

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1498

Introduced by

Representatives Porter, Belter, Drovdal, R. Kelsch

Senators Christmann, Cook

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 sales and use tax exemption for machinery, equipment, and  
3 related facilities for reducing emissions, increasing efficiency, or enhancing reliability of  
4 equipment of a new or existing oil refinery or gas processing plant; and to provide an effective  
5 date.

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

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

9 **57-39.2-04.2. Reduced rate and exemption for power plant construction and**  
10 **production equipment and oil refinery or gas processing plant environmental upgrade**  
11 **equipment.**

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

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

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

19 ~~b.~~ c. "Power plant" means:

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

1                   (2) A wind-powered electrical generating facility, on which construction is  
2   completed before January 1, 2011, 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                   d. "Process unit" means an oil refinery or gas processing plant and all adjacent  
7   units that are utilized in the processing of crude oil or natural gas.

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

11                   2. Sales of production or environmental upgrade equipment used exclusively in  
12   power plants or processing units that begin construction after June 30, 1991, are  
13   exempt from the tax imposed by this chapter.

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

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

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

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

1           **57-40.2-04.2. Reduced rate and exemption for power plant construction and**  
2 **production equipment and oil refinery or gas processing plant environmental upgrade**  
3 **equipment.**

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

5           a. "Environmental upgrade" for purposes of a process unit means an investment  
6 greater than one hundred thousand dollars in machinery, equipment, and  
7 related facilities for reducing emissions, increasing efficiency, or enhancing  
8 reliability of the equipment at a new or existing process unit.

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

11       ~~b.~~ c. "Power plant" means:

12           (1) An electrical generating plant, and all additions to the plant, which  
13           processes or converts lignite from its natural form into electrical power  
14           and which has at least one single electrical energy generation unit with  
15           a capacity of one hundred twenty thousand kilowatts or more.

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

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

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

26           2. Sales of production or environmental upgrade equipment used exclusively in  
27           power plants or processing units that begin construction after June 30, 1991, are  
28           exempt from the tax imposed by this chapter.

29           3. Sales of tangible personal property, other than production or environmental  
30 upgrade equipment, which is used in the construction of new power plants or to

- 1           add environmental upgrades to existing process units are exempt from the tax  
2           imposed by this chapter.
- 3           4. To receive the reduced rate or exemption at the time of purchase, the operator  
4           must receive from the commissioner a certificate that the tangible personal  
5           property or production equipment the operator intends to purchase qualifies for the  
6           reduced rate or exemption. If a certificate is not received prior to the purchase, the  
7           operator shall pay the ~~five percent sales~~ applicable tax rate imposed by this  
8           chapter and apply to the commissioner for a refund.
- 9           5. If the tangible personal property or production equipment is purchased or installed  
10          by a contractor subject to the tax imposed by this chapter, the operator may apply  
11          for a refund of the difference between the amount remitted by the contractor and  
12          the reduced rate or exemption imposed or allowed by this section.

13           **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
14   June 30, 2007.