

Sixty-fourth
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

1 A BILL for an Act to create and enact a new subsection to section 57-60-02 of the North
2 Dakota Century Code, relating to an exemption from the coal conversion facility privilege tax
3 for a coal beneficiation plant the produces beneficiated coal that is used within a coal
4 conversion facility; and amend and reenact sections 57-39.2-04, 57-39.2-04.2, 57-40.2-
5 04.2, and 57-61-01.4 of the North Dakota Century Code, relating to sales and use tax
6 exemptions for beneficiated coal and equipment for certain power plants, and the severance
7 and sales and use tax exemption for coal used in certain plants.

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

9 **SECTION 1. AMENDMENT.** Section 57-39.2-04 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-39.2-04. (~~Effective through June 30, 2015~~) Exemptions.**

12 There are specifically exempted from the provisions of this chapter and from
13 computation of the amount of tax imposed by it the following:

- 14 1. Gross receipts from sales of tangible personal property which this state is
15 prohibited from taxing under the Constitution or laws of the United States or under
16 the Constitution of North Dakota.
- 17 2. Gross receipts from the sales, furnishing, or service of passenger transportation
18 service and gross receipts from the sales, furnishing, or service of freight
19 transportation service when provided by a common carrier.
- 20 3. Repealed by S.L. 1971, ch. 567, § 1.

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- 1 4. a. Gross receipts from sales of tickets, or admissions to state, county, district, and
2 local fairs.
- 3 b. Gross receipts from educational, religious, or charitable activities when the
4 entire amount of net receipts is expended for educational, religious, or
5 charitable purposes. The exemption specified in this subsection does not apply
6 to:
- 7 (1) Gross receipts from taxable sales in excess of ten thousand dollars per
8 event if the activities are held in a publicly owned facility; or
- 9 (2) Gross receipts from activities if the seller competes with retailers by
10 maintaining inventory, conducting retail sales on a regular basis from a
11 permanent or seasonal location, or soliciting sales from a website
12 prepared for or maintained by the seller.
- 13 c. Gross receipts derived by any public school district if such receipts are
14 expended in accordance with section 15.1-07-10 or 15.1-07-11.
- 15 d. Gross receipts of a nonprofit music or dramatic arts organization that is exempt
16 from federal income taxation and is organized and operated for the
17 presentation of live public performances of musical or theatrical works on a
18 regular basis.
- 19 5. Gross receipts from sales of textbooks to regularly enrolled students of a private or
20 public school and from sales of textbooks, yearbooks, and school supplies
21 purchased by a private nonprofit elementary school, secondary school, or any
22 other nonprofit institution of higher learning conducting courses of study similar to
23 those conducted by public schools in this state.

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- 1 6. Gross receipts from all sales otherwise taxable under this chapter made to the
2 United States, an Indian tribe, or to any state, including the state of North Dakota,
3 or any of the subdivisions, departments, agencies, or institutions of any state. A
4 political subdivision of another state is exempt under this subsection only if a sale
5 to a North Dakota political subdivision is treated as an exempt sale in that state.
6 The governmental units exempted by this subsection must be issued a certificate
7 of exemption by the commissioner and the certificate must be presented to each
8 retailer whenever this exemption is claimed. For purposes of this subsection, an
9 Indian tribe means a tribal government agency, instrumentality, or political
10 subdivision that performs essential government functions and does not include
11 business entities or agencies the primary purpose of which is to operate a
12 business enterprise.
- 13 7. Gross receipts from the sale of drugs sold under a doctor's prescription.
- 14 8. Gross receipts from sales of adjuvants, agrichemical tank cleaners and foam
15 markers, commercial fertilizers, fungicides, seed treatments, inoculants and
16 fumigants, herbicides, and insecticides to agricultural or commercial vegetable
17 producers and commercial applicators; chemicals used to preserve agricultural
18 crops being stored; and seeds, roots, bulbs, and small plants to commercial users
19 or consumers for planting or transplanting for commercial vegetable gardens or
20 agricultural purposes.
- 21 9. Gross receipts from sales of oxygen sold to any person who purchases it upon the
22 written order of a doctor for the person's own use for medical purposes.
- 23 10. Gross receipts from the sale of motor vehicles, farm machinery, alcoholic
24 beverages, gasoline, insurance premiums, gaming tickets, or any other article or

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1 product, except as otherwise provided, upon which the state of North Dakota
2 imposes a special tax.

3 11. Gross receipts from the sale of feed which is fed to poultry or livestock, including
4 breeding stock and wool-bearing stock, for the purpose of producing eggs, milk,
5 meat, fibers, or other products for human consumption and the gross receipts from
6 the sale of feed purchased for the purpose of being fed to draft or fur-bearing
7 animals. The word "feed" as used herein shall be construed to mean and include
8 only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone,
9 molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a
10 feed ration, and other generally recognized animal feeds. The term "feed" includes
11 drugs used as part of a feed ration, medicants, disinfectants, wormers, tonics, and
12 like items.

13 12. Gross receipts from a sale otherwise taxable under this chapter made to a person
14 from an adjoining state which does not impose or levy a retail sales tax, under the
15 following conditions:

16 a. The person is in the state of North Dakota for the express purpose of making a
17 purchase.

18 b. The person furnishes to the North Dakota retailer a certificate signed by the
19 person in a form as the commissioner may prescribe reciting sufficient facts
20 establishing the exempt status of the sale. Unless the certificate is furnished it
21 must be presumed, until the contrary is shown, that the person was not in the
22 state of North Dakota for the express purpose of making a purchase.

23 c. The sale is fifty dollars or more.

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- 1 13. Gross receipts from the sale of any motor vehicle taxable under the provisions of
2 the motor vehicle excise tax laws of North Dakota. However, gross receipts from
3 the rental of any motor vehicle for fewer than thirty days are not exempt but taxes
4 imposed under home rule authority do not apply to such rentals.
- 5 14. Repealed by S.L. 1969, ch. 528, § 24.
- 6 15. Gross receipts from sales in which a contractor furnishes to the retailer a certificate
7 which includes the contractor's license number assigned to the contractor under
8 the provisions of chapter 43-07. Such certificate shall be in the form prescribed by
9 the commissioner and shall be furnished by the contractor to the retailer each
10 calendar year prior to the making of any purchases during such calendar year from
11 the retailer without liability for paying the tax to the retailer. Any contractor
12 furnishing such certificate must report and remit the tax to the commissioner on
13 purchases taxable under this chapter made by the contractor in the same manner
14 as retailers remit such tax under this chapter.
- 15 16. Gross receipts from the sale of newsprint and ink used in the publication of a
16 newspaper.
- 17 17. Gross receipts from the sale of all services furnished by any hospital, infirmary,
18 sanatorium, nursing home, basic care facility, or similar institution to any patient or
19 occupant.
- 20 18. Repealed by S.L. 1973, ch. 480, § 6.
- 21 19. Repealed by S.L. 1971, ch. 555, § 3.
- 22 20. Gross receipts from the sale of food supplies to any public school, to any parochial
23 or private nonprofit school conducting courses of study similar to those conducted
24 by public schools in this state, or to any nonprofit organization, for use by the

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- 1 public, parochial, or private school or nonprofit organization in sponsoring or
2 conducting a lunch program or programs in and for any such public, parochial, or
3 private nonprofit school.
- 4 21. Gross receipts from the leasing or renting of motion picture film to motion picture
5 exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the
6 film is subject to the sales tax imposed by this chapter.
- 7 22. Gross receipts from the leasing or renting of manufactured homes, modular living
8 units, or sectional homes, whether or not placed on a permanent foundation, for
9 residential housing for periods of thirty or more consecutive days and the gross
10 receipts from the leasing or renting of a hotel or motel room or tourist court
11 accommodations occupied by the same person or persons for residential housing
12 for periods of thirty or more consecutive days.
- 13 23. Food purchased by a student under a boarding contract with a college, university,
14 fraternity, or sorority.
- 15 24. Gross receipts from all sales when made to an eligible facility or emergency
16 medical services provider for the use or benefit of its patient or occupant. For the
17 purposes of this subsection:
- 18 a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care
19 facility, or basic care facility licensed by the state department of health, or any
20 assisted living facility licensed by the department of human services; and
- 21 b. "Emergency medical services provider" means an emergency medical services
22 operation licensed by the state department of health under chapter 23-27.
- 23 25. Gross receipts from the sale of Bibles, hymnals, textbooks, and prayerbooks sold
24 to nonprofit religious organizations.

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1 26. Gross receipts from sales of prosthetic devices, durable medical equipment,
2 mobility-enhancing equipment, or supplies for ostomy care or bladder dysfunction.

3 For purposes of this subsection:

4 a. "Durable medical equipment" means equipment, not including mobility-
5 enhancing equipment, for home use, including repair and replacement parts for
6 such equipment, which:

7 (1) Can withstand repeated use;

8 (2) Is primarily and customarily used to serve a medical purpose;

9 (3) Generally is not useful to a person in the absence of illness or injury; and

10 (4) Is not worn in or on the body.

11 "Durable medical equipment" includes equipment and devices designed or
12 intended for ostomy care and management and equipment and devices used
13 exclusively for a person with bladder dysfunction. An exemption certificate is not
14 required to obtain exemption. Repair and replacement parts as used in this
15 definition include all components or attachments used in conjunction with the
16 durable medical equipment. Repair and replacement parts do not include items
17 which are for single patient use only.

18 b. "Mobility-enhancing equipment" means equipment, not including durable
19 medical equipment sold under a doctor's written prescription, including repair
20 and replacement parts for mobility-enhancing equipment, which:

21 (1) Is primarily and customarily used to provide or increase the ability to

22 move from one place to another and which is appropriate for use either at
23 home or in a motor vehicle;

24 (2) Is not generally used by persons with normal mobility; and

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1 (3) Does not include any motor vehicle or equipment on a motor vehicle
2 normally provided by a motor vehicle manufacturer.

3 "Mobility-enhancing equipment" includes crutches and wheelchairs for the use
4 of disabled persons, equipment, including manual control units, van lifts, van
5 door opening units, and raised roofs for attaching to or modifying a motor
6 vehicle for use by a permanently physically disabled person, equipment,
7 including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts,
8 whether or not sold for attaching to real property, for use by a permanently
9 physically disabled person in that person's principal dwelling, and equipment,
10 including manual control units, for attaching to or modifying motorized
11 implements of husbandry for use by a permanently physically disabled person.

12 c. "Prosthetic device" means a replacement, corrective, or supportive device sold
13 under a doctor's written prescription, including repair and replacement parts for
14 such a device, worn on or in the body to:

- 15 (1) Artificially replace a missing portion of the body;
16 (2) Prevent or correct a physical deformity or malfunction; or
17 (3) Support a weak or deformed portion of the body.

18 "Prosthetic device" includes artificial devices individually designed, constructed,
19 or altered solely for the use of a particular disabled person so as to become a
20 brace, support, supplement, correction, or substitute for the bodily structure,
21 including the extremities of the individual, artificial limbs, artificial eyes, hearing
22 aids, and other equipment worn as a correction or substitute for any functioning
23 portion of the body, artificial teeth sold by a dentist, and eyeglasses when

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- 1 especially designed or prescribed by an ophthalmologist, physician, oculist, or
2 optometrist for the personal use of the owner or purchaser.
- 3 d. "Supplies for ostomy care or bladder dysfunction" includes:
- 4 (1) Supplies designed or intended for ostomy care and management,
5 including collection devices, colostomy irrigation equipment and supplies,
6 skin barriers or skin protectors, and other supplies especially designed
7 for use of ostomates.
- 8 (2) Supplies to be used exclusively by a person with bladder dysfunction,
9 including catheters, collection devices, incontinent pads and pants, and
10 other items used for the care and management of bladder dysfunction.
- 11 27. Gross receipts from the sale of electricity.
- 12 28. Gross receipts from the leasing or renting of any tangible personal property upon
13 which a North Dakota sales tax or use tax has been paid or is payable.
- 14 29. Gross receipts from all sales otherwise taxable under this chapter when made to
15 any nonprofit organization for meals, including the containers, packages, and
16 materials used for wrapping food items, for delivery to persons who are confined to
17 their homes by illness or incapacity, including senior citizens and disabled persons,
18 for consumption by such shut-ins in their homes.
- 19 30. Gross receipts from all sales of recreational travel trailers not exceeding eight feet
20 [2.44 meters] in width or thirty-two feet [9.75 meters] in length which are designed
21 to be principally used as temporary vacation dwellings when made to persons who
22 are residents of other states which impose excise taxes upon registration of such
23 recreational travel trailers.

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- 1 31. Gross receipts from the sale of money, including all legal tender coins and
2 currency, and from the sale of precious metal bullion that has been refined to a
3 purity of not less than nine hundred ninety-nine parts per one thousand and is in
4 such form or condition that its value depends upon its precious metal content and
5 not its form.
- 6 32. Gross receipts from sales to nonprofit voluntary health associations which are
7 exempt from federal income tax under section 501(c)(3) of the United States
8 Internal Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a
9 voluntary health association is an organization recognized by the internal revenue
10 service, the national health council, the state tax commissioner, and the North
11 Dakota secretary of state as a nonprofit organization that is exempt under section
12 501(c)(3) of the United States Internal Revenue Code and meets the following
13 requirements: It has been organized and operated exclusively in providing services
14 for the purposes of preventing and alleviating human illness and injury. Methods
15 used to obtain these goals would include education, research, community service,
16 and direct patient services, income being derived solely from private donations
17 with some exceptions of a minimal membership fee. Its members are not limited to
18 only individuals, who themselves are licensed or otherwise legally authorized to
19 render the same professional services as the organization. The disbursement of
20 funds within a volunteer health association is to be controlled by a board of
21 directors who work voluntarily and without pay.
- 22 33. Repealed by S.L. 2005, ch. 580, § 19.

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- 1 34. Gross receipts from the sale of byproducts, arising from the processing of
2 agricultural products, for use in the manufacture or generation of steam or
3 electricity.
- 4 35. Gross receipts from the sale of a manufactured home that has been sold,
5 bargained, exchanged, given away, or transferred by the person who first acquired
6 it from a retailer in a sale at retail and upon which the North Dakota sales tax has
7 previously been imposed.
- 8 36. Gross receipts from all sales of insulin in all its forms dispensed pursuant to the
9 direction of a licensed physician, all sales of glucose usable for treatment of insulin
10 reactions, all sales of urine and blood testing kits and materials, and all sales of
11 insulin measuring and injecting devices, including insulin syringes and hypodermic
12 needles.
- 13 37. Gross receipts from the sale of any aircraft taxable under the provisions of chapter
14 57-40.5.
- 15 38. Gross receipts from all sales of air carrier transportation property subject to ad
16 valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-
17 08, 57-13, and 57-32.
- 18 39. Gross receipts from sales of tangible personal property consisting of flight
19 simulators or mechanical or electronic equipment for use in association with a
20 flight simulator.
- 21 40. Gross receipts from sales of tickets or admissions to, or sales made at, an annual
22 church supper or bazaar held in a publicly owned facility. For purposes of this
23 subsection, "annual" means occurring not more than once in any calendar year.
- 24 41. Gross receipts from the initial sale of beneficiated coal.

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- 1 42. Gross receipts from electronic gaming devices licensed by the attorney general
2 under chapter 53-06.1.
- 3 43. Gross receipts from all sales made to a nonprofit medical research institute. For
4 purposes of this subsection, "nonprofit medical research institute" means an
5 institute that is a member of the association of independent research institutes,
6 which is not a private foundation, and which is recognized by the internal revenue
7 service as having exempt status under 26 U.S.C. 501(c)(3).
- 8 44. Gross receipts from all sales of coal that is exempt from the coal severance tax.
- 9 45. Gross receipts from the sale or lease of farm machinery, farm machinery repair
10 parts, irrigation equipment, or irrigation equipment repair parts used exclusively for
11 agricultural purposes.
- 12 46. Gross receipts from sales of tangible personal property purchased by a charitable
13 organization to be awarded as a prize in a raffle conducted in accordance with law
14 if the winner of the tangible personal property will be subject to sales or use taxes
15 upon receiving the property.
- 16 47. Gross receipts from the sale of lottery tickets under chapter 53-12.1.
- 17 48. Gross receipts from all sales of tangible personal property purchased by a
18 commerce authority and made a part of the infrastructure of a commerce authority,
19 otherwise taxable under this chapter, if the personal property is placed within the
20 geographic boundaries of the political subdivisions that created the commerce
21 authority and is necessary and directly services infrastructure needs of the
22 commerce authority. The commissioner shall issue a certificate of exemption to a
23 political subdivision exempted by this subsection, and the political subdivision shall

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1 present the certificate of exemption to each retailer whenever the exemption is
2 claimed.

3 49. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or
4 natural gas.

5 50. Gross receipts from the sale at retail of hydrogen to power an internal combustion
6 engine or fuel cell and equipment used directly and exclusively in production and
7 storage of the hydrogen by a hydrogen generation facility in this state. For
8 purposes of this subsection, "storage" means stationary and portable hydrogen
9 containers or pressure vessels, piping, tubing, fittings, gaskets, controls, valves,
10 gauges, pressure regulators, safety relief devices, and other accessories intended
11 for hydrogen storage containers or pressure vessels.

12 51. Gross receipts from the sale of equipment to a facility, licensed under section 57-
13 43.2-05, to enable the facility to sell diesel fuel containing at least two percent
14 biodiesel or green diesel fuel as defined under section 57-43.2-01 by volume.

15 52. Gross receipts from sales within the boundaries of any reservation in this state to
16 an individual who resides within the boundaries of any reservation in this state and
17 who is an enrolled member of a federally recognized Indian tribe.

18 53. Gross receipts from sales of natural gas or sales of fuels used for heating
19 purposes.

20 54. Gross receipts from the sale of items delivered electronically, including specified
21 digital products. For purposes of this subsection:

22 a. "Specified digital products" means:

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- 1 (1) "Digital audio-visual works" which means a series of related images
2 which, when shown in succession, impart an impression of motion,
3 together with accompanying sounds, if any;
- 4 (2) "Digital audio works" which means works that result from the fixation of a
5 series of musical, spoken, or other sounds, including ringtones; and
- 6 (3) "Digital books" which means works that are generally recognized in the
7 ordinary and usual sense as books.
- 8 b. For purposes of the definition of "specified digital products", "transferred
9 electronically" means obtained by the purchaser by means other than tangible
10 storage media.
- 11 c. For purposes of the definition of "digital audio work", "ringtones" means
12 digitized sound files that are downloaded onto a device and which may be
13 used to alert the customer with respect to a communication.
- 14 d. "Specified digital products" may not be construed to include prewritten
15 computer software as that term is defined in subdivision g of subsection 1 of
16 section 57-39.2-02.1.
- 17 55. Gross receipts from memberships, admissions, and entrance fees to activities and
18 events organized and operated by nonprofit social and recreation clubs organized
19 under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] and
20 operated solely by nonsalaried officers and staff.
- 21 56. Gross receipts from the sale of any potash or byproducts taxable under chapter
22 57-65.
- 23 57. Gross receipts from coin-operated amusement or entertainment machines.

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1 58. **(Contingent effective date - See note)** Gross receipts from sales of liquefied
2 natural gas used for agricultural, industrial, or railroad purposes as defined in
3 section 57-43.2-01.

4 **~~(Effective after June 30, 2015) Exemptions.~~** There are specifically exempted from
5 ~~the provisions of this chapter and from computation of the amount of tax imposed by it the~~
6 ~~following:~~

7 ~~1. Gross receipts from sales of tangible personal property which this state is prohibited~~
8 ~~from taxing under the Constitution or laws of the United States or under the~~
9 ~~Constitution of North Dakota.~~

10 ~~2. Gross receipts from the sales, furnishing, or service of passenger transportation~~
11 ~~service and gross receipts from the sales, furnishing, or service of freight~~
12 ~~transportation service when provided by a common carrier.~~

13 ~~3. Repealed by S.L. 1971, ch. 567, § 1.~~

14 ~~4. a. Gross receipts from sales of tickets, or admissions to state, county, district, and~~
15 ~~local fairs.~~

16 ~~b. Gross receipts from educational, religious, or charitable activities when the entire~~
17 ~~amount of net receipts is expended for educational, religious, or charitable~~
18 ~~purposes. The exemption specified in this subsection does not apply to:~~

19 ~~(1) Gross receipts from taxable sales in excess of ten thousand dollars per~~
20 ~~event if the activities are held in a publicly owned facility; or~~

21 ~~(2) Gross receipts from activities if the seller competes with retailers by~~
22 ~~maintaining inventory, conducting retail sales on a regular basis from a~~
23 ~~permanent or seasonal location, or soliciting sales from a website~~
24 ~~prepared for or maintained by the seller.~~

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- 1 ~~e. Gross receipts derived by any public school district if such receipts are expended~~
2 ~~in accordance with section 15.1-07-10 or 15.1-07-11.~~
- 3 ~~d. Gross receipts of a nonprofit music or dramatic arts organization that is exempt~~
4 ~~from federal income taxation and is organized and operated for the presentation~~
5 ~~of live public performances of musical or theatrical works on a regular basis.~~
- 6 ~~5. Gross receipts from sales of textbooks to regularly enrolled students of a private or~~
7 ~~public school and from sales of textbooks, yearbooks, and school supplies~~
8 ~~purchased by a private nonprofit elementary school, secondary school, or any other~~
9 ~~nonprofit institution of higher learning conducting courses of study similar to those~~
10 ~~conducted by public schools in this state.~~
- 11 ~~6. Gross receipts from all sales otherwise taxable under this chapter made to the~~
12 ~~United States, an Indian tribe, or to any state, including the state of North Dakota, or~~
13 ~~any of the subdivisions, departments, agencies, or institutions of any state. A political~~
14 ~~subdivision of another state is exempt under this subsection only if a sale to a North~~
15 ~~Dakota political subdivision is treated as an exempt sale in that state. The~~
16 ~~governmental units exempted by this subsection must be issued a certificate of~~
17 ~~exemption by the commissioner and the certificate must be presented to each~~
18 ~~retailer whenever this exemption is claimed. For purposes of this subsection, an~~
19 ~~Indian tribe means a tribal government agency, instrumentality, or political~~
20 ~~subdivision that performs essential government functions and does not include~~
21 ~~business entities or agencies the primary purpose of which is to operate a business~~
22 ~~enterprise.~~
- 23 ~~7. Gross receipts from the sale of drugs sold under a doctor's prescription.~~

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- 1 ~~8. Gross receipts from sales of adjuvants, agrichemical tank cleaners and foam~~
2 ~~markers, commercial fertilizers, fungicides, seed treatments, inoculants and~~
3 ~~fumigants, herbicides, and insecticides to agricultural or commercial vegetable~~
4 ~~producers and commercial applicators; chemicals used to preserve agricultural~~
5 ~~crops being stored; and seeds, roots, bulbs, and small plants to commercial users or~~
6 ~~consumers for planting or transplanting for commercial vegetable gardens or~~
7 ~~agricultural purposes.~~
- 8 ~~9. Gross receipts from sales of oxygen sold to any person who purchases it upon the~~
9 ~~written order of a doctor for the person's own use for medical purposes.~~
- 10 ~~10. Gross receipts from the sale of motor vehicles, farm machinery, alcoholic beverages,~~
11 ~~gasoline, insurance premiums, gaming tickets, or any other article or product, except~~
12 ~~as otherwise provided, upon which the state of North Dakota imposes a special tax.~~
- 13 ~~11. Gross receipts from the sale of feed which is fed to poultry or livestock, including~~
14 ~~breeding stock and wool-bearing stock, for the purpose of producing eggs, milk,~~
15 ~~meat, fibers, or other products for human consumption and the gross receipts from~~
16 ~~the sale of feed purchased for the purpose of being fed to draft or fur-bearing~~
17 ~~animals. The word "feed" as used herein shall be construed to mean and include~~
18 ~~only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone,~~
19 ~~molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a~~
20 ~~feed ration, and other generally recognized animal feeds. The term "feed" includes~~
21 ~~drugs used as part of a feed ration, medicants, disinfectants, wormers, tonics, and~~
22 ~~like items.~~

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- 1 ~~12. Gross receipts from a sale otherwise taxable under this chapter made to a person~~
2 ~~from an adjoining state which does not impose or levy a retail sales tax, under the~~
3 ~~following conditions:~~
- 4 ~~a. The person is in the state of North Dakota for the express purpose of making a~~
5 ~~purchase.~~
- 6 ~~b. The person furnishes to the North Dakota retailer a certificate signed by the~~
7 ~~person in a form as the commissioner may prescribe reciting sufficient facts~~
8 ~~establishing the exempt status of the sale. Unless the certificate is furnished it~~
9 ~~must be presumed, until the contrary is shown, that the person was not in the~~
10 ~~state of North Dakota for the express purpose of making a purchase.~~
- 11 ~~c. The sale is fifty dollars or more.~~
- 12 ~~13. Gross receipts from the sale of any motor vehicle taxable under the provisions of the~~
13 ~~motor vehicle excise tax laws of North Dakota. However, gross receipts from the~~
14 ~~rental of any motor vehicle for fewer than thirty days are not exempt but taxes~~
15 ~~imposed under home rule authority do not apply to such rentals.~~
- 16 ~~14. Repealed by S.L. 1969, ch. 528, § 24.~~
- 17 ~~15. Gross receipts from sales in which a contractor furnishes to the retailer a certificate~~
18 ~~which includes the contractor's license number assigned to the contractor under the~~
19 ~~provisions of chapter 43-07. Such certificate shall be in the form prescribed by the~~
20 ~~commissioner and shall be furnished by the contractor to the retailer each calendar~~
21 ~~year prior to the making of any purchases during such calendar year from the retailer~~
22 ~~without liability for paying the tax to the retailer. Any contractor furnishing such~~
23 ~~certificate must report and remit the tax to the commissioner on purchases taxable~~

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1 ~~under this chapter made by the contractor in the same manner as retailers remit~~
2 ~~such tax under this chapter.~~

3 ~~16. Gross receipts from the sale of newsprint and ink used in the publication of a~~
4 ~~newspaper.~~

5 ~~17. Gross receipts from the sale of all services furnished by any hospital, infirmary,~~
6 ~~sanatorium, nursing home, basic care facility, or similar institution to any patient or~~
7 ~~occupant.~~

8 ~~18. Repealed by S.L. 1973, ch. 480, § 6.~~

9 ~~19. Repealed by S.L. 1971, ch. 555, § 3.~~

10 ~~20. Gross receipts from the sale of food supplies to any public school, to any parochial~~
11 ~~or private nonprofit school conducting courses of study similar to those conducted by~~
12 ~~public schools in this state, or to any nonprofit organization, for use by the public,~~
13 ~~parochial, or private school or nonprofit organization in sponsoring or conducting a~~
14 ~~lunch program or programs in and for any such public, parochial, or private nonprofit~~
15 ~~school.~~

16 ~~21. Gross receipts from the leasing or renting of motion picture film to motion picture~~
17 ~~exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film~~
18 ~~is subject to the sales tax imposed by this chapter.~~

19 ~~22. Gross receipts from the leasing or renting of manufactured homes, modular living~~
20 ~~units, or sectional homes, whether or not placed on a permanent foundation, for~~
21 ~~residential housing for periods of thirty or more consecutive days and the gross~~
22 ~~receipts from the leasing or renting of a hotel or motel room or tourist court~~
23 ~~accommodations occupied by the same person or persons for residential housing for~~
24 ~~periods of thirty or more consecutive days.~~

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1 ~~23. Food purchased by a student under a boarding contract with a college, university,~~
2 ~~fraternity, or sorority.~~

3 ~~24. Gross receipts from all sales when made to an eligible facility or emergency medical~~
4 ~~services provider for the use or benefit of its patient or occupant. For the purposes of~~
5 ~~this subsection:~~

6 ~~a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care~~
7 ~~facility, or basic care facility licensed by the state department of health, or any~~
8 ~~assisted living facility licensed by the department of human services; and~~

9 ~~b. "Emergency medical services provider" means an emergency medical services~~
10 ~~operation licensed by the state department of health under chapter 23-27.~~

11 ~~25. Gross receipts from the sale of Bibles, hymnals, textbooks, and prayerbooks sold to~~
12 ~~nonprofit religious organizations.~~

13 ~~26. Gross receipts from sales of prosthetic devices, durable medical equipment,~~
14 ~~mobility-enhancing equipment, or supplies for ostomy care or bladder dysfunction.~~

15 ~~For purposes of this subsection:~~

16 ~~a. "Durable medical equipment" means equipment, not including mobility-~~
17 ~~enhancing equipment, for home use, including repair and replacement parts for~~
18 ~~such equipment, which:~~

19 ~~(1) Can withstand repeated use;~~

20 ~~(2) Is primarily and customarily used to serve a medical purpose;~~

21 ~~(3) Generally is not useful to a person in the absence of illness or injury; and~~

22 ~~(4) Is not worn in or on the body.~~

23 ~~"Durable medical equipment" includes equipment and devices designed or~~

24 ~~intended for ostomy care and management and equipment and devices used~~

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1 ~~exclusively for a person with bladder dysfunction. An exemption certificate is not~~
2 ~~required to obtain exemption. Repair and replacement parts as used in this~~
3 ~~definition include all components or attachments used in conjunction with the~~
4 ~~durable medical equipment. Repair and replacement parts do not include items~~
5 ~~which are for single patient use only.~~

6 ~~b. "Mobility enhancing equipment" means equipment, not including durable medical~~
7 ~~equipment sold under a doctor's written prescription, including repair and~~
8 ~~replacement parts for mobility enhancing equipment, which:~~

9 ~~(1) — Is primarily and customarily used to provide or increase the ability to~~
10 ~~move from one place to another and which is appropriate for use either at~~
11 ~~home or in a motor vehicle;~~

12 ~~(2) — Is not generally used by persons with normal mobility; and~~

13 ~~(3) — Does not include any motor vehicle or equipment on a motor vehicle~~
14 ~~normally provided by a motor vehicle manufacturer.~~

15 ~~"Mobility enhancing equipment" includes crutches and wheelchairs for the use of~~
16 ~~disabled persons, equipment, including manual control units, van lifts, van door~~
17 ~~opening units, and raised roofs for attaching to or modifying a motor vehicle for~~
18 ~~use by a permanently physically disabled person, equipment, including elevators,~~
19 ~~dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for~~
20 ~~attaching to real property, for use by a permanently physically disabled person in~~
21 ~~that person's principal dwelling, and equipment, including manual control units,~~
22 ~~for attaching to or modifying motorized implements of husbandry for use by a~~
23 ~~permanently physically disabled person.~~

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1 ~~e. "Prosthetic device" means a replacement, corrective, or supportive device sold~~
2 ~~under a doctor's written prescription, including repair and replacement parts for~~
3 ~~such a device, worn on or in the body to:~~

4 ~~(1) Artificially replace a missing portion of the body;~~

5 ~~(2) Prevent or correct a physical deformity or malfunction; or~~

6 ~~(3) Support a weak or deformed portion of the body.~~

7 ~~"Prosthetic device" includes artificial devices individually designed, constructed,~~
8 ~~or altered solely for the use of a particular disabled person so as to become a~~
9 ~~brace, support, supplement, correction, or substitute for the bodily structure,~~
10 ~~including the extremities of the individual, artificial limbs, artificial eyes, hearing~~
11 ~~aids, and other equipment worn as a correction or substitute for any functioning~~
12 ~~portion of the body, artificial teeth sold by a dentist, and eyeglasses when~~
13 ~~especially designed or prescribed by an ophthalmologist, physician, oculist, or~~
14 ~~optometrist for the personal use of the owner or purchaser.~~

15 ~~d. "Supplies for ostomy care or bladder dysfunction" includes:~~

16 ~~(1) Supplies designed or intended for ostomy care and management,~~
17 ~~including collection devices, colostomy irrigation equipment and supplies,~~
18 ~~skin barriers or skin protectors, and other supplies especially designed~~
19 ~~for use of ostomates.~~

20 ~~(2) Supplies to be used exclusively by a person with bladder dysfunction,~~
21 ~~including catheters, collection devices, incontinent pads and pants, and~~
22 ~~other items used for the care and management of bladder dysfunction.~~

23 ~~27. Gross receipts from the sale of electricity.~~

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- 1 ~~28. Gross receipts from the leasing or renting of any tangible personal property upon~~
2 ~~which a North Dakota sales tax or use tax has been paid or is payable.~~
- 3 ~~29. Gross receipts from all sales otherwise taxable under this chapter when made to any~~
4 ~~nonprofit organization for meals, including the containers, packages, and materials~~
5 ~~used for wrapping food items, for delivery to persons who are confined to their~~
6 ~~homes by illness or incapacity, including senior citizens and disabled persons, for~~
7 ~~consumption by such shut-ins in their homes.~~
- 8 ~~30. Gross receipts from all sales of recreational travel trailers not exceeding eight feet~~
9 ~~[2.44 meters] in width or thirty-two feet [9.75 meters] in length which are designed to~~
10 ~~be principally used as temporary vacation dwellings when made to persons who are~~
11 ~~residents of other states which impose excise taxes upon registration of such~~
12 ~~recreational travel trailers.~~
- 13 ~~31. Gross receipts from the sale of money, including all legal tender coins and currency,~~
14 ~~and from the sale of precious metal bullion that has been refined to a purity of not~~
15 ~~less than nine hundred ninety-nine parts per one thousand and is in such form or~~
16 ~~condition that its value depends upon its precious metal content and not its form.~~
- 17 ~~32. Gross receipts from sales to nonprofit voluntary health associations which are~~
18 ~~exempt from federal income tax under section 501(c)(3) of the United States Internal~~
19 ~~Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a voluntary health~~
20 ~~association is an organization recognized by the internal revenue service, the~~
21 ~~national health council, the state tax commissioner, and the North Dakota secretary~~
22 ~~of state as a nonprofit organization that is exempt under section 501(c)(3) of the~~
23 ~~United States Internal Revenue Code and meets the following requirements: It has~~
24 ~~been organized and operated exclusively in providing services for the purposes of~~

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1 preventing and alleviating human illness and injury. Methods used to obtain these
2 goals would include education, research, community service, and direct patient
3 services, income being derived solely from private donations with some exceptions
4 of a minimal membership fee. Its members are not limited to only individuals, who
5 themselves are licensed or otherwise legally authorized to render the same
6 professional services as the organization. The disbursement of funds within a
7 volunteer health association is to be controlled by a board of directors who work
8 voluntarily and without pay.

9 33. Repealed by S.L. 2005, ch. 580, § 19.

10 34. Gross receipts from the sale of byproducts, arising from the processing of
11 agricultural products, for use in the manufacture or generation of steam or electricity.

12 35. Gross receipts from the sale of a manufactured home that has been sold, bargained,
13 exchanged, given away, or transferred by the person who first acquired it from a
14 retailer in a sale at retail and upon which the North Dakota sales tax has previously
15 been imposed.

16 36. Gross receipts from all sales of insulin in all its forms dispensed pursuant to the
17 direction of a licensed physician, all sales of glucose usable for treatment of insulin
18 reactions, all sales of urine and blood testing kits and materials, and all sales of
19 insulin measuring and injecting devices, including insulin syringes and hypodermic
20 needles.

21 37. Gross receipts from the sale of any aircraft taxable under the provisions of chapter
22 57-40.5.

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- 1 ~~38. Gross receipts from all sales of air carrier transportation property subject to ad~~
2 ~~valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-~~
3 ~~08, 57-13, and 57-32.~~
- 4 ~~39. Gross receipts from sales of tangible personal property consisting of flight simulators~~
5 ~~or mechanical or electronic equipment for use in association with a flight simulator.~~
- 6 ~~40. Gross receipts from sales of tickets or admissions to, or sales made at, an annual~~
7 ~~church supper or bazaar held in a publicly owned facility. For purposes of this~~
8 ~~subsection, "annual" means occurring not more than once in any calendar year.~~
- 9 ~~41. Gross receipts from the initial sale of beneficiated coal taxed under chapter 57-60.~~
- 10 ~~42. Gross receipts from electronic gaming devices licensed by the attorney general~~
11 ~~under chapter 53-06.1.~~
- 12 ~~43. Gross receipts from all sales made to a nonprofit medical research institute. For~~
13 ~~purposes of this subsection, "nonprofit medical research institute" means an institute~~
14 ~~that is a member of the association of independent research institutes, which is not a~~
15 ~~private foundation, and which is recognized by the internal revenue service as~~
16 ~~having exempt status under 26 U.S.C. 501(c)(3).~~
- 17 ~~44. Gross receipts from all sales of coal that is exempt from the coal severance tax.~~
- 18 ~~45. Gross receipts from the sale or lease of farm machinery, farm machinery repair~~
19 ~~parts, irrigation equipment, or irrigation equipment repair parts used exclusively for~~
20 ~~agricultural purposes.~~
- 21 ~~46. Gross receipts from sales of tangible personal property purchased by a charitable~~
22 ~~organization to be awarded as a prize in a raffle conducted in accordance with law if~~
23 ~~the winner of the tangible personal property will be subject to sales or use taxes~~
24 ~~upon receiving the property.~~

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- 1 ~~47. Gross receipts from the sale of lottery tickets under chapter 53-12.1.~~
- 2 ~~48. Gross receipts from all sales of tangible personal property purchased by a~~
3 ~~commerce authority and made a part of the infrastructure of a commerce authority,~~
4 ~~otherwise taxable under this chapter, if the personal property is placed within the~~
5 ~~geographic boundaries of the political subdivisions that created the commerce~~
6 ~~authority and is necessary and directly services infrastructure needs of the~~
7 ~~commerce authority. The commissioner shall issue a certificate of exemption to a~~
8 ~~political subdivision exempted by this subsection, and the political subdivision shall~~
9 ~~present the certificate of exemption to each retailer whenever the exemption is~~
10 ~~claimed.~~
- 11 ~~49. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or~~
12 ~~natural gas.~~
- 13 ~~50. Gross receipts from the sale at retail of hydrogen to power an internal combustion~~
14 ~~engine or fuel cell and equipment used directly and exclusively in production and~~
15 ~~storage of the hydrogen by a hydrogen generation facility in this state. For purposes~~
16 ~~of this subsection, "storage" means stationary and portable hydrogen containers or~~
17 ~~pressure vessels, piping, tubing, fittings, gaskets, controls, valves, gauges, pressure~~
18 ~~regulators, safety relief devices, and other accessories intended for hydrogen~~
19 ~~storage containers or pressure vessels.~~
- 20 ~~51. Gross receipts from the sale of equipment to a facility, licensed under section 57-~~
21 ~~43.2-05, to enable the facility to sell diesel fuel containing at least two percent~~
22 ~~biodiesel or green diesel fuel as defined under section 57-43.2-01 by volume.~~

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- 1 ~~52. Gross receipts from sales within the boundaries of any reservation in this state to an~~
2 ~~individual who resides within the boundaries of any reservation in this state and who~~
3 ~~is an enrolled member of a federally recognized Indian tribe.~~
- 4 ~~53. Gross receipts from sales of natural gas or sales of fuels used for heating purposes.~~
- 5 ~~54. Gross receipts from the sale of items delivered electronically, including specified~~
6 ~~digital products. For purposes of this subsection:~~
- 7 ~~a. "Specified digital products" means:~~
- 8 ~~(1) "Digital audio-visual works" which means a series of related images~~
9 ~~which, when shown in succession, impart an impression of motion,~~
10 ~~together with accompanying sounds, if any;~~
- 11 ~~(2) "Digital audio works" which means works that result from the fixation of a~~
12 ~~series of musical, spoken, or other sounds, including ringtones; and~~
- 13 ~~(3) "Digital books" which means works that are generally recognized in the~~
14 ~~ordinary and usual sense as books.~~
- 15 ~~b. For purposes of the definition of "specified digital products", "transferred~~
16 ~~electronically" means obtained by the purchaser by means other than tangible~~
17 ~~storage media.~~
- 18 ~~c. For purposes of the definition of "digital audio work", "ringtones" means digitized~~
19 ~~sound files that are downloaded onto a device and which may be used to alert~~
20 ~~the customer with respect to a communication.~~
- 21 ~~d. "Specified digital products" may not be construed to include prewritten computer~~
22 ~~software as that term is defined in subdivision g of subsection 1 of section 57-~~
23 ~~39.2-02.1.~~

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1 ~~55. Gross receipts from memberships, admissions, and entrance fees to activities and~~
2 ~~events organized and operated by nonprofit social and recreation clubs organized~~
3 ~~under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] and~~
4 ~~operated solely by nonsalaried officers and staff.~~

5 ~~56. Gross receipts from the sale of any potash or byproducts taxable under chapter 57-~~
6 ~~65.~~

7 ~~57. Gross receipts from coin-operated amusement or entertainment machines.~~

8 ~~58. (Contingent effective date— See note) Gross receipts from sales of liquefied~~
9 ~~natural gas used for agricultural, industrial, or railroad purposes as defined in section~~
10 ~~57-43.2-01.~~

11 **SECTION 2. AMENDMENT.** Section 57-39.2-04.2 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **57-39.2-04.2. (Effective through June 30, 2017) Sales tax exemption for power**
14 **plant construction, production, environmental upgrade, and repowering equipment**
15 **and oil refinery or gas processing plant environmental upgrade equipment.**

16 1. As used in this section, unless the context otherwise requires:

17 a. (1) "Environmental upgrade" means an investment greater than twenty-five
18 million dollars or one hundred thousand dollars per megawatt of installed
19 nameplate capacity, whichever is less, in machinery, equipment, and
20 related facilities for reducing emissions or increasing efficiency at an
21 existing power plant.

22 (2) "Environmental upgrade" for purposes of a process unit means an
23 investment greater than one hundred thousand dollars in machinery,
24 equipment, and related facilities for reducing emissions, increasing

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1 efficiency, or enhancing reliability of the equipment at a new or existing
2 process unit.

3 b. "Operator" means any person owning, holding, or leasing a power plant or
4 process unit.

5 c. "Power plant" means:

6 (1) An electrical generating plant, and all additions to the plant, which
7 processes or converts coal in its natural form or beneficiated coal into
8 electrical power and which has at least one single electrical energy
9 generation unit with a capacity of fifty thousand kilowatts or more.

10 (2) A wind-powered electrical generating facility, on which construction is
11 completed before January 1, 2017, and all additions to the facility, which
12 provides electrical power through wind generation and which has at least
13 one single electrical energy generation unit with a nameplate capacity of
14 one hundred kilowatts or more.

15 (3) Any other type of electrical power generating facility excluding the types
16 of power plants identified in paragraphs 1 and 2 which has a capacity of
17 one hundred kilowatts or more and produces electricity for resale or for
18 consumption in a business activity.

19 d. "Process unit" means an oil refinery or gas processing plant and all adjacent
20 units that are utilized in the processing of crude oil or natural gas.

21 e. "Production equipment" means machinery and attachment units, other than
22 replacement parts, directly and exclusively used in the generation,
23 transmission, or distribution of electrical energy for sale by a power plant.

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- 1 f. "Repowering" means an investment of more than two hundred million dollars
2 or one million dollars per megawatt of installed nameplate capacity,
3 whichever is less, in an existing power plant that modifies or replaces the
4 process used for converting coal in its natural form or beneficiated coal into
5 electrical power.
- 6 2. Sales of production or environmental upgrade equipment that is delivered on or
7 after January 1, 2007, and used exclusively in power plants or repowering existing
8 power plants or in processing units are exempt from the tax imposed by this
9 chapter.
- 10 3. Sales of tangible personal property, other than production or environmental
11 upgrade equipment, which is used in the construction of new power plants or to
12 expand existing power plants or to add environmental upgrades to existing power
13 plants or repowering existing power plants or to add environmental upgrades to
14 existing process units are exempt from the tax imposed by this chapter.
- 15 4. To receive the exemption at the time of purchase, the operator must receive from
16 the commissioner a certificate that the tangible personal property or production
17 equipment the operator intends to purchase qualifies for the exemption. If a
18 certificate is not received prior to the purchase, the operator shall pay the applicable
19 tax imposed by this chapter and apply to the commissioner for a refund.
- 20 5. If the tangible personal property or production equipment is purchased or installed
21 by a contractor subject to the tax imposed by this chapter, the operator may apply
22 for a refund of the difference between the amount remitted by the contractor and
23 the exemption imposed or allowed by this section.

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1 ~~(Effective after June 30, 2017) Sales tax exemption for power plant construction,~~
2 ~~production, environmental upgrade, and repowering equipment and oil refinery or~~
3 ~~gas processing plant environmental upgrade equipment.~~

4 1. ~~As used in this section, unless the context otherwise requires:~~

5 a. ~~(1) "Environmental upgrade" means an investment greater than twenty five~~
6 ~~million dollars or one hundred thousand dollars per megawatt of installed~~
7 ~~nameplate capacity, whichever is less, in machinery, equipment, and related~~
8 ~~facilities for reducing emissions or increasing efficiency at an existing power~~
9 ~~plant.~~

10 ~~(2) "Environmental upgrade" for purposes of a process unit means an~~
11 ~~investment greater than one hundred thousand dollars in machinery,~~
12 ~~equipment, and related facilities for reducing emissions, increasing~~
13 ~~efficiency, or enhancing reliability of the equipment at a new or existing~~
14 ~~process unit.~~

15 b. ~~"Operator" means any person owning, holding, or leasing a power plant or~~
16 ~~process unit.~~

17 c. ~~"Power plant" means:~~

18 ~~(1) An electrical generating plant, and all additions to the plant, which processes~~
19 ~~or converts coal from its natural form into electrical power and which has at~~
20 ~~least one single electrical energy generation unit with a capacity of fifty~~
21 ~~thousand kilowatts or more.~~

22 ~~(2) A wind powered electrical generating facility, on which construction is~~
23 ~~completed before January 1, 2017, and all additions to the facility, which~~
24 ~~provides electrical power through wind generation and which has at least one~~

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1 ~~single electrical energy generation unit with a nameplate capacity of one~~
2 ~~hundred kilowatts or more.~~

3 ~~(3) Any other type of electrical power generating facility excluding the types of~~
4 ~~power plants identified in paragraphs 1 and 2 which has a capacity of one~~
5 ~~hundred kilowatts or more and produces electricity for resale or for~~
6 ~~consumption in a business activity.~~

7 ~~e. "Process unit" means an oil refinery or gas processing plant and all adjacent~~
8 ~~units that are utilized in the processing of crude oil or natural gas.~~

9 ~~f. "Production equipment" means machinery and attachment units, other than~~
10 ~~replacement parts, directly and exclusively used in the generation, transmission,~~
11 ~~or distribution of electrical energy for sale by a power plant.~~

12 ~~g. "Repowering" means an investment of more than two hundred million dollars or~~
13 ~~one million dollars per megawatt of installed nameplate capacity, whichever is~~
14 ~~less, in an existing power plant that modifies or replaces the process used for~~
15 ~~converting coal from its natural form into electrical power.~~

16 ~~2. Sales of production or environmental upgrade equipment that is delivered on or~~
17 ~~after January 1, 2007, and used exclusively in power plants or repowering existing~~
18 ~~power plants or in processing units are exempt from the tax imposed by this~~
19 ~~chapter.~~

20 ~~3. Sales of tangible personal property, other than production or environmental~~
21 ~~upgrade equipment, which is used in the construction of new power plants or to~~
22 ~~expand existing power plants or to add environmental upgrades to existing power~~
23 ~~plants or repowering existing power plants or to add environmental upgrades to~~
24 ~~existing process units are exempt from the tax imposed by this chapter.~~

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- 1 ~~4. To receive the exemption at the time of purchase, the operator must receive from~~
2 ~~the commissioner a certificate that the tangible personal property or production~~
3 ~~equipment the operator intends to purchase qualifies for the exemption. If a~~
4 ~~certificate is not received prior to the purchase, the operator shall pay the~~
5 ~~applicable tax imposed by this chapter and apply to the commissioner for a refund.~~
- 6 5. ~~If the tangible personal property or production equipment is purchased or installed~~
7 ~~by a contractor subject to the tax imposed by this chapter, the operator may apply~~
8 ~~for a refund of the difference between the amount remitted by the contractor and~~
9 ~~the exemption imposed or allowed by this section.~~

10 **SECTION 3. AMENDMENT.** Section 57-40.2-04.2 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **57-40.2-04.2. ~~(Effective through June 30, 2015)~~ Use tax exemption for power plant**
13 **construction, production, environmental upgrade, and repowering equipment and oil**
14 **refinery or gas processing plant environmental upgrade equipment.**

15 1. As used in this section, unless the context otherwise requires:

16 a. (1) "Environmental upgrade" means an investment greater than twenty-five
17 million dollars or one hundred thousand dollars per megawatt of installed
18 nameplate capacity, whichever is less, in machinery, equipment, and related
19 facilities for reducing emissions or increasing efficiency at an existing power
20 plant.

21 (2) "Environmental upgrade" for purposes of a process unit means an
22 investment greater than one hundred thousand dollars in machinery,
23 equipment, and related facilities for reducing emissions, increasing

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- 1 efficiency, or enhancing reliability of the equipment at a new or existing
2 process unit.
- 3 b. "Operator" means any person owning, holding, or leasing a power plant or
4 process unit.
- 5 c. "Power plant" means:
- 6 (1) An electrical generating plant, and all additions to the plant, which
7 processes or converts coal in its natural form or beneficiated coal into
8 electrical power and which has at least one single electrical energy
9 generation unit with a capacity of fifty thousand kilowatts or more.
- 10 (2) A wind-powered electrical generating facility, on which construction is
11 completed before January 1, 2015, and all additions to the facility, which
12 provides electrical power through wind generation and which has at least
13 one single electrical energy generation unit with a nameplate capacity of
14 one hundred kilowatts or more.
- 15 (3) Any other type of electrical power generating facility excluding the types of
16 power plants identified in paragraphs 1 and 2 which has a capacity of one
17 hundred kilowatts or more and produces electricity for resale or for
18 consumption in a business activity.
- 19 d. "Process unit" means an oil refinery or gas processing plant and all adjacent
20 units that are utilized in the processing of crude oil or natural gas.
- 21 e. "Production equipment" means machinery and attachment units, other than
22 replacement parts, directly and exclusively used in the generation, transmission,
23 or distribution of electrical energy for sale by a power plant.

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- 1 f. "Repowering" means an investment of more than two hundred million dollars or
2 one million dollars per megawatt of installed nameplate capacity, whichever is
3 less, in an existing power plant that modifies or replaces the process used for
4 converting coal in its natural form or beneficiated coal into electric power.
- 5 2. Sales of production or environmental upgrade equipment that is delivered on or
6 after January 1, 2007, and used exclusively in power plants or repowering existing
7 power plants or in process units are exempt from the tax imposed by this chapter.
- 8 3. Sales of tangible personal property, other than production or environmental
9 upgrade equipment, which is used in the construction of new power plants or to
10 expand existing power plants or to add environmental upgrades to existing power
11 plants or repowering existing power plants or to add environmental upgrades to
12 existing process units are exempt from the tax imposed by this chapter.
- 13 4. To receive the exemption at the time of purchase, the operator must receive from
14 the commissioner a certificate that the tangible personal property or production
15 equipment the operator intends to purchase qualifies for the reduced rate or
16 exemption. If a certificate is not received prior to the purchase, the operator shall
17 pay the applicable tax imposed by this chapter and apply to the commissioner for a
18 refund.
- 19 5. If the tangible personal property or production equipment is purchased or installed
20 by a contractor subject to the tax imposed by this chapter, the operator may apply
21 for a refund of the difference between the amount remitted by the contractor and
22 the reduced rate or exemption imposed or allowed by this section.

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1 ~~(Effective after June 30, 2015) Use tax exemption for power plant construction,~~
2 ~~production, environmental upgrade, and repowering equipment and oil refinery or~~
3 ~~gas processing plant environmental upgrade equipment.~~

4 ~~1. As used in this section, unless the context otherwise requires:~~

5 ~~a. (1) "Environmental upgrade" means an investment greater than twenty-five~~
6 ~~million dollars or one hundred thousand dollars per megawatt of installed~~
7 ~~nameplate capacity, whichever is less, in machinery, equipment, and related~~
8 ~~facilities for reducing emissions or increasing efficiency at an existing power~~
9 ~~plant.~~

10 ~~(2) "Environmental upgrade" for purposes of a process unit means an~~
11 ~~investment greater than one hundred thousand dollars in machinery,~~
12 ~~equipment, and related facilities for reducing emissions, increasing~~
13 ~~efficiency, or enhancing reliability of the equipment at a new or existing~~
14 ~~process unit.~~

15 ~~b. "Operator" means any person owning, holding, or leasing a power plant or~~
16 ~~process unit.~~

17 ~~c. "Power plant" means:~~

18 ~~(1) An electrical generating plant, and all additions to the plant, which~~
19 ~~processes or converts coal from its natural form into electrical power and~~
20 ~~which has at least one single electrical energy generation unit with a~~
21 ~~capacity of fifty thousand kilowatts or more.~~

22 ~~(2) A wind-powered electrical generating facility, on which construction is~~
23 ~~completed before January 1, 2015, and all additions to the facility, which~~
24 ~~provides electrical power through wind generation and which has at least~~

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1 ~~one single electrical energy generation unit with a nameplate capacity of~~
2 ~~one hundred kilowatts or more.~~

3 ~~(3) Any other type of electrical power generating facility excluding the types of~~
4 ~~power plants identified in paragraphs 1 and 2 which has a capacity of one~~
5 ~~hundred kilowatts or more and produces electricity for resale or for~~
6 ~~consumption in a business activity.~~

7 ~~d. "Process unit" means an oil refinery or gas processing plant and all adjacent~~
8 ~~units that are utilized in the processing of crude oil or natural gas.~~

9 ~~e. "Production equipment" means machinery and attachment units, other than~~
10 ~~replacement parts, directly and exclusively used in the generation, transmission,~~
11 ~~or distribution of electrical energy for sale by a power plant.~~

12 ~~f. "Repowering" means an investment of more than two hundred million dollars or~~
13 ~~one million dollars per megawatt of installed nameplate capacity, whichever is~~
14 ~~less, in an existing power plant that modifies or replaces the process used for~~
15 ~~converting coal from its natural form into electric power.~~

16 ~~2. Sales of production or environmental upgrade equipment that is delivered on or~~
17 ~~after January 1, 2007, and used exclusively in power plants or repowering existing~~
18 ~~power plants or in process units are exempt from the tax imposed by this chapter.~~

19 ~~3. Sales of tangible personal property, other than production or environmental~~
20 ~~upgrade equipment, which is used in the construction of new power plants or to~~
21 ~~expand existing power plants or to add environmental upgrades to existing power~~
22 ~~plants or repowering existing power plants or to add environmental upgrades to~~
23 ~~existing process units are exempt from the tax imposed by this chapter.~~

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1 ~~4.—To receive the exemption at the time of purchase, the operator must receive from~~
2 ~~the commissioner a certificate that the tangible personal property or production~~
3 ~~equipment the operator intends to purchase qualifies for the reduced rate or~~
4 ~~exemption. If a certificate is not received prior to the purchase, the operator shall~~
5 ~~pay the applicable tax imposed by this chapter and apply to the commissioner for a~~
6 ~~refund.~~

7 ~~5.—If the tangible personal property or production equipment is purchased or installed~~
8 ~~by a contractor subject to the tax imposed by this chapter, the operator may apply~~
9 ~~for a refund of the difference between the amount remitted by the contractor and~~
10 ~~the reduced rate or exemption imposed or allowed by this section.~~

11 **SECTION 4.** A new subsection to section 57-60-02 of the North Dakota Century Code
12 is created and enacted as follows:

13 A coal beneficiation plant that produces beneficiated coal that is used within a coal
14 conversion facility shall be exempt from the tax otherwise imposed by this section.

15 **SECTION 5. AMENDMENT.** Section 57-61-01.4 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 ~~**57-61-01.4. (Effective through June 30, 2015) Severance and sales and use tax**~~
18 ~~**exemptions for coal used in certain plants.**~~

19 No state severance tax may be imposed on coal used in, or coal used to produce
20 steam that is used in, agricultural commodity processing facilities as defined in subsection 4
21 of section 57-39.2-04.4 located within North Dakota or adjacent states or any facility owned
22 by the state or a political subdivision of the state. No state severance tax may be imposed
23 on coal purchased for improvement through the process of coal beneficiation defined in
24 subsection 2 of section 57-60-01 which is subsequently used in, or used to produce steam

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1 that is used in, agricultural commodity processing facilities located within North Dakota or
2 adjacent states or any facility owned by the state or a political subdivision of the state. The
3 coal mine owner or operator shall require the person purchasing the coal to certify that
4 amount of coal purchased for use in agricultural commodity processing facilities or for
5 beneficiation and subsequent use in agricultural commodity processing facilities or any
6 facility owned by the state or a political subdivision of the state or to produce steam that is
7 used in any of those facilities.

8 ~~(Effective after June 30, 2015) Severance and sales and use tax exemptions for~~
9 ~~coal used in certain plants. No state severance tax may be imposed on coal used in~~
10 ~~agricultural processing or sugar beet refining plants located within North Dakota or adjacent~~
11 ~~states. The coal mine owner or operator shall require the person purchasing the coal to~~
12 ~~certify that amount of coal purchased for agricultural processing or sugar beet refining~~
13 ~~purposes. Coal exempted from the severance tax by this section is not subject to sales and~~
14 ~~use taxes.~~

15 **SECTION 6. EFFECTIVE DATE.** This Act is effective for taxable events occurring
16 after June 30, 2015.