

Sixty-first
Legislative Assembly
of North Dakota

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

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

1 **57-60-03. Measurement and recording of synthetic natural gas, byproducts,**
2 **beneficiated coal, or electricity produced and carbon dioxide capture.** The production of
3 synthetic natural gas, byproducts, beneficiated coal, or electrical power and data necessary to
4 determine the amount of carbon dioxide captured must be measured at the place of production
5 or generation, and any person subject to the imposition of the taxes provided by this chapter
6 shall maintain devices to measure and record the cumulative periodic totals of synthetic natural
7 gas, byproducts, beneficiated coal, and electrical power generated and data necessary to
8 determine the amount of carbon dioxide captured. Any person subject to the taxes imposed by
9 this chapter shall maintain accurate records of the daily and monthly totals of synthetic natural
10 gas, beneficiated coal, and electrical power generated and subject to such taxes and data
11 necessary to determine the amount of carbon dioxide captured. On or before October first of
12 each year, the operator of any coal gasification plant shall file a report with the state health
13 officer listing the quantity of byproducts produced during the year ending June thirtieth of that
14 year. The commissioner shall have access to such records at reasonable times and places.

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