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Sixty-first
Legislative Assembly
of North Dakota

SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2221

Introduced by

Senators Cook, Christmann, O'Connell

Representatives Belter, Heller, Pinkerton

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. An overview of the carbon dioxide capture project.

2. A status report on the current state of the carbon dioxide capture project, including data on the amount of carbon dioxide produced from the facility before the carbon dioxide capture project and the current carbon dioxide produced and captured from the facility.
3. Any recent changes to enhance the carbon dioxide capture system.
4. Information on the status of federal law and regulations related to the carbon dioxide capture project, including any benefits from the project realized by the operator under federal law and regulations.

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

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

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