

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  
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- 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.