

Introduced by

Legislative Management

(Energy Development and Transmission Committee)

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 is
6 amended and reenacted as follows:

7 **57-39.2-04.2. (Effective through June 30, 2015) Sales tax exemption for power plant**
8 **construction, production, environmental upgrade, and repowering equipment and oil**
9 **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,~~ and all additions to the facility, which
7 provides electrical power through wind generation and which has at least
8 one single electrical energy generation unit with a nameplate capacity of
9 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, 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 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, and all additions to the facility, which
3 provides electrical power through wind generation and which has at least
4 one single electrical energy generation unit with a nameplate capacity of
5 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.

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

7 **57-40.2-04.2. (Effective through June 30, 2015) Use tax exemption for power plant**
8 **construction, production, environmental upgrade, and repowering equipment and oil**
9 **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:
- 24 (1) An electrical generating plant, and all additions to the plant, which
25 processes or converts coal in its natural form or beneficiated coal into
26 electrical power and which has at least one single electrical energy
27 generation unit with a capacity of fifty thousand kilowatts or more.
- 28 (2) A wind-powered electrical generating facility, ~~on which construction is~~
29 ~~completed before January 1, 2015,~~ and all additions to the facility, which
30 provides electrical power through wind generation and which has at least

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 in its natural form or beneficiated coal into ~~electric~~electrical
16 power.

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

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

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

30 5. If the tangible personal property or production equipment is purchased or installed by
31 a contractor subject to the tax imposed by this chapter, the operator may apply for a

1 refund of the difference between the amount remitted by the contractor and the
2 reduced rate or exemption imposed or allowed by this section.

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

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

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

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

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

19 c. "Power plant" means:

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

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

29 (3) Any other type of electrical power generating facility excluding the types of
30 power plants identified in paragraphs 1 and 2 which has a capacity of one

1 hundred kilowatts or more and produces electricity for resale or for
2 consumption in a business activity.

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

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

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

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

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

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

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

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