

Sixty-first  
Legislative Assembly  
of North Dakota

## REENGROSSED SENATE BILL NO. 2221

Introduced by

Senators Cook, Christmann, O'Connell

Representatives Belter, Heller, Pinkerton

1 A BILL for an Act to create and enact a new subsection to section 57-60-01 and section  
2 57-60-02.1 of the North Dakota Century Code, relating to a credit against privilege taxes on  
3 coal conversion facilities for carbon dioxide capture; to amend and reenact section 57-60-03 of  
4 the North Dakota Century Code, relating to measurement and recording of carbon dioxide  
5 capture; and to provide an effective date.

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

7 **SECTION 1.** A new subsection to section 57-60-01 of the North Dakota Century Code  
8 is created and enacted as follows:

9 "Carbon dioxide capture" means removal of carbon dioxide emissions from a coal  
10 conversion facility.

11 a. For electrical generating plants, carbon dioxide captured is measured using  
12 the stack emissions of carbon dioxide from the facility as reported by the  
13 continuous emission monitoring system, in compliance with environmental  
14 protection agency rules in 40 CFR 75. The percentage reduction is  
15 determined by:

16 (1) Determining the total carbon dioxide produced from the facility before  
17 the capture of carbon dioxide;

18 (2) Subtracting the stack emissions of carbon dioxide from the facility; and

19 (3) Dividing the result of paragraph 2 by the result of paragraph 1 and  
20 multiplying by one hundred, which results in the percentage of carbon  
21 dioxide captured.

22 b. For coal gasification facilities, the carbon dioxide captured is determined by:

23 (1) Determining the total carbon input to the facility by multiplying the  
24 percentage of carbon content in the coal fed to the facility, determined

1                   from the average of coal analysis for the taxing period, times the total  
2                   tons of coal fed to the facility for the taxing period.

3                   (2)   Determining the amount of nonemissions carbon by multiplying the  
4                   percentage of carbon content in all hydrocarbon products, except  
5                   carbon dioxide, leaving the facility times the tons of hydrocarbon  
6                   products leaving the facility for the taxing period.

7                   (3)   Subtracting the result under paragraph 2 from the result under  
8                   paragraph 1 and multiplying the result times 3.667 to convert the  
9                   amount of tons of carbon to tons of carbon dioxide, which results in the  
10                  total tons of carbon dioxide emissions without capture.

11                  (4)   The amount of carbon dioxide captured for the taxing period measured  
12                  by a flow meter and converted to tons.

13                  (5)   Dividing the result of paragraph 4 by the result from paragraph 3 and  
14                  multiplying by one hundred, which results in the percentage of carbon  
15                  dioxide captured.

16                  **SECTION 2.** Section 57-60-02.1 of the North Dakota Century Code is created and  
17 enacted as follows:

18                  **57-60-02.1. Carbon dioxide capture credit - Reporting requirement.** A coal  
19 conversion facility that achieves a twenty percent capture of carbon dioxide emissions during a  
20 taxable period after December 31, 2009, is entitled to a twenty percent reduction in the state  
21 general fund share of the tax imposed under section 57-60-02 during that taxable period. The  
22 facility is entitled to an additional reduction of one percent of the state general fund share of the  
23 tax imposed under section 57-60-02 for every additional two percentage points of its capture of  
24 carbon dioxide emissions. A maximum fifty percent reduction of the state general fund share of  
25 the tax imposed under section 57-60-02 is allowed for eighty percent or more capture of carbon  
26 dioxide emissions. A coal conversion facility may receive the reduction in coal conversion tax  
27 under this section for ten years from the date of first capture of carbon dioxide emission or for  
28 ten years from the date the coal conversion facility is eligible to receive the credit.

29                  The operator of a coal conversion facility that receives a credit under this section shall  
30 report annually to the legislative council. The report must include:

31                  1.   An overview of the carbon dioxide capture project.

1           2.   A status report on the current state of the carbon dioxide capture project, including  
2                   data on the amount of carbon dioxide produced from the facility before the carbon  
3                   dioxide capture project and the current carbon dioxide produced and captured from  
4                   the facility.

5           3.   Any recent changes to enhance the carbon dioxide capture system.

6           4.   Information on the status of federal law and regulations related to the carbon  
7                   dioxide capture project, including any benefits from the project realized by the  
8                   operator under federal law and regulations.

9           **SECTION 3. AMENDMENT.** Section 57-60-03 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11           **57-60-03. Measurement and recording of synthetic natural gas, byproducts,**  
12 **beneficiated coal, or electricity produced and carbon dioxide capture.** The production of  
13 synthetic natural gas, byproducts, beneficiated coal, or electrical power and data necessary to  
14 determine the amount of carbon dioxide captured must be measured at the place of production  
15 or generation, and any person subject to the imposition of the taxes provided by this chapter  
16 shall maintain devices to measure and record the cumulative periodic totals of synthetic natural  
17 gas, byproducts, beneficiated coal, and electrical power generated and data necessary to  
18 determine the amount of carbon dioxide captured. Any person subject to the taxes imposed by  
19 this chapter shall maintain accurate records of the daily and monthly totals of synthetic natural  
20 gas, beneficiated coal, and electrical power generated and subject to such taxes and data  
21 necessary to determine the amount of carbon dioxide captured. On or before October first of  
22 each year, the operator of any coal gasification plant shall file a report with the state health  
23 officer listing the quantity of byproducts produced during the year ending June thirtieth of that  
24 year. The commissioner shall have access to such records at reasonable times and places.

25           **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
26 December 31, 2009.