces but rather through intentional political and financial pressure, threatening grid reliability, affordable electricity, and thousands of high-paying jobs.

The federal government's tax policy has further distorted electricity markets, creating an uneven playing field. From 2008 to 2023, wind energy alone received $38.9 billion in Production Tax Credits (PTC), and with the passage of the Inflation Reduction Act (IRA), an additional $39.3 billion will be allocated to wind subsidies from 2023 to 2027. This means that in just five years, wind will receive the same level of subsidy that it took 15 years to accumulate previously. These policies allow intermittent energy sources to undercut baseload power, forcing coal plants to operate under severe economic constraints, despite their critical role in grid stability.

The Midcontinent Independent System Operator (MISO) and federal energy regulators (NERC & FERC) have repeatedly warned about growing risks to grid reliability, particularly due to premature coal plant retirements. The increasing reliance on intermittent resources has made the grid more vulnerable to extreme weather events. Winter Storms Uri and Elliott exposed these vulnerabilities, leading to rolling blackouts in other regions. Unlike wind and solar, lignite power plants operate at over 90% capacity and can provide reliable, 24/7 baseload power, ensuring grid stability when it's needed most.

Beyond market distortions and reliability concerns, federal regulations have placed a heavy burden on North Dakota's coal industry. The EPA and Bureau of Land Management (BLM) have imposed numerous costly rules, including the EPA Greenhouse Gas Rule, Coal Combustion Residuals Rule, Regional Haze Rule, MATS (Mercury) Rule, and the BLM Resource Management Plan. These policies raise compliance costs and force operators into costly legal battles, with industry members spending over $5 million in just the past two years to defend against these unnecessary regulations.

Additionally, inflation and supply chain disruptions have further increased costs for power plant operations. Major maintenance outages, which occur every two to three years, now cost tens of millions of dollars, with rising costs for materials, labor, and equipment. These financial pressures make it more difficult for plants to stay online, impacting electricity affordability and reliability.

Despite these challenges, North Dakota's lignite industry remains a cornerstone of the state's economy. With an 800-year supply of lignite—the second-largest deposit in the world—our mine-mouth operations continue to provide some of the most affordable electricity in the country. North Dakota consistently ranks among the top three states with the lowest residential electricity rates, ensuring cost savings for families and businesses. The industry supports 12,000 high-wage jobs, particularly in Oliver, Mercer, and McLean Counties, where average wages rank among the highest in the state.

Furthermore, the lignite industry will continue to generate approximately $100 million in annual tax revenue—regardless of whether this bill passes—supporting state, county, and local governments. **Importantly, this bill does not reduce coal conversion tax revenue allocated to counties, ensuring they remain financially whole.**

Looking forward, North Dakota has major opportunities in energy and technology, including data centers, carbon capture and enhanced oil recovery (EOR), critical mineral production, and new uses for lignite in building materials and agricultural products. However, coal plants must survive the next decade for these opportunities to materialize.

HB 1279 is a crucial investment in North Dakota's energy future. This bill extends the current coal conversion tax relief from the state general fund for ten years and helps level the playing field for coal in the face of federal regulations and activist-driven financial challenges. Supporting this legislation means safeguarding grid reliability, preserving high-paying jobs, and fostering long-term economic stability. I urge you to give HB 1279 a "Do Pass" recommendation to keep North Dakota's energy industry strong.

Thank you for your consideration,

Jonathan Fortner
Interim President and Chief Executive Officer
Lignite Energy Council

HB 1279
Jean Schafer - Basin Electric Power Cooperative, March 17, 2025
Senate Finance and Taxation Committee

Chairman Weber and Senate Finance and Taxation Committee Members:

For the record I am Jean Schafer, and I serve as the Senior Legislative Representative for Basin Electric Power Cooperative (Basin Electric).

Basin Electric is a regional, consumer-owned, generation and transmission cooperative. As of the end of 2023, Basin Electric has over 8,112 MW of electric generating capacity, utilizing coal, wind, and natural gas. It supplies 139 rural electric cooperatives with wholesale power, who, in turn, serve approximately 3 million member-owners in a nine-state region. In addition, Basin Electric owns and maintains more than 5,000 miles of high-voltage transmission lines.

HB1279 is an extension of coal conversion tax relief and maintains the status quo for coal plant operators. Over the past five years, the existing tax relief has saved Basin Electric over $60 million dollars; extending this relief for another 10 years is estimated to save Basin Electric another $120 million or more. Basin Electric has recently announced historic investments to its generation and transmission systems in North Dakota, and any tax relief savings are passed on to our members.

Changing fuel markets, federal policies, and regulations distort energy markets, and favor intermittent electrical generation. Further, a lack of certainty with federal policy makes it increasingly harder to economically operate coal plants. To remain competitive in this environment, lignite coal-based power plants and conversion facilities require economic relief to sustain the viability of baseload generation, protect North Dakota’s lignite industry, and ensure coal-based power remains a reliable and economically viable resource in wholesale power markets.

Basin Electric asks for your continued commitment to favorable taxation policy to support these critical investments and ensure affordable and reliable energy for North Dakota with a yes vote on HB 1279.

Thank you.

ND
Living

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

Phone: 701.663.6501 or 800.234.0518
Fax: 701.663.3745 www.ndarec.com

March 17, 2025

To: Senate Finance and Taxation Committee, Senator Mark Weber, Chairman

Re: Support for HB 1279

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

Chairman Weber and members of the committee, for the record, my name is Zac Smith, and I serve as the director of communications and government relations for the North Dakota Association of Rural Electric Cooperatives in Mandan. On behalf of the 17 distribution cooperatives and five generation and transmission cooperatives who are members of our association, I am testifying in support of HB 1279.

Our nation is at an energy crossroads and the leadership of the North Dakota Legislature to continue tax relief for coal fired generation is more critical than ever. Electric cooperative members expect the lights to stay on at a cost that they can afford. HB 1279 is a vital piece of legislation to meet that expectation for cooperative members. Electric Cooperatives own and operate Antelope Valley Station, Leland Olds Station, and Milton R. Young Station. Additionally Great River Energy purchases from Coal Creek Station and Minnkota serves as the operating agent for Northern Municipal Power Agency, which owns 30% of Coyote Station. Electric cooperatives take great pride in having an interest in every coal generation unit operating in North Dakota.

Balancing reliability and affordability is increasingly difficult in an increasingly volatile energy market influenced by regulations, consumer habits, preferences and soaring demand for electricity. Further, an aggressive Federal government has made it harder to operate coal plants in recent years. Despite the headwinds, electric cooperatives remain committed to affordability and reliability. To remain competitive in this environment, lignite coal-based power plants and conversion facilities require economic relief to sustain the viability of baseload generation, protect North Dakota’s lignite industry, and ensure coal-based power remains a reliable and economically viable resource in wholesale power markets.

I urge a “do pass” on HB 1279.

Milton R. Young Station
3401 24th Street SW
Center, ND 58530-0127
701.794.8711
minnkota.com

Senate Finance and Tax Committee, Senator Weber, Chairman
HB 1279—Testimony in Favor

Chairman Weber, members of the committee, I am Carlee McLeod, representing Minnkota Power Cooperative. We ask for your support on HB 1279.

Minnkota is a not-for-profit electric generation and transmission cooperative providing wholesale electric energy to 11 member-owner distribution cooperatives in eastern North Dakota and northwestern Minnesota. Our members serve nearly 137,000 consumer accounts, including many of the region's homes, farms, schools, and businesses. Minnkota also serves as operating agent for the Northern Municipal Power Agency. NMPA supplies the electric needs of 12 associated municipals that serve more than 15,000 consumer accounts in the same geographic area as the Minnkota member-owners.

Minnkota is committed to delivering safe, reliable, affordable, and environmentally-responsible electricity. Our primary source of electric generation is the Milton R. Young Station, a two-unit, lignite coal-based power plant located near the town of Center, North Dakota.

- Young 1 came online in 1970 and has the capacity to produce 250,000 kilowatts.
- Young 2 came online in 1977 and has the capacity to produce 455,000 kilowatts.

To deliver our electricity, Minnkota operates and maintains a robust set of electric transmission infrastructure, including more than 3,340 miles of transmission line and 252 substations.

Our coal comes from the nearby Center Mine, owned and operated by BNI Coal. Its abundant and low-cost lignite coal plays a key role in the plant's success. Between the plant and mine, there are approximately 360 people employed to mine and convert ND lignite coal into baseload electricity. Our facilities and our employees contribute significantly to the state and local economy, and we are one of the main reasons Oliver County can boast they have the highest per capita income in the state. Our workforce is dedicated, and they carry the weight of providing life-sustaining, reliable electricity around the clock through the harshest storms, the coldest nights, and the hottest days.

Environmental regulations have increased the cost of generation over time. In the last decade, we have invested over $400 million in environmental upgrades to the plant. As we look toward the future, the challenges of providing baseload electricity are likely to place future investments in the billions rather than millions.

The changing dynamics of the electric markets have shown a dramatic shift in the highs and lows in pricing over the past few years. Keeping costs as low as possible is extremely important, not only for our members, but also for our ability to remain competitive in a challenging industry.

This bill provides meaningful tax relief to us, our customers, and our industry. We ask for your support of HB 1279.

Testimony of Mark Bring
Director of Public Policy and Government Affairs
Otter Tail Power Company

In Favor of HB 1279

Before the Senate Finance & Taxation Committee
March 17, 2025

Chairman Weber and members of the Committee, my name is Mark Bring and I serve as Director of Public Policy and Government Affairs for Otter Tail Power Company. I have been licensed as an attorney in North Dakota since 1992 and have been employed continuously in the electric industry since 1997. I respectfully submit this testimony regarding our company's support for House Bill 1279.

Otter Tail Power Company is one of the smallest investor-owned utilities in the nation and is a subsidiary of Otter Tail Corporation, which is traded on the NASDAQ as OTTR. Otter Tail Corporation also owns several manufacturing companies engaged in metal fabricating, custom plastic parts manufacturing, and PVC pipe manufacturing. These non-energy businesses include Northern Pipe Products in Fargo.

Otter Tail Power Company provides electricity and energy services to more than 133,000 customers spanning 70,000 square miles in western Minnesota, eastern North Dakota, and northeastern South Dakota. Our service area is predominantly rural and agricultural. By way of example, a median-sized community we serve in North Dakota is Michigan in Nelson County. According to the most recent U.S. Census Bureau statistics, Michigan has a population of 263 people. We serve many towns that are smaller yet, including my hometown, Galesburg, in Traill County. The largest North Dakota communities served by our company are Devils Lake, Jamestown, and Wahpeton. Following its incorporation in 1907, our company began serving its very first customer in Wahpeton in 1909.

Otter Tail Power Company is a 35% co-owner and is the operating agent of Coyote Station, a 427-megawatt lignite coal-fired plant near Beulah. Coyote Station is jointly owned with Montana-Dakota Utilities Co. (25%), Northern Municipal Power Agency (30%), and NorthWestern Energy (10%). Coyote Station began producing electricity in 1981. Approximately 80 employees operate and maintain the plant.

HB 1279 would extend the sunset of 2021 legislation that provided meaningful coal conversion tax relief. In the case of Coyote Station, this relief reduced coal conversion taxes by approximately $1.7 million in 2024, thereby benefiting customers of the four co-owners and ensuring a consequential reduction in the cost of energy production at the plant. The reduction in the cost of energy production results in Coyote Station achieving higher dispatch rates and using greater amounts of lignite coal than it otherwise would. This, in turn, keeps Coyote Station competitive in the marketplace, contributing to the vibrancy of coal country and benefitting a key industry for our state.

The lignite industry continues to face challenges. In a marketplace that is regional in nature, HB 1279 represents a tangible way in which North Dakota can help lignite coal-fired generation remain competitive.

We urge a DO PASS on HB 1279.

RAINBOW ENERGY CENTER

NEXUS LINE

House Bill 1279

Testimony of Jessica Bell

Senate Finance and Taxation Committee

March, 2025

Chairman Weber and members of the Committee, my name is Jessica Bell, and I am appearing on behalf of Rainbow Energy Center today to speak in favor of House Bill 1279. House Bill 1279 seeks to provide essential tax relief to North Dakota's lignite industry, including Coal Creek Station.

On June 30, 2021, Rainbow Energy Center and its affiliate, Nexus Line, entered into definitive agreements with Great River Energy for the acquisition of Coal Creek Station and the 400-mile high-voltage direct current (HVDC) transmission line that transmits power produced from Coal Creek Station to a converter station located near Buffalo, Minnesota. On May 2, 2022, the purchase and sale to Rainbow was complete. The process of Rainbow acquiring Coal Creek Station began with the vision of the team at Rainbow Energy. It is a vision that continues to be executed today and will preserve Coal Creek Station and the over 1,000 careers at the plant and mine for generations.

The response from stakeholders such as yourselves ensured that vision for Coal Creek Station could be executed. Those changes allowed us to put our heads down and get to work. In the nearly three years Rainbow Energy has operated the plant, we have all learned many lessons.

Rainbow has taken an innovative approach when it comes to securing and providing reliable and affordable power as an independent power producer. Long-term contracts to provide power to IOUs, cooperatives and data centers at a price certain was part of our original vision and

RAINBOW ENERGY CENTER

NEXUS LINE

is critical to our long-term business plan. Market prices remain constrained due to many factors and inhibit reliable generators such as Coal Creek Station to remain economically viable solely utilizing the real-time and day-ahead markets in regional transmission operations such as Midcontinent Independent System Operator (MISO) and Southwest Power Pool (SPP).

Fulfilling these contracts require Coal Creek Station to operate at maximum efficiency. This means significant investments must be made to ensure power is available when needed. Preventative maintenance, increased efficiency in power distribution and innovative projects that shift waste to beneficial use projects are just some of the investments made at Coal Creek Station over the past three years to help ensure not only long-term economic viability, but long-term economic growth for the surrounding vibrant communities of Underwood and Washburn.

Constrained markets, a weaponized EPA, inflation and limited access to capital and higher insurance costs due to ESG pressures are all contributing factors in complicating our ability to do business. While all these factors come from outside pressures, the state's support presently and as we look to the future will help plants like Coal Creek Station endure these trying times and changing dynamics in the power production market. The ten-year exemption period helps provide a level of predictability when so many other outside factors are incredibly volatile and outside our and your control.

In closing, I urge you to adopt HB 1279 as proposed. The relief the state has provided up to this point has made all the difference for us at Rainbow Energy as an independent power producer. Looking to the future, this support will help in our ability to navigate inevitable upcoming challenges over the next decade. I would be happy to answer any questions you may have.

Legislative Assembly

North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Representative Anna Novak
District 33
1139 Elbowoods Drive
Hazen, ND 58545-4923
anovak@ndlegis.gov

COMMITTEES:
Education
Energy and Natural Resources (Vice Chair)

March 17, 2025

Chairman Weber and Members of the Senate Finance and Taxation Committee,

Thank you for allowing me to testify today in support of House Bill 1279. For the record, I am Representative Anna Novak from District 33, where lignite power plants are more than just facilities—they are lifelines for our communities. This bill isn't just about helping an industry; it's about protecting affordable energy for every North Dakotan and ensuring a reliable power grid that sustains our way of life.

Lignite power plants are the backbone of North Dakota's energy grid, providing power 24/7, rain or shine, cold snap or heatwave. For ratepayers, this means affordable electricity that doesn't fluctuate wildly with market demands or weather conditions. With increasing reliance on intermittent energy sources like wind and solar, it's crucial to maintain a stable, always-available energy source that keeps our grid reliable and energy prices consistent.

The coal severance tax is the tax the coal mines pay for removal of the coal from the ground. That tax is not impacted by this bill, locally or statewide. The tax that this bill targets is the coal conversion tax, which is the tax the lignite power plants pay for converting the coal for electricity generation. The local portion of the coal conversion taxes will not be impacted by this bill; however, the power plant facilities will get a 10-year tax holiday at the state level.

HB1279 provides lignite power plant operators with the financial stability needed to manage the rising costs of maintenance, upgrades, and legal challenges driven by federal overreach and inflation—costs that would otherwise trickle down to ratepayers. By extending the coal conversion tax relief, the bill helps keep these expenses manageable, protecting families and businesses from unexpected increases in their electricity bills. At the same time, the bill is a forward-looking measure that ensures lignite remains a cornerstone of affordable and reliable energy for North Dakota, not just for today but for the next decade and beyond. It supports predictable and fair electricity rates while enabling continued investment in innovative technologies, making this vital resource more sustainable for the future.

I urge this committee to support HB1279, not just for the sake of the industry, but for the sake of the hardworking ratepayers who deserve affordable and reliable power. Let's keep North Dakota's energy affordable, stable, and independent.

Thank you for your time and consideration, Mr. Chairman and members of the committee. With that, I'll stand for any questions.

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1279
3/24/2025

Relating to an exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

8:24 a.m. Chairman Weber opened the hearing.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

Discussion Topics:

- Length of tax exemption

8:24 a.m. Chairman Weber updated the committee with information regarding a 10-year timeframe for coal related tax exemptions.

8:25 a.m. Chairman Weber closed the hearing.

Chance Anderson, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1279
3/25/2025

Relating to an exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

9:42 a.m. Chairman Weber opened the hearing.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

Discussion Topics:
- Length of tax exemption

9:42 a.m. Senator Patten updated the committee with information regarding the length of the tax exemption for the coal conversion facilities tax.

9:43 a.m. Chairman Weber closed the hearing.

Chance Anderson, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1279
4/1/2025

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

9:12 a.m. Chairman Weber opened the hearing.

Members present: Chairman Weber, Vice Chairman Rummel, Senator Marcellais, Senator Patten, Senator Powers, Senator Walen

Discussion Topics:
- Length of tax exemption
- Allocation of tax revenue to various funds

9:12 a.m. Chairman Weber presented a proposed amendment regarding the length of the coal conversion plant tax exemption and submitted testimony in favor #44509.

9:16 a.m. Senator Walen moved Amendment LC#25.0895.01001.

9:16 a.m. Senator Patten seconded the motion.

Senators	Vote
Senator Mark F. Weber	Y
Senator Dean Rummel	Y
Senator Richard Marcellais	Y
Senator Dale Patten	Y
Senator Michelle Powers	Y
Senator Chuck Walen	Y

Motion passed 6-0-0.

9:19 a.m. Senator Patten moved Do Pass as Amended and Rereferred to Appropriations.

9:19 a.m. Senator Walen seconded the motion.

Senators	Vote
Senator Mark F. Weber	Y
Senator Dean Rummel	Y
Senator Richard Marcellais	Y
Senator Dale Patten	Y
Senator Michelle Powers	N
Senator Chuck Walen	Y

Motion passed 5-1-0.

Chairman Weber will carry the bill.

9:21 a.m. Chairman Weber closed the hearing.

Chance Anderson, Committee Clerk

25.0895.01001
Title.02000

Prepared by the Legislative Council
staff for Senator Weber
March 31, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

4/1/25 VC
1 of 9

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1279

Introduced by

Representatives Novak, Berg, Hagert, Headland, J. Olson, S. Olson, Porter, Tveit

Senators Boehm, Patten, Thomas

A BILL for an Act to amend and reenact sections 57-60-02, 57-60-02.1, 57-60-02.2, 57-60-14, and 57-61-01 of the North Dakota Century Code, relating to ~~an~~a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-60-02. Imposition of taxes. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2029)

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

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin

2 of 9

construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

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

7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, ~~2026~~~~2036~~2029. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply. Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.

Imposition of taxes. (Effective after June 30, ~~2026~~~~2036~~2029) There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for

which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

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

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

SECTION 2. AMENDMENT. Section 57-60-02.1 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02.1. Carbon dioxide capture credit - Reporting requirement.

A coal conversion facility that achieves a twenty percent capture of carbon dioxide emissions during a taxable period is entitled to a twenty percent reduction in the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 during that taxable period. The facility is entitled to an additional reduction of one percent of the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 for every additional two percentage points of its capture of carbon dioxide emissions. A maximum fifty percent reduction of the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 is allowed for eighty percent or more capture of carbon dioxide emissions. A coal conversion facility may receive the reduction in coal conversion tax under this section for ten years from the date of first capture of carbon dioxide emission or for ten years from the date the coal conversion facility is eligible to receive the credit. A coal conversion facility that met the carbon dioxide capture requirements before January 1, 2017, may not claim the reduction under this section.

The operator of a coal conversion facility that receives a credit under this section shall report annually to the legislative council. The report must include:

1. An overview of the carbon dioxide capture project.
2. A status report on the current state of the carbon dioxide capture project, including data on the amount of carbon dioxide produced from the facility before the carbon dioxide capture project and the current carbon dioxide produced and captured from the facility.

3. Any recent changes to enhance the carbon dioxide capture system.
4. Information on the status of federal law and regulations related to the carbon dioxide capture project, including any benefits from the project realized by the operator under federal law and regulations.

SECTION 3. AMENDMENT. Section 57-60-02.2 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02.2. Coal conversion facility tax - Exemption - Lignite research tax - Imposition. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2029)

1. Excluding the generation tax imposed under subsection 3 of section 57-60-02, a coal conversion facility is exempt from ~~eighty-five~~fifty percent of the state share of the tax imposed under section 57-60-02~~ and instead~~. The coal conversion facility shall pay a lignite research tax equal to eighty-five percent of the tax imposed under section 57-60-02 before the application of the exemption under this subsection, multiplied by five percent. For purposes of this subsection, the "state share" means eighty-five percent of the tax imposed under section 57-60-02.
2. An electrical generating plant is exempt from fifty percent of the generation tax imposed under subsection 3 of section 57-60-02~~ and instead~~. The electrical generating plant shall pay a lignite research tax equal to the tax imposed under subsection 3 of section 57-60-02 before the application of the exemption under this subsection, multiplied by five percent.

SECTION 4. AMENDMENT. Section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

57-60-14. Allocation of revenue - Continuing appropriation. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2029)

1. At least quarterly, the state treasurer shall allocate:
   a. The lignite research tax collections under section 57-60-02.2 to the lignite research fund for the purposes under section 57-61-01.5.
   b. An amount equal to the tax exempted under section 57-60-02.2 to the legacy fund to become part of the principal of the legacy fund.
   c. The remaining coal conversion tax collections under section 57-60-02 to the county.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.
3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

Allocation of revenue - Continuing appropriation. (Effective after June 30, ~~2026~~~~2036~~2029)

1. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty-five percent to the state ~~general fund~~, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which must be ~~deposited in~~allocated to the state ~~general fund~~. ~~Five percent of all funds allocated to the state general fund pursuant to this chapter~~From the amount allocated to the state under this subsection:
   a. Five percent must be allocated to the lignite research fund, for the purposes defined in section 57-61-01.5; and

b. The remaining amount must be deposited in the legacy fund to become part of the principal of the legacy fund.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

SECTION 5. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective through June 30, ~~2026~~~~2036~~2029)

1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner

on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, ~~2026~~~~2036~~2029. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02.

Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective after June 30, ~~2026~~~~2036~~2029) There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

SECTION 6. EFFECTIVE DATE. ~~This~~Section 5 of this Act is effective for taxable production beginning after June 30, 2025. Sections 1 through 4 of this Act are effective for taxable production beginning after June 30, 2026.

REPORT OF STANDING COMMITTEE
HB 1279

Finance and Taxation Committee (Sen. Weber, Chairman) recommends **AMENDMENTS (25.0895.01001)** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 1 NAY, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1279 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

25.0895.01001
Title.

Prepared by the Legislative Council staff for Senator Weber
March 31, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1279

Introduced by

Representatives Novak, Berg, Hagert, Headland, J. Olson, S. Olson, Porter, Tveit

Senators Boehm, Patten, Thomas

A BILL for an Act to amend and reenact sections 57-60-02, 57-60-02.1, 57-60-02.2, 57-60-14, and 57-61-01 of the North Dakota Century Code, relating to ~~an~~a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-60-02. Imposition of taxes. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2029)

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

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin

construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

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

7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, ~~20262036~~2029. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply. Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.

Imposition of taxes. (Effective after June 30, ~~20262036~~2029) There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for

which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

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

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

SECTION 2. AMENDMENT. Section 57-60-02.1 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02.1. Carbon dioxide capture credit - Reporting requirement.

A coal conversion facility that achieves a twenty percent capture of carbon dioxide emissions during a taxable period is entitled to a twenty percent reduction in the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 during that taxable period. The facility is entitled to an additional reduction of one percent of the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 for every additional two percentage points of its capture of carbon dioxide emissions. A maximum fifty percent reduction of the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 is allowed for eighty percent or more capture of carbon dioxide emissions. A coal conversion facility may receive the reduction in coal conversion tax under this section for ten years from the date of first capture of carbon dioxide emission or for ten years from the date the coal conversion facility is eligible to receive the credit. A coal conversion facility that met the carbon dioxide capture requirements before January 1, 2017, may not claim the reduction under this section.

The operator of a coal conversion facility that receives a credit under this section shall report annually to the legislative council. The report must include:

1. An overview of the carbon dioxide capture project.
2. A status report on the current state of the carbon dioxide capture project, including data on the amount of carbon dioxide produced from the facility before the carbon dioxide capture project and the current carbon dioxide produced and captured from the facility.

3. Any recent changes to enhance the carbon dioxide capture system.
4. Information on the status of federal law and regulations related to the carbon dioxide capture project, including any benefits from the project realized by the operator under federal law and regulations.

SECTION 3. AMENDMENT. Section 57-60-02.2 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02.2. Coal conversion facility tax - Exemption - Lignite research tax - Imposition. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2029)

1. Excluding the generation tax imposed under subsection 3 of section 57-60-02, a coal conversion facility is exempt from ~~eighty-five~~fifty percent of the state share of the tax imposed under section 57-60-02~~ and instead~~. The coal conversion facility shall pay a lignite research tax equal to eighty-five percent of the tax imposed under section 57-60-02 before the application of the exemption under this subsection, multiplied by five percent. For purposes of this subsection, the "state share" means eighty-five percent of the tax imposed under section 57-60-02.
2. An electrical generating plant is exempt from fifty percent of the generation tax imposed under subsection 3 of section 57-60-02~~ and instead~~. The electrical generating plant shall pay a lignite research tax equal to the tax imposed under subsection 3 of section 57-60-02 before the application of the exemption under this subsection, multiplied by five percent.

SECTION 4. AMENDMENT. Section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

57-60-14. Allocation of revenue - Continuing appropriation. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2029)

1. At least quarterly, the state treasurer shall allocate:
   a. The lignite research tax collections under section 57-60-02.2 to the lignite research fund for the purposes under section 57-61-01.5.
   b. An amount equal to the tax exempted under section 57-60-02.2 to the legacy fund to become part of the principal of the legacy fund.
   c. The remaining coal conversion tax collections under section 57-60-02 to the county.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

Allocation of revenue - Continuing appropriation. (Effective after June 30, ~~20262036~~2029)

1. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty-five percent to the state ~~general fund~~, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which must be ~~deposited in~~allocated to the state ~~general fund~~. ~~Five percent of all funds allocated to the state general fund pursuant to this chapter~~From the amount allocated to the state under this subsection:

   a. Five percent must be allocated to the lignite research fund, for the purposes defined in section 57-61-01.5; and

b. The remaining amount must be deposited in the legacy fund to become part of the principal of the legacy fund.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

SECTION 5. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective through June 30, ~~2026~~~~2036~~2029)

1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner

on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, ~~2026~~~~2036~~2029. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02.

Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective after June 30, ~~2026~~~~2036~~2029) There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

SECTION 6. EFFECTIVE DATE. ~~This~~Section 5 of this Act is effective for taxable production beginning after June 30, 2025. Sections 1 through 4 of this Act are effective for taxable production beginning after June 30, 2026.

2025 SENATE APPROPRIATIONS

HB 1279

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Government Operations Division
Red River Room, State Capitol

HB 1279
4/4/2025

A BILL for an Act to amend and reenact sections 57-60-02, 57-60-02.1, 57-60-02.2, 57-60-14, and 57-61-01 of the North Dakota Century Code, relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

9:34 a.m. Chairman Wanzek opened the hearing.

Members present: Chairman Wanzek, Vice-Chair Dwyer, Senator Burckhard, Senator Erbele, and Senator Sickler.

Discussion Topics:
- Reliable baseload energy
- Tax effects
- Incentives for renewable power
- Stability of electrical grid
- Regional Transmission Organizations (RTO)
- Midcontinent Independent System Operator (MISO)
- Effects of power plant retirements
- Environmental Social Governance policy in the Environmental Protection Agency
- Expiration of tax holiday for coal conversion facilities
- Economic impacts of ND coal industry
- Regulatory impacts on various energy industries
- Tax policy impacts on various energy industries
- Coal research fund
- Carbon capture
- Coal industry contribution to Legacy Fund

9:35 a.m. Representative Novak, District 33, testified in favor and submitted testimony #44674.

9:40 a.m. Jonathan Fortner, Interim Executive Director, Lignite Energy Council, testified in favor and responded to committee questions.

10:02 a.m. Chairman Wanzek closed the hearing.

Carol Thompson, Committee Clerk

#44674

4-4-25 1279 Rep. Novak

Legislative Assembly

North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Representative Anna Novak
District 33
1139 Elbowoods Drive
Hazen, ND 58545-4923
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COMMITTEES:
Education
Energy and Natural Resources (Vice Chair)

April 4, 2025

Chairman Wanzek and Members of the Government Operations Division Committee,

Thank you for allowing me to testify today in support of House Bill 1279. For the record, I am Representative Anna Novak from District 33, where lignite power plants are more than just facilities—they are lifelines for our communities. This bill isn't just about helping an industry; it's about protecting affordable energy for every North Dakotan and ensuring a reliable power grid that sustains our way of life.

Lignite power plants are the backbone of North Dakota's energy grid, providing power 24/7, rain or shine, cold snap or heatwave. For ratepayers, this means affordable electricity that doesn't fluctuate wildly with market demands or weather conditions. With increasing reliance on intermittent energy sources like wind and solar, it's crucial to maintain a stable, always-available energy source that keeps our grid reliable and energy prices consistent.

The coal severance tax is the tax the coal mines pay for removal of the coal from the ground. That tax is not impacted by this bill, locally or statewide. The tax that this bill targets is the coal conversion tax, which is the tax the lignite power plants pay for converting the coal for electricity generation. The local portion of the coal conversion taxes will not be impacted by this bill. Jonathan Fortner from the Lignite Energy Council has been working with the Senate Finance and Tax Committee and Senate Leadership to come up with a compromise in the bill from what version came over from the House. I'll allow him to explain those details to the committee.

HB1279 provides lignite power plant operators with the financial stability needed to manage the rising costs of maintenance, upgrades, and legal challenges driven by federal overreach and inflation—costs that would otherwise trickle down to ratepayers. By extending the coal conversion tax relief, the bill helps keep these expenses manageable, protecting families and businesses from unexpected increases in their electricity bills. This bill provides an incentive for our utilities to remain in coal. Natural gas is also a great source of baseload electricity, but it's important to keep coal part of the mix for when natural gas prices spike! Coal has the most level pricing for electricity and is good for North Dakota consumers.

At the same time, this bill is a forward-looking measure that ensures lignite remains a cornerstone of affordable and reliable energy for North Dakota, not just for today but for the next decade and beyond. It supports predictable and fair electricity rates while enabling continued investment in innovative technologies, making this vital resource more sustainable for the future.

I wanted to address one good and valid question that was asked in the Senate Finance and Tax Committee, which was "now that Trump is in office, don't things look better for the coal industry? Is this bill needed?"

It's true, that President Trump is supportive of the coal industry and his election means that the target isn't on coal's back for a little while. But there are several lawsuits that are playing out in the courts. Trump getting elected doesn't wave a magic wand and make them disappear. As you're all likely aware, legal expenses cost a tremendous amount of money. It's also worth noting that while President Trump isn't a big fan of the renewable energy industry because of it's unreliability, the Production Tax Credit, which offers huge federal financial incentives for renewables is still in place...and likely will remain in place because Congress has to act on that, and there just simply aren't the votes to take that tax credit away because there are red states that have a lot of renewables.

I urge this committee to support HB1279, not just for the sake of the industry, but for the sake of the hardworking ratepayers who deserve affordable and reliable power. Let's keep North Dakota's energy affordable, stable, and independent.

Thank you for your time and consideration, Mr. Chairman and members of the committee. With that, I'll stand for any questions.

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Government Operations Division
Red River Room, State Capitol

HB 1279
4/7/2025

A BILL for an Act to amend and reenact sections 57-60-02, 57-60-02.1, 57-60-02.2, 57-60-14, and 57-61-01 of the North Dakota Century Code, relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

10:40 a.m. Chairman Wanzek opened the hearing.

Members present: Chairman Wanzek, Vice-Chair Dwyer, Senator Burckhard, Senator Erbele, and Senator Sickler.

Discussion Topics:
- New tax policy
- Committee Action

10:42 a.m. Senator Dwyer moved a Do Pass for HB 1279.
10:42 a.m. Senator Sickler seconded the motion.

Senators	Vote
Senator Terry M. Wanzek	Y
Senator Randy A. Burckhard	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Jonathan Sickler	Y

Motion passed 5-0-0.

Senator Dwyer will carry this bill.

10:47 a.m. Chairman Wanzek closed the hearing.

Carol Thompson, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

HB 1279
4/17/2025

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

3:54 p.m. Chairman Bekkedahl opened the hearing.

Members Present: Chairman Bekkedahl, Vice-Chairman Erbele, and Senators Burckhard, Cleary, Conley, Davison, Dever, Dwyer, Magrum, Mathern, Meyer, Schaible, Sickler, Sorvaag, Thomas, Wanzek.

Discussion Topics:

- Legacy Fund vs. General Fund
- Coal Companies' Financials

3:54 p.m. Senator Dwyer introduced the bill.

3:56 p.m. Senator Dwyer moved a Do Pass.

3:56 p.m. Senator Dever seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Robert Erbele	Y
Senator Randy A. Burckhard	Y
Senator Sean Cleary	Y
Senator Cole Conley	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Jeffery J. Magrum	N
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Donald Schaible	Y
Senator Jonathan Sickler	Y
Senator Ronald Sorvaag	Y
Senator Paul J. Thomas	Y
Senator Terry M. Wanzek	Y

Motion Passed 15-1-0.

Senator Weber will carry the bill.

4:06 p.m. Chairman Bekkedahl closed the hearing.

Elizabeth Reiten, Committee Clerk

REPORT OF STANDING COMMITTEE
AMENDED HB 1279 (25.0895.02000)

Appropriations Committee (Sen. Bekkedahl, Chairman) recommends **DO PASS** (15 YEAS, 1 NAY, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1279, as amended, was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

2025 CONFERENCE COMMITTEE

HB 1279

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
4/25/2025
Conference Committee

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

3:32 p.m. Chairman Headland called the meeting to order.

Members Present: Chairman Headland, Representatives Hagert, Porter; Chairman Bekkadahl, Senators Weber, Powers

Discussion Topics:
- Extended timeline
- Legacy Fund
- General Fund
- Coal industry
- Renewable energy
- ND Economy and industry
- Emission standards

3:32 p.m. Chairman Bekkedahl explained Senate Amendment LC#25.0895.01001.

3:51 p.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
4/26/2025
Conference Committee

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

10:00 a.m. Chairman Headland called the meeting to order.

Members Present: Chairman Headland, Representatives Hagert, Porter; Chairman Bekkedahl, Senators Weber, Powers

Discussion Topics:
- Dollars per mega watt
- Pipeline subsidies
- Natural gas
- Environmental Protections Agency regulations
- Carbon capture stations
- Power generations
- Coal severance tax

10:09 a.m. Johnathan Fortner, Chief Executive Officer, Lignite Energy Council, stood for questions.

10:33 a.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
4/28/2025
Conference Committee

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

3:59 p.m. Chairman Headland called the meeting to order.

Members Present: Chairman Headland, Representatives Hagert, Porter; Chairman Bekkedahl, Senators Weber, Powers

Discussion Topics:
- Competitive industry
- North Dakota natural gas prices

4:00 p.m. Jonathan Fortner, Interim President and Chief Executive Officer of Lignite Energy Council, answered committee questions.

4:01 p.m. Mac McLennan, Chief Executive Officer of Minnkota Power Cooperative, answered committee questions.

4:10 p.m. Todd Brickhouse, Chief Executive Officer of Basin Electric Power Cooperative, answered committee questions.

4:19 p.m. Stacy Tschider, Chief Executive Officer of Rainbow Energy Center and Nexus Line, answered committee questions.

4:38 p.m. Representative Porter moved to reject Senate Amendments, LC# 25.0895.01001.

4:39 p.m. Representative Hagert seconded the motion.

4:40 p.m. Motion failed 3-3-0.

4:42 p.m. Representative Porter moved to reject Senate Amendments and Amend to increase the coal severance tax exemption to 100 percent for 5 years then 50 percent for the next 5 years.

4:42 p.m. Representative Hagert seconded the motion.

4:42 p.m. Motion failed 3-3-0

4:44 p.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

HB 1279 042825 1639 PM Roll Call Vote

Final Recommendation

HB 1279
Date Submitted: April 28, 2025, 4:39 p.m.
Recommendation: Reject
Amendment LC #: 25.0895.01001
Engrossed LC #: N/A
Description:
Motioned By: Porter, Todd
Seconded By: Hagert, Jared
House Carrier: N/A
Senate Carrier: N/A
Emergency Clause: None
Vote Results: 3 - 3 - 0

Rep. Headland, Craig	Yea
Rep. Hagert, Jared	Yea
Rep. Porter, Todd	Yea
Sen. Bekkedahl, Brad	Nay
Sen. Weber, Mark F.	Nay
Sen. Powers, Michelle	Nay

HB 1279 042825 1645 PM Roll Call Vote

Final Recommendation

HB 1279
Date Submitted: April 28, 2025, 4:45 p.m.
Recommendation: In Place Of
Amendment LC #: Pending LC #
Engrossed LC #: N/A
Description:
Motioned By: Porter, Todd
Seconded By: Hagert, Jared
House Carrier: N/A
Senate Carrier: N/A
Emergency Clause: None
Vote Results: 3 - 3 - 0

Rep. Headland, Craig	Yea
Rep. Hagert, Jared	Yea
Rep. Porter, Todd	Yea
Sen. Bekkedahl, Brad	Nay
Sen. Weber, Mark F.	Nay
Sen. Powers, Michelle	Nay

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
4/29/2025
Conference Committee

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

10:29 a.m. Chairman Headland called the meeting to order.

Members Present: Chairman Headland, Representatives Hagert, Porter; Chairman Bekkedahl, Senators Weber, Powers

Discussion Topics:
- Rate reductions
- Basin Electric

Committee could not come to agreement and will reschedule.

10:34 a.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
4/29/2025
Conference Committee

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

3:58 p.m. Chairman Headland called the meeting to order.

Members Present: Chairman Headland, Representatives Hagert, Porter; Chairman Bekkedahl, Senators Weber, Powers

Discussion Topics:
- Tax exemption percentages

3:59 p.m. Representative Hagert proposed verbal amendment to lower percentage of exemption over the next five biennium.

3:59 p.m. Representative Hagert moved to Adopt proposed amendment in place of Senate Amendment LC#25.0895.01001.

4:03 p.m. Motion failed - lack of second.

4:03 p.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
4/30/2025
Conference Committee

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

11:02 a.m. Chairman Headland called the meeting to order.

Members Present: Chairman Headland, Representatives Hagert, Porter; Chairman Bekkedahl, Senators Weber, Powers

Discussion Topics:
- Tax exemption

11:03 a.m. Chaiman Bekkedahl moved amendment to change tax percentages that would be paid over the course of the next three years.

11:03 a.m. Senator Weber seconded the motion.

11:04 a.m. Motion failed 3-3-0

11:06 a.m. Representative Bekkedahl moved amendment to change tax exemption percentages over the course of the next five years.

11:07 a.m. Representative Weber seconded the motion.

11:07 a.m. Motion failed 2-4-0

11:08 a.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

HB 1279 043025 1111 AM Roll Call Vote

Final Recommendation

HB 1279
Date Submitted: April 30, 2025, 11:11 a.m.
Recommendation: In Place Of
Amendment LC #: Pending LC #
Engrossed LC #: N/A

Motioned By: Bekkedahl, Brad

Seconded By: Weber, Mark F.

House Carrier: N/A

Senate Carrier: N/A

Emergency Clause: None

Vote Results: 3 - 3 - 0

Description: have a 90% exemption which is reduced to 75% the next year and then a 50% reduction in the following year before the exemption is lifted

Rep. Headland, Craig	Nay
Rep. Hagert, Jared	Nay
Rep. Porter, Todd	Nay
Sen. Bekkedahl, Brad	Yea
Sen. Weber, Mark F.	Yea
Sen. Powers, Michelle	Yea

HB 1279 043025 1116 AM Roll Call Vote

Final Recommendation

HB 1279
Date Submitted: April 30, 2025, 11:16 a.m.
Recommendation: In Place Of
Amendment LC #: Pending LC #
Engrossed LC #: N/A

Motioned By: Bekkedahl, Brad

Seconded By: Weber, Mark F.

House Carrier: N/A

Senate Carrier: N/A

Emergency Clause: None

Vote Results: 2 - 4 - 0

Description: 80% exemption that gets reduced by 20% each year over the course of 5 years

Rep. Headland, Craig	Nay
Rep. Hagert, Jared	Nay
Rep. Porter, Todd	Nay
Sen. Bekkedahl, Brad	Yea
Sen. Weber, Mark F.	Yea
Sen. Powers, Michelle	Nay

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
4/30/2025
Conference Committee

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

1:30 p.m. Chairman Headland called the meeting to order.

Members Present: Chairman Headland, Representatives Hagert, Porter; Chairman Bekkedahl, Senators Klein, Powers
Members Absent: Senator Weber

Discussion Topics:
- Tax exemptions / obligations

1:31 p.m. Representative Hagert moved Amendment that would make changes to the exemption rates per year over the next five years.

1:31 p.m. Representative Porter seconded the motion.

1:32 p.m. Motion failed 3-3-0

1:32 p.m. Representative Hagert moved Amendment that would make changes to the exemption rate percentages of the next three biennium.

1:33 p.m. Representative Porter seconded the motion.

1:33 p.m. Motion failed 3-3-0

1:34 p.m. Senator Bekkedahl moved Amendment that would make changes to the tax obligation percentages over the course of the next six years.

1:34 p.m. Senator Klein seconded the motion.

1:35 p.m. Motion failed 2-4-0

1:36 p.m. Recess

1:38 p.m. Chairman Headland reconvened the meeting.

1:39 p.m. Chairman Headland adjourned the meeting.

Janae Pinks, Committee Clerk

HB 1279 043025 1426 PM Roll Call Vote

Amendment

HB 1279

Date Submitted: April 30, 2025, 2:26 p.m.

Action: Failed

Amendment LC #: Pending LC #

Motioned By: Hagert, Jared

Seconded By: Porter, Todd

Emergency Clause: None

Vote Results: 3 - 3 - 0

Description: Amend Changes to Exemption Rates

Rep. Headland, Craig	Yea
Rep. Hagert, Jared	Yea
Rep. Porter, Todd	Yea
Sen. Bekkedahl, Brad	Nay
Sen. Klein, Jerry	Nay
Sen. Powers, Michelle	Nay

HB 1279 043025 1427 PM Roll Call Vote

Amendment

HB 1279

Date Submitted: April 30, 2025, 2:27 p.m.

Action: Failed

Amendment LC #: Pending LC #

Motioned By: Hagert, Jared

Seconded By: Porter, Todd

Emergency Clause: None

Vote Results: 3 - 3 - 0

Description: Changes to Exemption Rates per biennium

Rep. Headland, Craig	Yea
Rep. Hagert, Jared	Yea
Rep. Porter, Todd	Yea
Sen. Bekkedahl, Brad	Nay
Sen. Klein, Jerry	Nay
Sen. Powers, Michelle	Nay

HB 1279 043025 1428 PM Roll Call Vote

Amendment

HB 1279

Date Submitted: April 30, 2025, 2:28 p.m.

Action: Failed

Amendment LC #: Pending LC #

Motioned By: Bekkedahl, Brad

Seconded By: Klein, Jerry

Emergency Clause: None

Vote Results: 2 - 4 - 0

Description: Changes to the Tax Obligation per year for the next 6 years

Rep. Headland, Craig	Nay
Rep. Hagert, Jared	Nay
Rep. Porter, Todd	Nay
Sen. Bekkedahl, Brad	Yea
Sen. Klein, Jerry	Yea
Sen. Powers, Michelle	Nay

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
5/1/2025
Conference Committee

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

10:28 a.m. Chairman Headland called the meeting to order.

Members Present: Chairman Headland, Representatives Hagert, Porter; Chairman Bekkedahl, Senators Klein, Powers

Discussion Topics:
- Production tax credits

10:29 a.m. Representative Hagert, North Dakota Representative for District 20, provided testimony #45351.

10:30 a.m. Representative Hagert moved to adopt Amendments proposed in testimony #45351.

(Representative Hagert's motion held until an official Legislative Council Amendment is prepared)

10:35 a.m. Chairman Headland adjourned the meeting.

Wyatt Armstrong for Janae Pinks, Committee Clerk

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1279

Phased-In Tax Relief Structure (Beginning Mid-2026):

- **Year 1:** 10% – ~$2.135 million
- **Year 2:** 20% – ~$4.27 million
- **Year 3:** 30% – ~$6.405 million
- **Year 4:** 40% – ~$8.54 million
- **Year 5:** 65% – ~$13.877 million
- **Total Estimate:** ~$35,227,500

The percentage obligations are fixed, but the revenue amounts will vary based on total annual generation (coal conversion). These projections are based on current production levels as reflected in the latest fiscal note, but actual figures may fluctuate depending on future generation output.

Additional Provision:
If the federal Production Tax Credit (PTC) is fully repealed, the tax would automatically revert to the full 85% rate.

2025 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1279
5/1/2025
Conference Committee

Relating to a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

3:00 p.m. Chairman Headland called the meeting to order.

Members Present: Chairman Headland, Representatives Hagert, Porter; Chairman Bekkedahl, Senators Klein, Powers

Discussion Topics:
- Committee action

3:04 p.m. Representative Hagert proposed Amendment LC:25.0895.01003, testimony #45358.

3:07 p.m. Jonathan Fortner, Lignite Energy Council, answered committee questions.

3:08 p.m. Jessica Bell, Rainbow Energy, answered committee questions.

3:09 p.m. Chairman Headland recessed the meeting.

3:14 p.m. Chairman Headland reconvened the meeting.

3:14 p.m. Megan Gordon, North Dakota Legislative Council, answered committee questions.

3:17 p.m. Representative Hagert moved to replace Senate Amendments LC:25.0895.01001 with Conference Committee Amendments LC: 25.0895.01003, testimony #45358.

3:17 p.m. Senator Bekkedahl seconded the motion.

3:18 p.m. Motion passed 4-2-0

3:18 p.m. Representative Hagert will carry the bill for the House.

3:18 p.m. Senator Bekkedahl will carry the bill for the Senate.

3:18 p.m. Chairman Headland adjourned the meeting.

Wyatt Armstrong for Janae Pinks, Committee Clerk

25.0895.01003
Title.03000

Prepared by the Legislative Council staff for Representative Hagert
May 1, 2025

CO 5/1/25 1 of 17

Sixty-ninth Legislative Assembly of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1279

Introduced by

Representatives Novak, Berg, Hagert, Headland, J. Olson, S. Olson, Porter, Tveit

Senators Boehm, Patten, Thomas

In place of amendment (25.0895.01001) adopted by the Senate, House Bill No. 1279 is amended by amendment (25.0895.01003) as follows:

A BILL for an Act to amend and reenact sections 57-60-02, 57-60-02.1, 57-60-02.2, 57-60-14, and 57-61-01 of the North Dakota Century Code, relating to ~~an~~a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to repeal section 57-60-02.2 of the North Dakota Century Code, relating to the exemption from the coal conversion facilities tax and the imposition of a lignite research tax; to provide an effective date; to provide a contingent effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-60-02. Imposition of taxes. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2031)

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

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.

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2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the preceding month, whichever amount is greater. Any amount of beneficiated coal

produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.

7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, ~~2026~~~~2036~~2031. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply. Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.

Imposition of taxes. (Effective after June 30, ~~2026~~~~2036~~2031) There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this

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subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

   b. The board of county commissioners may, by resolution, grant to the operator of a coal conversion facility, other than an electrical generating plant, located within the county a partial or complete exemption from the remaining fifteen percent of

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tax imposed by this section for a period not exceeding five years from the date of the first taxable production from the facility. Notwithstanding the provisions of section 57-60-14, any tax collected which is based upon the production of a facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.

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

SECTION 2. AMENDMENT. Section 57-60-02 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02. ~~**Imposition of taxes. (Effective after June 30, 2026, and through June 30, 2031)**~~

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

~~1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.~~

~~2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the~~

~~ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.~~

~~3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.~~

~~4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.~~

~~5. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.~~

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

~~7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, 2031. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply.~~

~~Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.~~

Imposition of taxes. ~~**(Effective after June 30, 2031)**~~ There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

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

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

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

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

6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the

preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.

SECTION 3. AMENDMENT. Section 57-60-02.1 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02.1. Carbon dioxide capture credit - Reporting requirement.

A coal conversion facility that achieves a twenty percent capture of carbon dioxide emissions during a taxable period is entitled to a twenty percent reduction in the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 during that taxable period. The facility is entitled to an additional reduction of one percent of the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 for every additional two percentage points of its capture of carbon dioxide emissions. A maximum fifty percent reduction of the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 is allowed for eighty percent or more capture of carbon dioxide emissions. A coal conversion facility may receive the reduction in coal conversion tax under this section for ten years from the date of first capture of carbon dioxide emission or for ten years from the date the coal conversion facility is eligible to receive the credit. A coal conversion facility that met the carbon dioxide capture requirements before January 1, 2017, may not claim the reduction under this section.

The operator of a coal conversion facility that receives a credit under this section shall report annually to the legislative council. The report must include:

1. An overview of the carbon dioxide capture project.
2. A status report on the current state of the carbon dioxide capture project, including data on the amount of carbon dioxide produced from the facility before the carbon dioxide capture project and the current carbon dioxide produced and captured from the facility.
3. Any recent changes to enhance the carbon dioxide capture system.
4. Information on the status of federal law and regulations related to the carbon dioxide capture project, including any benefits from the project realized by the operator under federal law and regulations.

SECTION 4. AMENDMENT. Section 57-60-02.2 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02.2. Coal conversion facility tax - Exemption - Lignite research tax - Imposition. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2031)

1. a. Excluding the generation tax imposed under subsection 3 of section 57-60-02, a coal conversion facility is ~~exempt from eighty-five percent~~entitled to a partial exemption from the coal conversion state share of the tax imposed under section 57-60-02 ~~and instead~~equal to:

   (1) Ninety percent of the coal conversion state share for taxable production after June 30, 2026, and through June 30, 2027.

   (2) Eighty percent of the coal conversion state share for taxable production after June 30, 2027, and through June 30, 2028.

   (3) Seventy percent of the coal conversion state share for taxable production after June 30, 2028, and through June 30, 2029.

   (4) Sixty percent of the coal conversion state share for taxable production after June 30, 2029, and through June 30, 2030.

   (5) Thirty-five percent of the coal conversion state share for taxable production after June 30, 2030, and through June 30, 2031.

   b. The coal conversion facility shall pay a lignite research tax equal to eighty-five percent of the tax imposed under section 57-60-02 before the application of the exemption under subdivision a, multiplied by five percent.

   c. For purposes of this subsection, "coal conversion state share" means eighty-five percent of the tax imposed under section 57-60-02, excluding the generation tax imposed under subsection 3 of section 57-60-02.

2. a. An electrical generating plant is ~~exempt from~~entitled to a partial exemption from the generation tax imposed under subsection 3 of section 57-60-02 ~~and instead~~equal to:

   (1) Ninety percent of the generating plant state share for taxable production after June 30, 2026, and through June 30, 2027.

   (2) Eighty percent of the generating plant state share for taxable production after June 30, 2027, and through June 30, 2028.

   (3) Seventy percent of the generating plant state share for taxable production after June 30, 2028, and through June 30, 2029.

(4) Sixty percent of the generating plant state share for taxable production after June 30, 2029, and through June 30, 2030.

(5) Thirty-five percent of the generating plant state share for taxable production after June 30, 2030, and through June 30, 2031.

b. The electrical generating plant shall pay a lignite research tax equal to the tax imposed under subsection 3 of section 57-60-02 before the application of the exemption under subdivision a. multiplied by five percent.

c. For purposes of this subsection, the "generating plant state share" means one hundred percent of the generation tax imposed under subsection 3 of section 57-60-02.

SECTION 5. AMENDMENT. Section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

57-60-14. Allocation of revenue - Continuing appropriation. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2031)

1. At least quarterly, the state treasurer shall allocate:

   a. The lignite research tax collections under section 57-60-02.2 to the lignite research fund for the purposes under section 57-61-01.5.

   b. The remaining portion of the coal conversion state share after the exemption under section 57-60-02.2 to the legacy fund to become part of the principal of the legacy fund. For purposes of this subdivision, "coal conversion state share" has the same meaning as subsection 1 of section 57-60-02.2.

   c. The remaining portion of the generating plant state share after the exemption under section 57-60-02.2 to the legacy fund to become part of the principal of the legacy fund. For purposes of this subdivision, "generating plant state share" has the same meaning as subsection 2 of section 57-60-02.2.

   d. The remaining coal conversion tax collections under section 57-60-02 to the county.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified

to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

Allocation of revenue - Continuing appropriation. (Effective after June 30, ~~2026~~~~2036~~2031)

1. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty-five percent to the state~~ general fund~~, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which must be ~~deposited in~~allocated to the state~~ general fund~~. ~~Five percent of all funds allocated to the state general fund pursuant to this chapter~~From the amount allocated to the state under this subsection:
   a. Five percent must be allocated to the lignite research fund, for the purposes defined in section 57-61-01.5; and
   b. The remaining amount must be deposited in the legacy fund to become part of the principal of the legacy fund.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar

year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

SECTION 6. AMENDMENT. Section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

57-60-14. ~~**Allocation of revenue - Continuing appropriation. (Effective after June 30, 2026, and through June 30, 2031)**~~

~~1. At least quarterly, the state treasurer shall allocate:~~

~~a. The lignite research tax collections under section 57-60-02.2 to the lignite research fund for the purposes under section 57-61-01.5.~~

~~b. The remaining portion of the coal conversion state share after the exemption under section 57-60-02.2 to the legacy fund to become part of the principal of the legacy fund. For purposes of this subdivision, "coal conversion state share" has the same meaning as subsection 1 of section 57-60-02.2.~~

~~c. The remaining portion of the generating plant state share after the exemption under section 57-60-02.2 to the legacy fund to become part of the principal of the legacy fund. For purposes of this subdivision, "generating plant state share" has the same meaning as subsection 2 of section 57-60-02.2.~~

~~d. The remaining coal conversion tax collections under section 57-60-02 to the county.~~

~~2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.~~

~~3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.~~

Allocation of revenue - Continuing appropriation. ~~**(Effective after June 30, 2031)**~~

1. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty-five percent to the state, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which must be allocated to the state. From the amount allocated to the state under this subsection:
   a. Five percent must be allocated to the lignite research fund, for the purposes defined in section 57-61-01.5; and
   b. The remaining amount must be deposited in the legacy fund to become part of the principal of the legacy fund.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

SECTION 7. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective through June 30, ~~2026~~~~2036~~2031)

1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, ~~2026~~~~2036~~2031. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02.

Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective after June 30, ~~2026~~~~2036~~2031) There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

SECTION 8. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. **~~Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective through June 30, 2031)~~**

~~1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.~~

~~2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, 2031. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02.~~

Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. ~~(Effective after June 30, 2031)~~ There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

SECTION 9. REPEAL. Section 57-60-02.2 of the North Dakota Century Code is repealed.

SECTION 10. EFFECTIVE DATE. ~~This~~Section 7 of this Act is effective for taxable production beginning after June 30, 2025. Sections 1, 3, 4, and 5 of this Act are effective for taxable production beginning after June 30, 2026.

SECTION 11. CONTINGENT EFFECTIVE DATE. Sections 2, 6, 8, and 9 of this Act become effective on the date the tax commissioner certifies to the legislative council that the production tax credit for electricity from renewables under section 45 of the Internal Revenue Code [26 U.S.C. 45] and the clean electricity production tax credit under section 45Y of the Internal Revenue Code [26 U.S.C. 45Y] have been repealed, if the certification is received before June 30, 2031.

HB 1279 050125 1517 PM Roll Call Vote

Final Recommendation

HB 1279

Date Submitted: May 1, 2025, 3:17 p.m.

Recommendation: In Place Of

Amendment LC #: 25.0895.01003

Engrossed LC #: N/A

Motioned By: Hagert, Jared

Seconded By: Bekkedahl, Brad

House Carrier: Hagert, Jared

Senate Carrier: Bekkedahl, Brad

Emergency Clause: None

Vote Results: 4 - 2 - 0

Description: Replace with new amendment 25.0895.01003.

Rep. Headland, Craig	Yea
Rep. Hagert, Jared	Yea
Rep. Porter, Todd	Nay
Sen. Bekkedahl, Brad	Yea
Sen. Klein, Jerry	Yea
Sen. Powers, Michelle	Nay

Insert LC: 25.0895.01003 Title: 03000
House Carrier: Hagert
Senate Carrier: Bekkedahl

REPORT OF CONFERENCE COMMITTEE
HB 1279

Your conference committee (Sens. Bekkedahl, Klein, Powers and Reps. Headland, Hagert, Porter) recommends that in place of amendment 25.0895.01001 adopted by the Senate, HB 1279 is amended by amendment 25.0895.01003.

HB 1279 was placed on the Seventh order of business on the calendar.

25.0895.01003
Title.

Prepared by the Legislative Council
staff for Representative Hagert
May 1, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1279

Introduced by

Representatives Novak, Berg, Hagert, Headland, J. Olson, S. Olson, Porter, Tveit

Senators Boehm, Patten, Thomas

In place of amendment (25.0895.01001) adopted by the Senate, House Bill No. 1279 is amended by amendment (25.0895.01003) as follows:

A BILL for an Act to amend and reenact sections 57-60-02, 57-60-02.1, 57-60-02.2, 57-60-14, and 57-61-01 of the North Dakota Century Code, relating to ~~an~~a partial exemption from the coal conversion facilities tax and the imposition of a lignite research tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to repeal section 57-60-02.2 of the North Dakota Century Code, relating to the exemption from the coal conversion facilities tax and the imposition of a lignite research tax; to provide an effective date; to provide a contingent effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-60-02. Imposition of taxes. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2031)

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

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.

2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.
3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.
4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.
5. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.
6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the preceding month, whichever amount is greater. Any amount of beneficiated coal

produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.

7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, ~~2026~~~~2036~~2031. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply. Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.

Imposition of taxes. (Effective after June 30, ~~2026~~~~2036~~2031) There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.

2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this

subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

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

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

SECTION 2. AMENDMENT. Section 57-60-02 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02. ~~**Imposition of taxes. (Effective after June 30, 2026, and through June 30, 2031)**~~

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

~~1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.~~

~~2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the~~

~~ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.~~

~~3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.~~

~~4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.~~

~~5. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.~~

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

~~7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, 2031. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply.~~

~~Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.~~

Imposition of taxes. ~~**(Effective after June 30, 2031)**~~ There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

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

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

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

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

6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the

preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.

SECTION 3. AMENDMENT. Section 57-60-02.1 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02.1. Carbon dioxide capture credit - Reporting requirement.

A coal conversion facility that achieves a twenty percent capture of carbon dioxide emissions during a taxable period is entitled to a twenty percent reduction in the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 during that taxable period. The facility is entitled to an additional reduction of one percent of the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 for every additional two percentage points of its capture of carbon dioxide emissions. A maximum fifty percent reduction of the state ~~general~~legacy fund share of the tax imposed under section 57-60-02 is allowed for eighty percent or more capture of carbon dioxide emissions. A coal conversion facility may receive the reduction in coal conversion tax under this section for ten years from the date of first capture of carbon dioxide emission or for ten years from the date the coal conversion facility is eligible to receive the credit. A coal conversion facility that met the carbon dioxide capture requirements before January 1, 2017, may not claim the reduction under this section.

The operator of a coal conversion facility that receives a credit under this section shall report annually to the legislative council. The report must include:

1. An overview of the carbon dioxide capture project.
2. A status report on the current state of the carbon dioxide capture project, including data on the amount of carbon dioxide produced from the facility before the carbon dioxide capture project and the current carbon dioxide produced and captured from the facility.
3. Any recent changes to enhance the carbon dioxide capture system.
4. Information on the status of federal law and regulations related to the carbon dioxide capture project, including any benefits from the project realized by the operator under federal law and regulations.

SECTION 4. AMENDMENT. Section 57-60-02.2 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02.2. Coal conversion facility tax - Exemption - Lignite research tax - Imposition. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2031)

1. a. Excluding the generation tax imposed under subsection 3 of section 57-60-02, a coal conversion facility is ~~exempt from eighty-five percent~~entitled to a partial exemption from the coal conversion state share of the tax imposed under section 57-60-02 ~~and instead~~equal to:

   (1) Ninety percent of the coal conversion state share for taxable production after June 30, 2026, and through June 30, 2027.

   (2) Eighty percent of the coal conversion state share for taxable production after June 30, 2027, and through June 30, 2028.

   (3) Seventy percent of the coal conversion state share for taxable production after June 30, 2028, and through June 30, 2029.

   (4) Sixty percent of the coal conversion state share for taxable production after June 30, 2029, and through June 30, 2030.

   (5) Thirty-five percent of the coal conversion state share for taxable production after June 30, 2030, and through June 30, 2031.

   b. The coal conversion facility shall pay a lignite research tax equal to eighty-five percent of the tax imposed under section 57-60-02 before the application of the exemption under subsection a, multiplied by five percent.

   c. For purposes of this subsection, "coal conversion state share" means eighty-five percent of the tax imposed under section 57-60-02, excluding the generation tax imposed under subsection 3 of section 57-60-02.

2. a. An electrical generating plant is ~~exempt from~~entitled to a partial exemption from the generation tax imposed under subsection 3 of section 57-60-02 ~~and instead~~equal to:

   (1) Ninety percent of the generating plant state share for taxable production after June 30, 2026, and through June 30, 2027.

   (2) Eighty percent of the generating plant state share for taxable production after June 30, 2027, and through June 30, 2028.

   (3) Seventy percent of the generating plant state share for taxable production after June 30, 2028, and through June 30, 2029.

(4) Sixty percent of the generating plant state share for taxable production after June 30, 2029, and through June 30, 2030.

(5) Thirty-five percent of the generating plant state share for taxable production after June 30, 2030, and through June 30, 2031.

b. The electrical generating plant shall pay a lignite research tax equal to the tax imposed under subsection 3 of section 57-60-02 before the application of the exemption under subsection a, multiplied by five percent.

c. For purposes of this subsection, the "generating plant state share" means one hundred percent of the generation tax imposed under subsection 3 of section 57-60-02.

SECTION 5. AMENDMENT. Section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

57-60-14. Allocation of revenue - Continuing appropriation. (Effective ~~through~~after June 30, 2026~~2036~~, and through June 30, 2031)

1. At least quarterly, the state treasurer shall allocate:

   a. The lignite research tax collections under section 57-60-02.2 to the lignite research fund for the purposes under section 57-61-01.5.

   b. The remaining portion of the coal conversion state share after the exemption under section 57-60-02.2 to the legacy fund to become part of the principal of the legacy fund. For purposes of this subdivision, "coal conversion state share" has the same meaning as subsection 1 of section 57-60-02.2.

   c. The remaining portion of the generating plant state share after the exemption under section 57-60-02.2 to the legacy fund to become part of the principal of the legacy fund. For purposes of this subdivision, "generating plant state share" has the same meaning as subsection 2 of section 57-60-02.2.

   d. The remaining coal conversion tax collections under section 57-60-02 to the county.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified

to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

Allocation of revenue - Continuing appropriation. (Effective after June 30, ~~2026~~~~2036~~2031)

1. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty-five percent to the state~~ general fund~~, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which must be ~~deposited in~~allocated to the state~~ general fund~~. ~~Five percent of all funds allocated to the state general fund~~ ~~pursuant to this chapter~~From the amount allocated to the state under this subsection:
   a. Five percent must be allocated to the lignite research fund, for the purposes defined in section 57-61-01.5; and
   b. The remaining amount must be deposited in the legacy fund to become part of the principal of the legacy fund.
2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar

year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

SECTION 6. AMENDMENT. Section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

57-60-14. ~~Allocation of revenue - Continuing appropriation. (Effective after June 30, 2026, and through June 30, 2031)~~

~~1. At least quarterly, the state treasurer shall allocate:~~

~~a. The lignite research tax collections under section 57-60-02.2 to the lignite research fund for the purposes under section 57-61-01.5.~~

~~b. The remaining portion of the coal conversion state share after the exemption under section 57-60-02.2 to the legacy fund to become part of the principal of the legacy fund. For purposes of this subdivision, "coal conversion state share" has the same meaning as subsection 1 of section 57-60-02.2.~~

~~c. The remaining portion of the generating plant state share after the exemption under section 57-60-02.2 to the legacy fund to become part of the principal of the legacy fund. For purposes of this subdivision, "generating plant state share" has the same meaning as subsection 2 of section 57-60-02.2.~~

~~d. The remaining coal conversion tax collections under section 57-60-02 to the county.~~

~~2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.~~

~~3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.~~

Allocation of revenue - Continuing appropriation. ~~**(Effective after June 30, 2031)**~~

1. The state treasurer shall no less than quarterly allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this chapter, fifteen percent to the county and eighty-five percent to the state, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which must be allocated to the state. From the amount allocated to the state under this subsection:
   a. Five percent must be allocated to the lignite research fund, for the purposes defined in section 57-61-01.5; and
   b. The remaining amount must be deposited in the legacy fund to become part of the principal of the legacy fund.

2. Notwithstanding any other provision of law, the allocation under this section to each county may not be less in each calendar year than the amount certified to the state treasurer for each county under this section in the immediately preceding calendar year. For a county that has received less in a calendar year than the amount certified to the state treasurer for that county in the immediately preceding calendar year, not later than January tenth of the following year, the county auditor shall calculate the amount that is due under this subsection and submit a statement of the amount to the state treasurer. The state treasurer shall verify the stated amount and make the required payment under this subsection to the county, from collections received under section 57-60-02, not later than March first of the following year. The funds needed to make the distribution to counties under this subsection are appropriated on a continuing basis for making these payments. Money received by a county under this subsection must be distributed pursuant to section 57-60-15.

3. Notwithstanding any other provision of law, for a county in which is located a coal conversion facility that was not a coal conversion facility under this chapter before January 1, 2002, for years after 2002, subsection 2 applies to allocations to that county under this section, except that for a county described in this subsection, amounts received for any calendar year must be allocated by the county in the same manner property taxes for the facility were allocated for taxable year 2001.

SECTION 7. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective through June 30, ~~2026~~~~2036~~2031)

1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, ~~2026~~~~2036~~2031. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02.

Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective after June 30, ~~2026~~~~2036~~2031) There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

SECTION 8. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. ~~Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. (Effective through June 30, 2031)~~

~~1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.~~

~~2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, 2031. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02.~~

Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner. ~~(Effective after June 30, 2031)~~ There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

SECTION 9. REPEAL. Section 57-60-02.2 of the North Dakota Century Code is repealed.

SECTION 10. EFFECTIVE DATE. ~~This~~Section 7 of this Act is effective for taxable production beginning after June 30, 2025. Sections 1, 3, 4, and 5 of this Act are effective for taxable production beginning after June 30, 2026.

SECTION 11. CONTINGENT EFFECTIVE DATE - EXPIRATION DATE. Sections 2, 6, 8, and 9 of this Act become effective on the date the tax commissioner certifies to the legislative council that the production tax credit for electricity from renewables under section 45 of the Internal Revenue Code [26 U.S.C. 45] and the clean electricity production tax credit under section 45Y of the Internal Revenue Code [26 U.S.C. 45Y] have been repealed, if the certification is received before June 30, 2031.