

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1412
(Representatives Delzer, Headland, Pollert)
(Senators Bell, Wardner)

AN ACT to create and enact a new section to chapter 57-60 of the North Dakota Century Code, relating to an exemption from the coal conversion facilities privilege tax and the imposition of a lignite research tax; to amend and reenact section 57-60-02, subsection 1 of section 57-60-14, and section 57-61-01 of the North Dakota Century Code, relating to an exemption from the coal conversion facilities tax, allocation of the coal conversion facilities privilege tax and the lignite research tax, and an exemption from the coal severance tax; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-60-02 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02. Imposition of taxes.

There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from the facility for the preceding month and is in the amount of two percent of its gross receipts. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. ~~The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.~~
3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this

subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.
5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

b. ~~The board of county commissioners may, by resolution, grant to the operator of a coal conversion facility, other than an electrical generating plant, located within the county a partial or complete exemption from the remaining fifteen percent of tax imposed by this section for a period not exceeding five years from the date of the first taxable production from the facility. Notwithstanding the provisions of section 57-60-14, any tax collected which is based upon the production of a facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.~~
6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.
7. With the exception of the tax imposed under subsection 3, the board of county commissioners, by resolution, may grant the operator of a plant or facility located within the county a partial or complete exemption from up to fifteen percent of the tax imposed under this section for a period not to extend past June 30, 2026. If a board of county commissioners grants a partial or complete exemption for a specific plant or facility under this subsection, subsection 2 of section 57-60-14 does not apply. Notwithstanding section 57-60-14, any tax collected from a plant or facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.

SECTION 2. A new section to chapter 57-60 of the North Dakota Century Code is created and enacted as follows:

Coal conversion facility tax - Exemption - Lignite research tax - Imposition.

1. Excluding the generation tax imposed under subsection 3 of section 57-60-02, a coal conversion facility is exempt from eighty-five percent of the tax imposed under section 57-60-02 and instead shall pay a lignite research tax equal to eighty-five percent of the tax imposed under section 57-60-02 multiplied by five percent.
2. An electrical generating plant is exempt from the generation tax imposed under subsection 3 of section 57-60-02 and instead shall pay a lignite research tax equal to the tax imposed under subsection 3 of section 57-60-02 multiplied by five percent.

SECTION 3. AMENDMENT. Subsection 1 of section 57-60-14 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~The~~At least quarterly, the state treasurer shall ~~no less than quarterly~~ allocate all moneys received from all coal conversion facilities in each county pursuant to the provisions of this

~~chapter, fifteen percent to the county and eighty-five percent to the state general fund, except moneys received from the tax imposed by subsection 3 of section 57-60-02, which must be deposited in the state general fund. Five percent of all funds allocated to the state general fund pursuant to this chapter must be allocated to the:~~

- ~~a. The lignite research tax collections under section 1 of this Act to the lignite research fund for the purposes under section 57-61-01.5.~~
- ~~b. The remaining coal conversion tax collections under section 57-60-02 to the county lignite research fund, for the purposes defined in section 57-61-01.5.~~

SECTION 4. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner.

1. There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit the tax for each month, within twenty-five days after the end of each month, to the tax commissioner on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.
2. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is mined a partial or complete exemption from up to seventy percent of the tax imposed under this section for a period not to extend past June 30, 2026. Any tax revenue exceeding thirty percent of the tax imposed under this subsection must be allocated to the county under subsection 3 of section 57-62-02.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable production beginning after June 30, 2021.

SECTION 6. EXPIRATION DATE. This Act is effective through June 30, 2026, and after that date is ineffective.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1412.

House Vote: Yeas 84 Nays 5 Absent 5

Senate Vote: Yeas 43 Nays 4 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State