

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2313**

Introduced by

Senator Wardner

Representative Pollert

1 A BILL for an Act to create and enact three new sections to chapter 49-05 of the North Dakota
2 Century Code, relating to resource planning, planning reserve margin, and reliable service
3 obligation; to amend and reenact sections 17-05-05 and 17-05-13 of the North Dakota Century
4 Code, relating to the powers of the transmission authority and the transmission authority's
5 reporting requirements; and to provide a penalty.

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

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

9 **17-05-05. Powers.**

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

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

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

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

29 **17-05-13. Reporting requirements.**

- 30 1. The authority shall deliver a written report on its activities to the legislative council
31 each biennium. Notwithstanding chapter 54-60.1, the authority shall provide an annual

1 report to the industrial commission detailing activities and expenditures incurred during
2 the preceding year.

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

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

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

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

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

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

18 **SECTION 3.** A new section to chapter 49-05 of the North Dakota Century Code is created
19 and enacted as follows:

20 **Resource planning.**

21 1. An integrated resource plan must include:

22 a. The electric public utility's forecast of demand for electric generation supply over
23 the planning period with recommended plans for meeting the forecasted demand
24 plus an additional planning reserve margin for ensuring adequate and sufficient
25 reliability of service; and

26 b. Any additional information the commission requests related to how an electric
27 public utility intends to provide sufficient electric generation service for use by
28 retail customers within the state over the planning period.

29 2. An electric public utility shall include a least cost plan for providing adequate and
30 reliable service to retail customers which is consistent with the provisions of this title
31 and the rules and orders adopted and issued by the commission.

- 1 3. The commission may consider the qualitative benefits and provide value to a
2 base-load generation and load-following generation resource and its proximity to load.
- 3 4. The commission may contract or consult with an expert to evaluate qualitative benefits
4 of resources and to review reliability planning. The commission may require an electric
5 public utility to pay a fee necessary for completion of an evaluation in an amount not to
6 exceed two hundred fifty thousand dollars.
- 7 a. If additional funds are necessary for completion of the evaluation, upon approval
8 of the emergency commission, the electric public utility shall pay the additional
9 fees reasonably necessary for the completion.
- 10 b. If the evaluation applies to more than one electric public utility, the commission
11 may assess each electric public utility the proportionate share of the fee.
- 12 5. An electric public utility shall report annually to the commission on cybersecurity
13 preparedness, including an assessment of emerging threats and efforts taken by the
14 electric public utility to implement cybersecurity measures. The commission may limit
15 access to records and portions of a meeting relating to cybersecurity preparedness.

16 **SECTION 4.** A new section to chapter 49-05 of the North Dakota Century Code is created
17 and enacted as follows:

18 **Planning reserve margin - Penalty.**

19 The commission may require action, assess a disallowance or fine, or provide a penalty in
20 accordance with chapter 49-07 if an electric public utility fails to meet the minimum capacity
21 requirement and reserve margin. Unless otherwise set by the commission, the minimum
22 capacity requirement and planning reserve margin is as set by the regional transmission
23 organization to which the electric public utility belongs.

24 **SECTION 5.** A new section to chapter 49-05 of the North Dakota Century Code is created
25 and enacted as follows:

26 **Reliable service obligation.**

27 An electric public utility is responsible for ensuring reliable service. If an electric public utility
28 fails to meet its obligation to provide reliable service to customers within the state, the
29 commission may require action, assess disallowances or fines, or provide a penalty. The
30 commission shall adopt rules and establish guidelines for assessment of penalties, fines, or
31 disallowances which must take into consideration the nature, circumstances, and gravity of the

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- 1 violation, degree of culpability, history of prior outages, and good-faith attempts to ensure
- 2 reliability.