

Introduced by

1 A BILL for an Act to amend and reenact sections 57-39.2-04.2 and 57-40.2-04.2 of the North
2 Dakota Century Code, relating to the exemption from sales and use tax for construction
3 materials used in a wind-powered electrical generating facility; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-39.2-04.2 of the North Dakota Century Code
6 is amended and reenacted as follows:

7 **57-39.2-04.2. (Effective through June 30, 2015) Sales tax exemption for power**
8 **plant construction, production, environmental upgrade, and repowering equipment and**
9 **oil refinery or gas processing plant environmental upgrade equipment.**

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

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

16 (2) "Environmental upgrade" for purposes of a process unit means an
17 investment greater than one hundred thousand dollars in machinery,
18 equipment, and related facilities for reducing emissions, increasing
19 efficiency, or enhancing reliability of the equipment at a new or existing
20 process unit.

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

23 c. "Power plant" means:

- 1 (1) An electrical generating plant, and all additions to the plant, which
2 processes or converts coal in its natural form or beneficiated coal into
3 electrical power and which has at least one single electrical energy
4 generation unit with a capacity of fifty thousand kilowatts or more.
- 5 (2) A wind-powered electrical generating facility, ~~on which construction is~~
6 ~~completed before January 1, 2015,~~ and all additions to the facility,
7 which provides electrical power through wind generation and which has
8 at least one single electrical energy generation unit with a nameplate
9 capacity of one hundred kilowatts or more.
- 10 (3) Any other type of electrical power generating facility excluding the types
11 of power plants identified in paragraphs 1 and 2 which has a capacity of
12 one hundred kilowatts or more and produces electricity for resale or for
13 consumption in a business activity.
- 14 d. "Process unit" means an oil refinery or gas processing plant and all adjacent
15 units that are utilized in the processing of crude oil or natural gas.
- 16 e. "Production equipment" means machinery and attachment units, other than
17 replacement parts, directly and exclusively used in the generation,
18 transmission, or distribution of electrical energy for sale by a power plant.
- 19 f. "Repowering" means an investment of more than two hundred million dollars
20 or one million dollars per megawatt of installed nameplate capacity, whichever
21 is less, in an existing power plant that modifies or replaces the process used
22 for converting coal in its natural form or beneficiated coal into electrical power.
- 23 2. Sales of production or environmental upgrade equipment that is delivered on or
24 after January 1, 2007, and used exclusively in power plants or repowering existing
25 power plants or in processing units are exempt from the tax imposed by this
26 chapter.
- 27 3. Sales of tangible personal property, other than production or environmental
28 upgrade equipment, which is used in the construction of new power plants or to
29 expand existing power plants or to add environmental upgrades to existing power
30 plants or repowering existing power plants or to add environmental upgrades to
31 existing process units are exempt from the tax imposed by this chapter.

- 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 **(Effective after June 30, 2015) Sales tax exemption for power plant construction,**
11 **production, environmental upgrade, and repowering equipment and oil refinery or gas**
12 **processing plant environmental upgrade equipment.**

- 13 1. As used in this section, unless the context otherwise requires:
14 a. (1) "Environmental upgrade" means an investment greater than twenty-five
15 million dollars or one hundred thousand dollars per megawatt of
16 installed nameplate capacity, whichever is less, in machinery,
17 equipment, and related facilities for reducing emissions or increasing
18 efficiency at an existing power plant.
19 (2) "Environmental upgrade" for purposes of a process unit means an
20 investment greater than one hundred thousand dollars in machinery,
21 equipment, and related facilities for reducing emissions, increasing
22 efficiency, or enhancing reliability of the equipment at a new or existing
23 process unit.
24 b. "Operator" means any person owning, holding, or leasing a power plant or
25 process unit.
26 c. "Power plant" means:
27 (1) An electrical generating plant, and all additions to the plant, which
28 processes or converts coal from its natural form into electrical power
29 and which has at least one single electrical energy generation unit with
30 a capacity of fifty thousand kilowatts or more.

- 1 (2) A wind-powered electrical generating facility, ~~on which construction is~~
2 ~~completed before January 1, 2015,~~ and all additions to the facility,
3 which provides electrical power through wind generation and which has
4 at least one single electrical energy generation unit with a nameplate
5 capacity of one hundred kilowatts or more.
- 6 (3) Any other type of electrical power generating facility excluding the types
7 of power plants identified in paragraphs 1 and 2 which has a capacity of
8 one hundred kilowatts or more and produces electricity for resale or for
9 consumption in a business activity.
- 10 d. "Process unit" means an oil refinery or gas processing plant and all adjacent
11 units that are utilized in the processing of crude oil or natural gas.
- 12 e. "Production equipment" means machinery and attachment units, other than
13 replacement parts, directly and exclusively used in the generation,
14 transmission, or distribution of electrical energy for sale by a power plant.
- 15 f. "Repowering" means an investment of more than two hundred million dollars
16 or one million dollars per megawatt of installed nameplate capacity, whichever
17 is less, in an existing power plant that modifies or replaces the process used
18 for converting coal from its natural form into electrical power.
- 19 2. Sales of production or environmental upgrade equipment that is delivered on or
20 after January 1, 2007, and used exclusively in power plants or repowering existing
21 power plants or in processing units are exempt from the tax imposed by this
22 chapter.
- 23 3. Sales of tangible personal property, other than production or environmental
24 upgrade equipment, which is used in the construction of new power plants or to
25 expand existing power plants or to add environmental upgrades to existing power
26 plants or repowering existing power plants or to add environmental upgrades to
27 existing process units are exempt from the tax imposed by this chapter.
- 28 4. To receive the exemption at the time of purchase, the operator must receive from
29 the commissioner a certificate that the tangible personal property or production
30 equipment the operator intends to purchase qualifies for the exemption. If a

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

7 **SECTION 2. AMENDMENT.** Section 57-40.2-04.2 of the North Dakota Century Code
8 is amended and reenacted as follows:

9 **57-40.2-04.2. (Effective through June 30, 2015) Use tax exemption for power plant**
10 **construction, production, environmental upgrade, and repowering equipment and oil**
11 **refinery or gas processing plant environmental upgrade equipment.**

- 12 1. As used in this section, unless the context otherwise requires:
- 13 a. (1) "Environmental upgrade" means an investment greater than twenty-five
14 million dollars or one hundred thousand dollars per megawatt of
15 installed nameplate capacity, whichever is less, in machinery,
16 equipment, and related facilities for reducing emissions or increasing
17 efficiency at an existing power plant.
- 18 (2) "Environmental upgrade" for purposes of a process unit means an
19 investment greater than one hundred thousand dollars in machinery,
20 equipment, and related facilities for reducing emissions, increasing
21 efficiency, or enhancing reliability of the equipment at a new or existing
22 process unit.
- 23 b. "Operator" means any person owning, holding, or leasing a power plant or
24 process unit.
- 25 c. "Power plant" means:
- 26 (1) An electrical generating plant, and all additions to the plant, which
27 processes or converts coal in its natural form or beneficiated coal into
28 electrical power and which has at least one single electrical energy
29 generation unit with a capacity of fifty thousand kilowatts or more.
- 30 (2) A wind-powered electrical generating facility, ~~on which construction is~~
31 ~~completed before January 1, 2015,~~ and all additions to the facility,

1 which provides electrical power through wind generation and which has
2 at least one single electrical energy generation unit with a nameplate
3 capacity of one hundred kilowatts or more.

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

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

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

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

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

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

26 4. To receive the exemption at the time of purchase, the operator must receive from
27 the commissioner a certificate that the tangible personal property or production
28 equipment the operator intends to purchase qualifies for the reduced rate or
29 exemption. If a certificate is not received prior to the purchase, the operator shall
30 pay the applicable tax imposed by this chapter and apply to the commissioner for a
31 refund.

1 5. If the tangible personal property or production equipment is purchased or installed
2 by a contractor subject to the tax imposed by this chapter, the operator may apply
3 for a refund of the difference between the amount remitted by the contractor and
4 the reduced rate or exemption imposed or allowed by this section.

5 **(Effective after June 30, 2015) Use tax exemption for power plant construction,**
6 **production, environmental upgrade, and repowering equipment and oil refinery or gas**
7 **processing plant environmental upgrade equipment.**

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

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

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

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

21 c. "Power plant" means:

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

26 (2) A wind-powered electrical generating facility, ~~on which construction is~~
27 ~~completed before January 1, 2015,~~ and all additions to the facility,
28 which provides electrical power through wind generation and which has
29 at least one single electrical energy generation unit with a nameplate
30 capacity of one hundred kilowatts or more.

- 1 (3) Any other type of electrical power generating facility excluding the types
2 of power plants identified in paragraphs 1 and 2 which has a capacity of
3 one hundred kilowatts or more and produces electricity for resale or for
4 consumption in a business activity.
- 5 d. "Process unit" means an oil refinery or gas processing plant and all adjacent
6 units that are utilized in the processing of crude oil or natural gas.
- 7 e. "Production equipment" means machinery and attachment units, other than
8 replacement parts, directly and exclusively used in the generation,
9 transmission, or distribution of electrical energy for sale by a power plant.
- 10 f. "Repowering" means an investment of more than two hundred million dollars
11 or one million dollars per megawatt of installed nameplate capacity, whichever
12 is less, in an existing power plant that modifies or replaces the process used
13 for converting coal from its natural form into ~~electric~~ electrical power.
- 14 2. Sales of production or environmental upgrade equipment that is delivered on or
15 after January 1, 2007, and used exclusively in power plants or repowering existing
16 power plants or in process units are exempt from the tax imposed by this chapter.
- 17 3. Sales of tangible personal property, other than production or environmental
18 upgrade equipment, which is used in the construction of new power plants or to
19 expand existing power plants or to add environmental upgrades to existing power
20 plants or repowering existing power plants or to add environmental upgrades to
21 existing process units are exempt from the tax imposed by this chapter.
- 22 4. To receive the exemption at the time of purchase, the operator must receive from
23 the commissioner a certificate that the tangible personal property or production
24 equipment the operator intends to purchase qualifies for the reduced rate or
25 exemption. If a certificate is not received prior to the purchase, the operator shall
26 pay the applicable tax imposed by this chapter and apply to the commissioner for a
27 refund.
- 28 5. If the tangible personal property or production equipment is purchased or installed
29 by a contractor subject to the tax imposed by this chapter, the operator may apply
30 for a refund of the difference between the amount remitted by the contractor and
31 the reduced rate or exemption imposed or allowed by this section.

1 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
2 June 30, 2011.