

Sixty-fourth
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

1 A BILL for an Act to amend and reenact section 57-06-14.1, section 57-33.2-01, section 57-
2 33.2-04, subsection 1 of section 57-38-01.8, section 57-39.2-04.2, section 57-39.2-04.8,
3 and section 57-40.2-04.2 of the North Dakota Century Code, relating to taxable valuation of
4 centrally assessed wind turbine electric generators, wind generation taxation, an income tax
5 credit for installation of geothermal, solar, wind, or biomass energy devices, exemption from
6 sales tax for machinery or equipment used to produce coal from a new mine, and
7 exemption from sales and use tax for materials used in the construction or expansion of a
8 wind-powered facility; and to provide an effective date.

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

10 **SECTION 1. AMENDMENT.** Section 57-06-14.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **57-06-14.1. Taxable valuation of centrally assessed wind turbine electric**
13 **generators.**

14 A centrally assessed wind turbine electric generation unit with a nameplate generation
15 capacity of one hundred kilowatts or more on which construction is completed before
16 January 1, 2015, must be valued at three percent of assessed value to determine taxable
17 valuation of the property except:

18 1. A centrally assessed wind turbine electric generation unit with a nameplate
19 generation capacity of one hundred kilowatts or more, for which a purchased power
20 agreement was executed after April 30, 2005, and before January 1, 2006, and

Sixty-fourth
Legislative Assembly

1 construction was completed after April 30, 2005, and before July 1, 2006, must be
2 valued at one and one-half percent of assessed value to determine taxable
3 valuation of the property for the duration of the initial purchased power agreement
4 for the generation unit; and

5 2. A centrally assessed wind turbine electric generation unit with a nameplate
6 generation capacity of one hundred kilowatts or more, on which construction is
7 completed after June 30, 2006, and before January 1, 2015, must be valued at one
8 and one-half percent of assessed value to determine taxable valuation of the
9 property.

10 3. A centrally assessed wind turbine electric generation unit with a nameplate
11 generation capacity of one hundred kilowatts or more, on which construction was
12 begun before January 1, 2015 and in service before January 1, 2017, and for which
13 an executory purchase power agreement was entered into before January 1, 2015,
14 must be valued at three percent of assessed value to determine taxable valuation
15 of the property.

16 4. A wind turbine electric generation unit with a nameplate generation capacity of one
17 hundred kilowatts or more, on which construction is completed after December 31,
18 2014, and which is not taxable under this section, must be subject to taxation under
19 chapter 57-33.2.

20 5. Wind generators, wind farms, and associated collector systems on which
21 construction was completed before January 1, 2015, purchased by a company
22 subject to taxation under this chapter, must be taxed under subsections 1 and 2.

23 **SECTION 2. AMENDMENT.** Section 57-33.2-01 of the North Dakota Century Code is
24 amended and reenacted as follows:

Sixty-fourth
Legislative Assembly

1 **57-33.2-01. Definitions.**

2 As used in this chapter:

3 1. "Collector system" means all property used or constructed to interconnect individual
4 wind turbines within a wind farm into a common project, including step-up
5 transformers, electrical collection equipment, collector substation transformers, and
6 communication systems.

7 2. "Commissioner" means the state tax commissioner.

8 3. "Company" means an individual, partnership, corporation, limited liability company,
9 limited liability partnership, cooperative, or any other organization or association
10 engaged in generation, distribution, or transmission of electricity. A company
11 subject to taxation under chapter 57-06, is not a "company" for purposes of this
12 chapter unless it files an irrevocable election with the commissioner to be treated as
13 a company under this chapter ~~by October 1, 2013, for taxable periods after~~
14 ~~December 31, 2013;~~ by October 1, 2014, for taxable periods after December 31,
15 2014; by October 1, 2015, for taxable periods after December 31, 2015; or by
16 October 1, 2016, for taxable periods after December 31, 2016. Property subject to
17 taxation under this chapter which is owned by a company that is otherwise taxable
18 under chapter 57-06 which files an election under this chapter is exempt from
19 taxation under chapter 57-06.

20 4. "Distribution company" means a company engaged in distribution of electricity for
21 retail sale to consumers in this state through distribution lines. The term does not
22 include a municipal electric utility operated under chapter 40-33 and that utility is not
23 subject to taxes under section 57-33.2-03.

Sixty-fourth
Legislative Assembly

1 5. "Distribution line" means a line to transmit electricity which operates at a voltage of
2 less than forty-one and six-tenths kilovolts.

3 6. "Generation company" means a company engaged in the generation of electrical
4 energy from a wind farm, wind generator or grid-connected generators that are part
5 of a project with a generation capacity of one hundred kilowatts or more that is not
6 generated from coal.

7 ~~6~~7. "Retail sale" means transfer of electricity to the end-use consumer for
8 consideration. The term does not include the sale of electricity to a coal conversion
9 facility that became operational before January 1, 2009, and which is subject to
10 taxation under chapter 57-60.

11 ~~7~~8. "Transmission company" means a company engaged in transmission of electricity
12 through transmission lines.

13 ~~8~~9. "Transmission line" means a line to transmit electrical energy which operates at a
14 voltage of forty-one and six-tenths kilovolts or more but does not include a line
15 owned or operated by an agency or instrumentality of the United States
16 government.

17 ~~9~~10. "Wind farm" means all property used or constructed for the purpose of producing
18 electricity for commercial purposes utilizing the wind as an energy source and with
19 a nameplate capacity of at least two thousand five hundred kilowatts. The term
20 includes the collector system.

21 ~~10~~11. "Wind generator" means an individual wind turbine with a generation capacity of
22 one hundred kilowatts or more which is connected to a transmission or distribution
23 system.

1 **SECTION 3. AMENDMENT.** Section 57-33.2-04 of the North Dakota Century Code is
2 amended and reenacted as follows.

3 **57-33.2-04. ~~Wind generation taxation~~– Taxation of generation from sources other**
4 **than coal - Taxation of coal generation not subject to coal conversion taxes.**

5 ~~Wind generators, including wind farms and associated collector systems, generators of~~
6 ~~electricity from sources other than coal owned by a company subject to taxation under this~~
7 ~~chapter, Generation companies and generators of electricity from sources other than coal~~
8 which are not subject to coal conversion taxes under chapter 57-60 are subject to taxes
9 under this section.

- 10 1. Wind generators, wind farms, and associated collector systems are subject to taxes
11 consisting of the following two components:
- 12 a. A tax of two dollars and fifty cents per kilowatt times the rated capacity of the
13 wind generator.
- 14 b. A tax of one-half of one mill per kilowatt-hour of electricity generated by the wind
15 generator during the taxable period.
- 16 2. Wind generators, wind farms, and associated collector systems on which
17 construction was completed before January 1, 2015, purchased and owned by a
18 company subject to taxation under this chapter after January 1, 2015, must be taxed
19 under subsection 1 and 2 of section 57-06-14.1.
- 20 2 3. Grid-connected generators that are part of a project with generation capacity of one
21 hundred kilowatts or more not produced from coal or wind, or produced from coal
22 and not subject to coal conversion taxes under chapter 57-60, are subject to taxes
23 consisting of the following two components:
- 24 a. Fifty cents per kilowatt times the rated capacity of the generation unit.

Sixty-fourth
Legislative Assembly

1 b. One mill per kilowatt-hour of electricity generated by the production unit during
2 the taxable period.

3 **SECTION 4. AMENDMENT.** Subsection 1 of section 57-38-01.8 of the North Dakota
4 Century Code is amended and reenacted as follows.

5 1. A taxpayer filing a North Dakota income tax return pursuant to the provisions of this
6 chapter may claim a credit against the tax liability under section 57-38-30 for the
7 cost of a geothermal, solar, ~~wind~~, or biomass energy device installed before
8 January 1, 2015, in a building or on property owned or leased by the taxpayer in
9 North Dakota. A wind energy device for which construction began before January 1,
10 2015, and installed before January 1, 2017, is eligible for the credit provided in this
11 section. The credit ~~provided in this section~~ for a device installed before January 1,
12 2001, must be in an amount equal to five percent per year for three years, and for a
13 device installed after December 31, 2000, must be in an amount equal to three
14 percent per year for five years of the actual cost of acquisition and installation of the
15 geothermal, solar, wind, or biomass energy device and must be subtracted from
16 any income tax liability of the taxpayer as determined pursuant to the provisions of
17 this chapter.

18 **SECTION 5. AMENDMENT.** Section 57-39.2-04.2 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **57-39.2-04.2. (~~Effective through June 30, 2017~~) Sales tax exemption for power**
21 **plant construction, production, environmental upgrade, and repowering equipment**
22 **and oil refinery or gas processing plant environmental upgrade equipment.**

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

Sixty-fourth
Legislative Assembly

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

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

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

13 c. "Power plant" means:

14 (1) An electrical generating plant, and all additions to the plant, which
15 processes or converts coal in its natural form or beneficiated coal into
16 electrical power and which has at least one single electrical energy
17 generation unit with a capacity of fifty thousand kilowatts or more.

18 (2) A wind-powered electrical generating facility, ~~on which construction is~~
19 ~~completed before January 1, 2017,~~ and all additions to the facility, which
20 provides electrical power through wind generation and which has at least
21 one single electrical energy generation unit with a nameplate capacity of
22 one hundred kilowatts or more.

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

Sixty-fourth
Legislative Assembly

1 one 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,
7 transmission, or distribution of electrical energy for sale by a power plant.

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

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

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

22 4. To receive the exemption at the time of purchase, the operator must receive from
23 the commissioner a certificate that the tangible personal property or production
24 equipment the operator intends to purchase qualifies for the exemption. If a

Sixty-fourth
Legislative Assembly

1 certificate is not received prior to the purchase, the operator shall pay the applicable
2 tax imposed by this chapter and apply to the commissioner for a refund.

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

7 ~~(Effective after June 30, 2017) Sales tax exemption for power plant construction,~~
8 ~~production, environmental upgrade, and repowering equipment and oil refinery or~~
9 ~~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:~~

Sixty-fourth
Legislative Assembly

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

5 ~~(2) A wind-powered electrical generating facility, on which construction is~~
6 ~~completed before January 1, 2017, and all additions to the facility, which~~
7 ~~provides electrical power through wind generation and which has at least one~~
8 ~~single electrical energy generation unit with a nameplate capacity of one~~
9 ~~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 ~~e. "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 ~~d. "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 ~~e. "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 from its natural form into electrical power.~~

23 ~~2. Sales of production or environmental upgrade equipment that is delivered on or~~
24 ~~after January 1, 2007, and used exclusively in power plants or repowering existing~~

Sixty-fourth
Legislative Assembly

1 ~~power plants or in processing units are exempt from the tax imposed by this~~
2 ~~chapter.~~

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 ~~4. To receive the exemption at the time of purchase, the operator must receive from~~
9 ~~the commissioner a certificate that the tangible personal property or production~~
10 ~~equipment the operator intends to purchase qualifies for the exemption. If a~~
11 ~~certificate is not received prior to the purchase, the operator shall pay the~~
12 ~~applicable tax imposed by this chapter and apply to the commissioner for a refund.~~

13 ~~5. If the tangible personal property or production equipment is purchased or installed~~
14 ~~by a contractor subject to the tax imposed by this chapter, the operator may apply~~
15 ~~for a refund of the difference between the amount remitted by the contractor and~~
16 ~~the exemption imposed or allowed by this section.~~

17 **SECTION 6. AMENDMENT.** Section 57-39.2-04.8 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **57-39.2-04.8. Sales tax exemption for machinery, ~~or~~ equipment and materials**
20 **used to produce coal from a new mine.**

21 1. Gross receipts from sales of machinery, ~~or~~ equipment, and other tangible personal
22 property used to produce coal from a new mine located in this state are exempt
23 from the tax imposed by this chapter. ~~The exemption for each new mine under this~~
24 ~~section is limited to the first five million dollars of sales and use tax paid.~~

Sixty-fourth
Legislative Assembly

- 1 2. Purchase of replacement machinery, ~~or equipment, or other tangible personal~~
2 property is not exempt if the capitalized investment in the new mine exceeds twenty
3 million dollars using the United States generally accepted accounting principles
4 unless the replacement creates an expansion of the mine. Purchases of repair or
5 replacement parts for existing machinery or equipment are not exempt under this
6 section.
- 7 3. ~~The mine operator shall apply to the commissioner for a refund of sales and use~~
8 ~~taxes paid for which the exemption is claimed under this section. A refund claim~~
9 ~~may not exceed the limitation in subsection 1. Application for the refund must be~~
10 ~~made at the time and in the manner directed by the commissioner and must include~~
11 ~~sufficient information to verify the correctness of the refund claim.~~
- 12 To receive the exemption under this section at the time of purchase, the owner of
13 the coal mine must receive from the tax commissioner a certificate that the
14 machinery, equipment and other tangible personal property used to construct or
15 expand produce coal from a new coal mine qualifying under this section which the
16 owner intends to purchase qualifies for the exemption. If a certificate is not received
17 before the purchase, the owner shall pay the applicable tax imposed by this chapter
18 and apply to the tax commissioner for a refund.
- 19 4. If the tangible personal property is purchased or installed by a contractor subject to
20 the tax imposed by this chapter, the owner of the coal mine may apply for a refund
21 of the difference between the amount remitted by the contractor and the exemption
22 imposed or allowed under this section. Application for a refund must be made at the
23 times and in the manner directed by the tax commissioner and must include

Sixty-fourth
Legislative Assembly

1 sufficient information to permit the tax commissioner to verify the sales and use
2 taxes paid and the exempt status of the sale or use.

3 4 5. For purposes of this section:

4 a. "Machinery or equipment" means machinery or equipment used directly to
5 uncover, sever, crush, handle, or transport coal removed from the earth.

6 "Machinery or equipment" includes draglines, excavators, rolling stock,
7 conveyor equipment, reclamation equipment, and equipment to pulverize coal
8 but does not include rail spurs, office buildings, workshops, or any component
9 not used directly to uncover, sever, crush, handle, or transport coal removed
10 from the earth.

11 b. "New mine" means an area permitted under chapter 38-14.1 by the public
12 service commission after December 31, 2010.

13 c. "Produce coal" means mining operations to uncover, sever, crush, handle, or
14 transport coal from its natural location under the earth's surface to the mouth of
15 the mine and all activities necessary and incidental to the reclamation of that
16 location.

17 **SECTION 7. AMENDMENT.** Section 57-40.2-04.2 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **57-40.2-04.2. (~~Effective through June 30, 2015~~) Use tax exemption for power plant**
20 **construction, production, environmental upgrade, and repowering equipment and oil**
21 **refinery or gas processing plant environmental upgrade equipment.**

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

23 a. (1) "Environmental upgrade" means an investment greater than twenty-five
24 million dollars or one hundred thousand dollars per megawatt of installed

Sixty-fourth
Legislative Assembly

1 nameplate capacity, whichever is less, in machinery, equipment, and related
2 facilities for reducing emissions or increasing efficiency at an existing power
3 plant.

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

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

11 c. "Power plant" means:

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

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

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

Sixty-fourth
Legislative Assembly

- 1 d. "Process unit" means an oil refinery or gas processing plant and all adjacent
2 units that are utilized in the processing of crude oil or natural gas.
- 3 e. "Production equipment" means machinery and attachment units, other than
4 replacement parts, directly and exclusively used in the generation, transmission,
5 or distribution of electrical energy for sale by a power plant.
- 6 f. "Repowering" means an investment of more than two hundred million dollars or
7 one million dollars per megawatt of installed nameplate capacity, whichever is
8 less, in an existing power plant that modifies or replaces the process used for
9 converting coal in its natural form or beneficiated coal into electric power.
- 10 2. Sales of production or environmental upgrade equipment that is delivered on or
11 after January 1, 2007, and used exclusively in power plants or repowering existing
12 power plants or in process units are exempt from the tax imposed by this chapter.
- 13 3. Sales of tangible personal property, other than production or environmental
14 upgrade equipment, which is used in the construction of new power plants or to
15 expand existing power plants or to add environmental upgrades to existing power
16 plants or repowering existing power plants or to add environmental upgrades to
17 existing process units are exempt from the tax imposed by this chapter.
- 18 4. To receive the exemption at the time of purchase, the operator must receive from
19 the commissioner a certificate that the tangible personal property or production
20 equipment the operator intends to purchase qualifies for the reduced rate or
21 exemption. If a certificate is not received prior to the purchase, the operator shall
22 pay the applicable tax imposed by this chapter and apply to the commissioner for a
23 refund.

Sixty-fourth
Legislative Assembly

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

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

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 installed~~
11 ~~nameplate capacity, whichever is less, in machinery, equipment, and related~~
12 ~~facilities for reducing emissions or increasing efficiency at an existing power~~
13 ~~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~~

Sixty-fourth
Legislative Assembly

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

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

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

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

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

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

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

Sixty-fourth
Legislative Assembly

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

6 ~~4. To receive the exemption at the time of purchase, the operator must receive from~~
7 ~~the commissioner a certificate that the tangible personal property or production~~
8 ~~equipment the operator intends to purchase qualifies for the reduced rate or~~
9 ~~exemption. If a certificate is not received prior to the purchase, the operator shall~~
10 ~~pay the applicable tax imposed by this chapter and apply to the commissioner for a~~
11 ~~refund.~~

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

16 **SECTION 8. EFFECTIVE DATE.** Sections 1, 2, 3, and 4 of this Act are effective for
17 taxable years beginning after December 31, 2014. Sections 5 and 7 of this Act are effective
18 for taxable periods beginning after December 31, 2014. Section 6 of this Act is effective for
19 new coal mines permitted under chapter 38-14.1 by the public service commission after
20 December 31, 2014.