Western Dakota Energy Association
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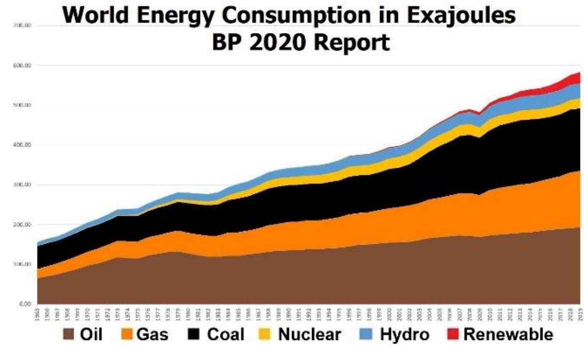

If there was a theme for each legislative session, this year it would be "North Dakota Must Control Its Own Destiny." Economic and political forces seem positioned to throttle the state's two top industries – energy and agriculture – and the major bills of the session are aimed at preventing such an action. Despite the fact that more than 80 percent of global energy consumption is derived from fossil fuels, financial markets and the Biden administration appear to have oil, gas and coal in their crosshairs. In yet another executive order, Biden directed federal agencies to "eliminate fossil fuel subsidies as consistent with applicable law." It was not clear which subsidies Biden was referring to since the fossil fuel industry receives tax deductions rather than tax subsidies and many of the industry's tax deductions are federal law which cannot be altered by executive order. In addition to anti-fossil fuel directives from the White House, legislators are also attempting to respond to the ESG movement – Environmental and Social Governance – an inexplicable trend in the financial sector to scorn fossil fuels (and increasingly agricultural operations), despite the obvious fact that food and fuel are essential to a civilized society.

Much of the legislature's response to the threat has revolved around leveraging the state's considerable financial assets, but it's difficult to achieve consensus on just how to go about it. SB 2291 is a response to the ESG movement, but there is reportedly a move afoot to water it down. The original bill introduced by Beulah Senator Jessica Bell directs state agencies to avoid contracting with companies that support ESG practices, and to study the impact of divesting state funds from companies that boycott energy or ag commodities. Another "control our destiny" bill awaiting action in the House is HB 1425 that would require up to 20% of the state's $7 billion Legacy Fund to be invested in North Dakota. Four percent would go to a legacy infrastructure loan program that would support water and political subdivision projects with loans of up to $40 million for 40 years at 2% interest. The bill also provides that up to 10% of the Legacy Fund be targeted toward equity investments with "a primary strategy of investing in emerging or expanding companies in the state." Bonding is also being discussed to promote the state's financial security, but the most prominent bill was scaled down this week. As amended, HB 1431 provides just $680 million, most of which would go toward flood control projects in Fargo and the Minot area. Gov. Burgum previously proposed a $1.25 billion bonding bill, and early in the session Republicans had introduced a $1.1 billion plan. The amendment was approved by the House Appropriations Committee. Its chairman, Underwood Rep. Jeff Delzer, dislikes bonding because it puts a long-term debt obligation on the state.

Stripped from the bonding bill was $92 million earmarked for career and technical education projects, a large portion of which was destined for Dickinson, Minot and Watford City. The House Appropriations Committee has also indicated its intent to remove the "1 and 1" percent increase each year of the 2021-23 biennium in the per pupil payment in the Foundation Aid formula for schools. The increase is currently found in HB 1388, the K-12 funding bill which received unanimous approval in the House Education Committee. However, Appropriations Committee members said they believed federal funds from the Elementary and Secondary School Emergency Relief (ESSER) grant program would supplant the need for state aid, and could also be used to develop CTE projects. ESSER is a component of the CARES Act, assistance related to the COVID-19 pandemic. Education funding will be a topic for House appropriators at 10:00 a.m. Monday when members review elements of HB 1013, the funding bill for the Department of Public Instruction.

The news was decidedly mixed for the coal industry this week. One positive action was House passage of HB 1412, a bill that provides a five-year, 60% reduction in the coal conversion tax. It's estimated it will save the lignite industry about $30 million per year. Another positive development for the coal industry was passage of SB 2317 by the Senate Energy and Natural Resources Committee. The bill would establish a pilot program to provide coal mining performance bonding, restoration, and follow-up support services. The legislation is a response to the ESG movement, which has artificially driven up costs of bonding, which is required to ensure proper reclamation is performed when a coal mining operation shuts down. One not-so-positive action was the withdrawal of a bill that would have imposed a tax on new wind farms to provide grants for baseload coal operations. Its sponsor, Bismarck Rep. Dave Nehring, said he pulled HB 1458 out of concern that it could adversely affect the sale of Coal Creek Station, which is currently planned to be shut down by the end of 2022. A non-legislative development also stirred up Coal Country this week when it was learned Basin Electric has accelerated depreciation of its Leland Olds Station, prompting concern the coal plant may close in the next 5-10 years.

It will be a busy week ahead at the Capitol, particularly in the House which has more than 120 bills on its calendar. Click here to see the calendar. Click here for a schedule of committee hearings on the bills WDEA is tracking.