



**Western Dakota Energy Association
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The waning days of the legislative session are known for two things – lots of conference committees trying to resolve differences between the House and Senate, and the other is bill-signing ceremonies. There were several of the latter this week, most notable among them was Governor Doug Burgum putting his signature on [HB 1431](#), a bonding bill that will fund two major flood control projects, provide money for roads and bridges, water projects and an agricultural facility at NDSU. The \$680 million bonding package will be repaid using earnings from the Legacy Fund. Pictured at the podium in this photo is Senator Rich Wardner, the prime Senate sponsor of the bonding bill, along with others who supported the legislation.

Governor Burgum signed another bill outside the Capitol this week, putting his signature on [HB 1412](#), legislation that reduces the coal conversion tax by 85 percent for the next five years. The bill signing occurred at the annual meeting of the Lignite Energy Council, where Burgum spoke at the luncheon. The [fiscal note](#) on the bill indicates it will save the industry an estimated \$21.3 million per year or \$106.5 million over the life of the tax reduction. The tax savings are important to buy time for the coal industry, not only to develop and perfect technology to capture and store carbon dioxide emissions, but for the public to learn more about the importance of maintaining baseload generation.

During his remarks at the LEC meeting, Burgum recited a list of other bills passed this session of importance to utilities and the lignite industry. He mentioned [HB 1455](#), which will require companies to notify local officials if they plan to retire a coal plant; [SB 2152](#), which provides a sales tax exemption for carbon dioxide placed in geologic storage; [SB 2206](#), which allows regulated utilities to recover the cost of CO2 capture and sequestration, [SB 2235](#), which ensures that DEQ emission regulations do not exceed federal regulations; [SB 2238](#), which provides DEQ flexibility in administering federal regional haze rules; [SB 2287](#), which authorizes a study to determine a way to offer more affordable insurance to the coal industry; [SB 2313](#), which allows the PSC to consider “qualitative benefits” of generation assets; and [SB 2317](#), which allows coal mines to use non-monetary assets as collateral for reclamation bonds.

Much work remains to be done, primarily on budget bills, before the session concludes next week. Most observers expect the legislature will adjourn on Wednesday, but many contentious issues remain. The granddaddy of them all is [HB 1015](#), the appropriations bill of the Office of Management and Budget. The OMB bill is typically the last to be passed before adjournment because it is the “catch all” that can be used to correct errors in bills passed earlier, but more commonly it is adorned with spending measures not addressed in other bills. Among items already tacked on to the bill as it came through the Senate this week are \$30 million for township road needs, a \$250 million line of credit for the clean sustainable energy fund, and \$78 million from the federal coronavirus capital fund to support tech-ed projects.

Most of the contentious oil and gas issues have been put to rest, with one notable exception that appears to have been resolved late this week. [SB 2319](#), which is aimed at providing an oil tax sharing agreement with the MHA Nation for so-called straddle wells around the perimeter of the Fort Berthold Reservation, was amended to the satisfaction of both legislative chambers, and is on its way to the governor’s desk. Based on the latest amendment, it is estimated MHA will receive \$7.15 million from the 132 oil wells that straddle the border. Under the deal, the tribe will receive a portion of taxes from wells that begin off the reservation and extend underground across the border. The tribe currently receives no revenue from those wells, but the state does get a share from wells on Fort Berthold with laterals that go outside. Language in the bill also seeks to avoid the threat of double taxation. It states that, “Upon accepting a payment ... if a tribe assesses any tax or fee or imposes any regulation on any current or future straddle well” ... the agreement is void. The House passed the bill 79-13 on Thursday, and the Senate voted 43-3 to approve it yesterday.

Among the spending bills yet to be resolved is [HB 1013](#), the budget of the Department of Public Instruction, which contains more than \$2 billion in Foundation Aid support for K-12 school districts. The companion policy bill is [HB 1388](#), which is also awaiting final action. A Senate amendment restored a “1-and-1” to provide a 1% increase in the per pupil payment each year of the upcoming biennium, 70% of which must go to wages and benefits for faculty. The House did not concur with the Senate’s action, so it remains to be seen whether the increase will be in the final bill.

Also unresolved as the legislature heads into Day 73 on Monday is the “streams” issue, which establishes legislative intent for future use of Legacy Fund earnings. The issue has been complicated by action on [SB 2046](#), which addresses employer and employee contributions to the ND Public Employee Retirement System (PERS). The bill in its current form passed the House yesterday with an amendment that injects \$100 million into PERS to close its unfunded liability gap, and sets up a \$40 million Legacy stream in future years. Other provisions such as a section using earnings to pay down bonded indebtedness make it an “alternative streams bill,” which will have to be reconciled with [HB 1380](#), the original streams bill which is awaiting action in the Senate. Suffice to say, it will be an interesting final few days.