

**SENATE BILL NO. 2313**

Introduced by

Senator Wardner

Representative Pollert

1 A BILL ~~for an Act to create and enact a new chapter to title 49 of the North Dakota Century~~  
2 ~~Code, relating to electric power reliability and price transparency; and to repeal chapter 17-01 of~~  
3 ~~the North Dakota Century Code, relating to the 25x'25 initiative.~~for an Act to amend and reenact  
4 sections 17-05-05 and 17-05-13 of the North Dakota Century Code, relating to the powers of  
5 the transmission authority and the transmission authority's reporting requirements; and to repeal  
6 chapter 17-01 of the North Dakota Century Code, relating to the 25x'25 initiative.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 ~~— **SECTION 1.** A new chapter to title 49 of the North Dakota Century Code is created and~~  
9 ~~enacted as follows:~~

10 ~~— **Definitions.**~~

11 ~~— As used in this chapter:~~

12 ~~— 1. "Dispatchable energy" means a source of electricity generally available for use on-~~  
13 ~~demand, can be dispatched to increase electric generation upon request of a power~~  
14 ~~grid operator or can have its power output adjusted according to market need. The~~  
15 ~~term includes energy storage, hydroelectric energy, or electric generation from the~~  
16 ~~utilization of coal, natural gas, biomass, or nuclear energy.~~

17 ~~— 2. "Dispatchable energy reliability factor" means the average capacity factor of all~~  
18 ~~dispatchable energy resources in the state during the five peak electric demand hours~~  
19 ~~in a year as calculated by taking the nameplate capacity of the entire dispatchable~~  
20 ~~fleet in the state and subtracting the forced outage rate of that fleet during the five~~  
21 ~~peak electric demand hours in that year.~~

22 ~~— 3. "Firming" means the act of constructing or acquiring through a power purchase~~  
23 ~~agreement sufficient dispatchable electric generation to mitigate by half the reliability~~  
24 ~~penalty imposed on the electric system by nondispatchable generation.~~

1 ~~4. "Reliability penalty" means the difference between a nondispatchable energy facility's~~  
2 ~~average capacity factor during the five peak electric demand hours in a year and the~~  
3 ~~dispatchable energy reliability factor.~~

4 ~~5. "Resilience" means the ability to withstand and reduce the magnitude or duration of~~  
5 ~~events disruptive to electric supply, including the capability to anticipate, absorb, adapt~~  
6 ~~to, or rapidly recover from such an event.~~

7 ~~6. "Nondispatchable energy" means a source of electricity not generally available for use~~  
8 ~~on demand, cannot be dispatched to increase electric generation upon request of a~~  
9 ~~power grid operator, and cannot have its power output adjusted according to market~~  
10 ~~need.~~

11 ~~**Reliability standard.**~~

12 ~~All electricity generated within the state must be dispatchable energy or demonstrate~~  
13 ~~backup capacity through the use of firming.~~

14 ~~1. To ensure compliance with this chapter, the commission shall:~~

15 ~~a. Adopt rules to require an entity responsible for the generation of nondispatchable~~  
16 ~~energy to demonstrate to the commission by December 1, 2022, and on an~~  
17 ~~annual basis thereafter, the entity has secured sufficient firming capacity to meet~~  
18 ~~the reliability standard. An entity found to be noncompliant is ineligible for siting~~  
19 ~~authorization under chapter 49-22 and may not receive grants, loans, or any~~  
20 ~~other financial assistance from the state or any political subdivision of the state,~~  
21 ~~including lignite research funds, oil and gas research funds, renewable research~~  
22 ~~funds, or any funds derived from the legacy fund. The commission shall ensure~~  
23 ~~the rules governing the demonstration required by this section require an entity to~~  
24 ~~include the firming necessitated by the use of nondispatchable energy.~~

25 ~~b. Report and coordinate with the appropriate independent system and regional~~  
26 ~~transmission operators the implementation of the rules adopted under this~~  
27 ~~chapter, as necessary, to ensure local resilience of generation resources within~~  
28 ~~the state and region.~~

29 ~~c. Advocate policies at independent system and regional transmission operator~~  
30 ~~boards on which representatives from the state serve to ensure market rules and~~

- 1 ~~protocols are implemented at those organizations to accommodate~~  
2 ~~implementation of this section.~~  
3 ~~d. Encourage research institutes, the transmission authority, and the state's~~  
4 ~~research universities to partner with the energy industry on commercialization of~~  
5 ~~wide-scale implementation of carbon capture utilization and storage technology.~~  
6 ~~2. The transmission authority shall collect publicly available information and request to~~  
7 ~~receive plans by September 1, 2022, from all generation facilities connected to an~~  
8 ~~independent system or regional transmission operator in excess of an aggregate of~~  
9 ~~twenty-five megawatts, a range of forecasts covering the next five years as requested~~  
10 ~~by the transmission authority.~~  
11 ~~3. The plans received under subsection 2 must be updated and received by the~~  
12 ~~transmission authority every two years subsequent to the September 1, 2022, initial~~  
13 ~~plan.~~

14 ~~**SECTION 2. REPEAL.** Chapter 17-01 of the North Dakota Century Code is repealed.~~

15 **SECTION 1. AMENDMENT.** Section 17-05-05 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **17-05-05. Powers.**

18 The authority has all powers necessary to carry out the purposes of this chapter, including  
19 the power to:

- 20 1. Make grants or loans and to provide other forms of financial assistance as necessary  
21 or appropriate for the purposes of this chapter;
- 22 2. Make and execute contracts and all other instruments necessary or convenient for the  
23 performance of its powers and functions under this chapter;
- 24 3. Borrow money and issue evidences of indebtedness as provided in this chapter;
- 25 4. Receive and accept aid, grants, or contributions of money or other things of value from  
26 any source, including aid, grants, or contributions from any department, agency, or  
27 instrumentality of the United States, subject to the conditions upon which the aid,  
28 grants, or contributions are made and consistent with the provisions of this chapter;
- 29 5. Issue and sell evidences of indebtedness in an amount or amounts as the authority  
30 may determine, but not to exceed eight hundred million dollars, plus costs of issuance,  
31 credit enhancement, and any reserve funds required by agreements with or for the

- 1 benefit of holders of the evidences of indebtedness for the purposes for which the
- 2 authority is created under this chapter, provided that the amount of any refinancing
- 3 shall not be counted toward such eight hundred million dollar limitation to the extent it
- 4 does not exceed the outstanding amount of the obligations being refinanced;
- 5 6. Refund and refinance its evidences of indebtedness;
- 6 7. Make and execute interest rate exchange contracts;
- 7 8. Enter lease-sale contracts;
- 8 9. Pledge any and all revenues derived by the authority under this chapter or from a
- 9 transmission facility, service, or activity funded under this chapter to secure payment
- 10 or redemption of the evidences of indebtedness;
- 11 10. To the extent and for the period of time necessary for the accomplishment of the
- 12 purposes for which the authority was created, plan, finance, develop, acquire, own in
- 13 whole or in part, lease, rent, and dispose of transmission facilities;
- 14 11. Enter contracts to construct, maintain, and operate transmission facilities;
- 15 12. Consult with the public service commission, regional organizations, and any other
- 16 relevant state or federal authority or persons as necessary and establish reasonable
- 17 fees, rates, tariffs, or other charges for transmission facilities and all services rendered
- 18 by the authority;
- 19 13. Lease, rent, and dispose of transmission facilities owned pursuant to this chapter;
- 20 14. Investigate, plan, prioritize, and propose corridors of the transmission of electricity;
- 21 15. Participate in and join regional transmission organizations; ~~and~~
- 22 16. Participate in studies of transmission options for the purpose of identifying
- 23 opportunities for private transmission investment or private public investment options
- 24 in transmission which will increase opportunity for export from the state consistent with
- 25 maintaining a stable grid for the load serving entities in North Dakota; and
- 26 17. Do any and all things necessary or expedient for the purposes of the authority
- 27 provided in this chapter.

28 **SECTION 2. AMENDMENT.** Section 17-05-13 of the North Dakota Century Code is  
29 amended and reenacted as follows:

**17-05-13. Reporting requirements.**

1. The authority shall deliver a written report on its activities to the legislative council each biennium. Notwithstanding chapter 54-60.1, the authority shall provide an annual report to the industrial commission detailing activities and expenditures incurred during the preceding year.

2. The authority shall deliver a written report on the status of the resilience of the electric grid to the legislative council and the industrial commission by September 1, 2022, and annually thereafter. The report must be forwarded by the industrial commission to the regional transmission operators in the state.

a. The information for the report should be collected from publicly available information to the extent possible. If public information is unavailable, the authority shall request a generation facility and a transmission owner to provide the information needed to complete the report.

b. The report may be a short-term and long-term projection of the following:

(1) The adequacy of the state's electric grid to meet the demands of load within the state and to continue to export electricity from the state;

(2) The resilience of the state's electric grid, including local resilience; and

(3) The plans of generation owners, developers, or operators to add or remove generation assets connected to an independent system or regional transmission operator in excess of an aggregate of twenty-five megawatts.

**SECTION 3. REPEAL.** Chapter 17-01 of the North Dakota Century Code is repealed.