

**ANALYSIS OF THE LIGNITE RESEARCH FUND  
FOR THE 2019-21 AND 2021-23 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2019-21 Biennium		2021-23 Biennium	
Beginning balance		\$29,908,588		\$2,631,526
Add estimated revenues				
Separate two-cent coal severance tax	\$1,140,000		\$1,120,000	
50 percent of coal severance taxes deposited in the coal development trust fund <sup>1</sup>	1,730,000		1,700,000	
20 percent of coal severance taxes deposited in the coal development trust fund for clean coal projects <sup>1</sup>	710,000		695,000	
15 percent of coal severance taxes <sup>1</sup>	3,205,000		3,155,000	
5 percent of the general fund share of coal conversion tax	2,310,000		0	
Lignite research tax (2021 HB 1412) <sup>1</sup>	0		2,310,000	
Oil and gas tax allocation (2019 HB 1066) <sup>1</sup>	10,000,000		10,000,000	
Investment income on Dakota Gasification Company ammonia plant and Spiritwood plant	180,000		180,000	
Revenue bonds/short-term loan <sup>2</sup>	0		0	
Transfer from the strategic investment and improvements fund (2017 SB 2014)	0		0	
Interest income, return of funds, and litigation contributions	569,465		20,000	
Total estimated revenues		19,844,465		19,180,000
Total estimated available		\$49,753,053		\$21,811,526
Less estimated expenditures, commitments and transfers <sup>3,4</sup>				
Administration	\$875,000		\$900,000	
Lignite feasibility studies (nonmatching grants)	1,515,625		1,515,625	
Small research grants	10,418,224		3,475,000	
Lignite marketing	1,800,000		1,800,000	
Lignite litigation <sup>5</sup>	500,000		1,500,000	
Demonstration projects	1,367,678		0	
Advanced energy technology development	30,645,000		12,555,000	
Total estimated expenditures and transfers <sup>6</sup>		47,121,527		21,745,625
Estimated ending balance		\$2,631,526		\$65,901

<sup>1</sup>House Bill No. 1066 (2019) increases the allocation of oil and gas tax revenue to the lignite research fund by \$7 million, from \$3 million to \$10 million. House Bill No. 1412 (2021) exempts 100 percent of the generation tax and 60 percent of the capacity tax from the coal conversion tax and creates a new lignite research tax to maintain the current level of allocations to the lignite research fund.

<sup>2</sup>Pursuant to Section 54-17.5-04, the Industrial Commission may issue revenue bonds or borrow short-term funds from the Bank of North Dakota.

<sup>3</sup>The Industrial Commission has a policy stating that 18 percent of lignite research fund income will be used for small research projects, 56 percent for large demonstration research projects, 21 percent for marketing projects, and 5 percent for administration. The commission has further directed that no single large demonstration research project can receive more than 37.5 percent of available funds.

<sup>4</sup>The Industrial Commission has waived the fund allocation policy. The commission has committed \$22 million through the 2011-13 biennium to three projects. In January 2015 the commission learned one of the projects is not proceeding and released the project's commitment of \$8,732,503. Expenditures for Lignite

Vision 21 Project have been \$1,360,750 during the 2003-05 biennium, \$2,243,391 during the 2005-07 biennium, \$2,200,000 during the 2007-09 biennium, \$3,972,090 during the 2009-11 biennium, \$678,851 during the 2011-13 biennium, \$110,000 during the 2013-15 biennium, \$914,663 during the 2015-17 biennium, \$1,290,525 during the 2017-19 biennium, and anticipated expenditures of \$1,367,678 in subsequent bienniums. The objective of the Lignite Vision 21 Project was to construct new lignite-fired power plants in North Dakota. (These amounts are net of funds that were distributed but later returned when projects did not proceed.) The Lignite Vision 21 program is no longer being considered for funding future projects but new projects are being funded through a new program--Advanced Energy Technology Development.

<sup>5</sup>Lignite litigation - House Bill No. 1093 (2007) provides that \$500,000 of the amount appropriated to the lignite research fund for the 2007-09 biennium is to be used to pay for fees associated with lignite litigation that may be brought by the state to protect and promote the continued development of lignite resources. Activities associated with the litigation have been initiated with \$83,379 spent during the 2007-09 biennium, \$153,907 spent during the 2009-11 biennium, \$652,519 spent during the 2011-13 biennium with \$82,966 of that amount paid by industry, \$983,288 spent during the 2013-15 biennium with \$451,555 of that amount paid by industry, \$259,159 spent during the 2015-17 biennium with \$122,866 of that amount paid by industry, \$44,962 spent during the 2017-19 biennium with \$14,760 of that amount paid by industry. A portion of the nonmatch funding is set aside for litigation in the amounts of \$500,000 to be spent during the 2019-21 biennium and \$1,500,000 for the 2021-23 biennium.

The State of North Dakota was successful in its litigation against the State of Minnesota during the 2017-19 biennium and received a total of \$1,410,000. Of the \$1,410,000, \$672,147 has been paid to industry partners, and the remaining \$737,853 was deposited in the lignite research fund during the 2017-19 and 2019-21 bienniums. The original \$500,000 was spent by the end of the 2011-13 biennium with additional funding being provided from nonmatching program funds in subsequent bienniums.

House Bill No. 1014 (2019) provides legislative intent that at least \$500,000 from the lignite research fund, including proceeds from successful litigation, is available for fees associated with lignite litigation brought by the state to protect and promote the continued development of lignite resources.

<sup>6</sup>The Industrial Commission has continuing appropriation authority for all money deposited in the lignite research fund pursuant to Section 57-61-01.6.

### **FUND HISTORY**

Section 57-61-01.5(2) and Section 21 of Article X of the Constitution of North Dakota provide for up to 70 percent of the taxes collected and deposited in the coal development trust fund to be deposited in the lignite research fund. Of the 70 percent, 50 percent is designated for research, development, and marketing pursuant to the passage of Initiated Measure No. 3 in June 1990, and 20 percent is designated for clean coal demonstration projects pursuant to voter approval of a constitutional amendment in June 1994. The remaining 30 percent of the funds deposited in the coal development trust fund are to be held in trust and administered by the Board of University and School Lands, which has the authority to invest the funds, and may, as provided by law, lend money from the fund to political subdivisions. Senate Bill No. 2014 (2017) reduced the allocation of coal severance tax allocations to the coal development trust fund from 30 to 15 percent and provides an allocation of 15 percent to the lignite research fund.

From the state general fund share of coal conversion tax collections, the Legislative Assembly designated 3 percent for transfer to the lignite research fund during the 2007-09 biennium and 5 percent after the 2007-09 biennium in House Bill No. 1093 (2007).

House Bill No. 1152 (2017) changed the allocation of the state's share of oil and gas tax revenue to provide up to \$3 million of allocations to the lignite research fund.