

Sixty-first  
Legislative Assembly  
of North Dakota

Introduced by

(At the request of the Department of Commerce)

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

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

6 **SECTION 1. AMENDMENT.** Subsections 1 and 3 of section 57-39.2-04.2 of the North  
7 Dakota Century Code are amended and reenacted as follows:

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

and which has at least one single electrical energy generation unit with a capacity of fifty thousand kilowatts or more.

(2) A wind-powered electrical generating facility, ~~on which construction is completed before January 1, 2011,~~ and all additions to the facility, which provides electrical power through wind generation and which has at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts or more.

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

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

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

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

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

**SECTION 2. AMENDMENT.** Subsections 1 and 3 of section 57-40.2-04.2 of the North Dakota Century Code are amended and reenacted as follows:

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

a. (1) "Environmental upgrade" means an investment greater than twenty-five million dollars or one hundred thousand dollars per megawatt of installed nameplate capacity, whichever is less, in machinery,

- 1 equipment, and related facilities for reducing emissions or increasing  
2 efficiency at an existing power plant.
- 3 (2) "Environmental upgrade" for purposes of a process unit means an  
4 investment greater than one hundred thousand dollars in machinery,  
5 equipment, and related facilities for reducing emissions, increasing  
6 efficiency, or enhancing reliability of the equipment at a new or existing  
7 process unit.
- 8 b. "Operator" means any person owning, holding, or leasing a power plant or  
9 process unit.
- 10 c. "Power plant" means:
- 11 (1) An electrical generating plant, and all additions to the plant, which  
12 processes or converts coal from its natural form into electrical power  
13 and which has at least one single electrical energy generation unit with  
14 a capacity of fifty thousand kilowatts or more.
- 15 (2) A wind-powered electrical generating facility, ~~on which construction is~~  
16 ~~completed before January 1, 2011,~~ and all additions to the facility,  
17 which provides electrical power through wind generation and which has  
18 at least one single electrical energy generation unit with a nameplate  
19 capacity of one hundred kilowatts or more.
- 20 (3) Any other type of electrical power generating facility excluding the types  
21 of power plants identified in paragraphs 1 and 2 which has a capacity of  
22 one hundred kilowatts or more and produces electricity for resale or for  
23 consumption in a business activity.
- 24 d. "Process unit" means an oil refinery or gas processing plant and all adjacent  
25 units that are utilized in the processing of crude oil or natural gas.
- 26 e. "Production equipment" means machinery and attachment units, other than  
27 replacement parts, directly and exclusively used in the generation,  
28 transmission, or distribution of electrical energy for sale by a power plant.
- 29 f. "Repowering" means an investment of more than two hundred million dollars  
30 or one million dollars per megawatt of installed nameplate capacity, whichever

1                   is less, in an existing power plant that modifies or replaces the process used  
2                   for converting coal from its natural form into electric power.

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

8           **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
9   June 30, 2009.