

Introduced by

Representatives Owens, Brandenburg, Kreun, Sanford

Senators Erbele, Laffen

1 A BILL for an Act to amend and reenact section 57-39.2-04.2 of the North Dakota Century
2 Code, relating to sales tax exemption for a wind-powered electrical generating facility; to
3 provide an effective date; and to provide an expiration 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 is
6 amended and reenacted as follows:

7 **57-39.2-04.2. (Effective through June 30, ~~2015~~2017) 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 installed
13 nameplate capacity, whichever is less, in machinery, equipment, and related
14 facilities for reducing emissions or increasing efficiency at an existing power
15 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~~2017, and all additions to the facility,
7 which provides electrical power through wind generation and which has at
8 least one single electrical energy generation unit with a nameplate capacity
9 of one hundred kilowatts or more.
- 10 (3) Any other type of electrical power generating facility excluding the types of
11 power plants identified in paragraphs 1 and 2 which has a capacity of one
12 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, transmission,
18 or distribution of electrical energy for sale by a power plant.
- 19 f. "Repowering" means an investment of more than two hundred million dollars or
20 one million dollars per megawatt of installed nameplate capacity, whichever is
21 less, in an existing power plant that modifies or replaces the process used for
22 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 after
24 January 1, 2007, and used exclusively in power plants or repowering existing power
25 plants or in processing units are exempt from the tax imposed by this chapter.
- 26 3. Sales of tangible personal property, other than production or environmental upgrade
27 equipment, which is used in the construction of new power plants or to expand existing
28 power plants or to add environmental upgrades to existing power plants or repowering
29 existing power plants or to add environmental upgrades to existing process units are
30 exempt from the tax imposed by this chapter.

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

10 **(Effective after June 30, 20152017) 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 installed
16 nameplate capacity, whichever is less, in machinery, equipment, and related
17 facilities for reducing emissions or increasing efficiency at an existing power
18 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 and
29 which has at least one single electrical energy generation unit with a
30 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~~2017, and all additions to the facility,
3 which provides electrical power through wind generation and which has at
4 least one single electrical energy generation unit with a nameplate capacity
5 of one hundred kilowatts or more.
- 6 (3) Any other type of electrical power generating facility excluding the types of
7 power plants identified in paragraphs 1 and 2 which has a capacity of one
8 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, transmission,
14 or distribution of electrical energy for sale by a power plant.
- 15 f. "Repowering" means an investment of more than two hundred million dollars or
16 one million dollars per megawatt of installed nameplate capacity, whichever is
17 less, in an existing power plant that modifies or replaces the process used for
18 converting coal from its natural form into electrical power.
- 19 2. Sales of production or environmental upgrade equipment that is delivered on or after
20 January 1, 2007, and used exclusively in power plants or repowering existing power
21 plants or in processing units are exempt from the tax imposed by this chapter.
- 22 3. Sales of tangible personal property, other than production or environmental upgrade
23 equipment, which is used in the construction of new power plants or to expand existing
24 power plants or to add environmental upgrades to existing power plants or repowering
25 existing power plants or to add environmental upgrades to existing process units are
26 exempt from the tax imposed by this chapter.
- 27 4. To receive the exemption at the time of purchase, the operator must receive from the
28 commissioner a certificate that the tangible personal property or production equipment
29 the operator intends to purchase qualifies for the exemption. If a certificate is not
30 received prior to the purchase, the operator shall pay the applicable tax imposed by
31 this chapter and apply to the commissioner for a refund.

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