

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
3 the exemption from sales and use tax for materials used in the construction or expansion of
4 a wind-powered facility; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Subsection 1 of section 57-39.2-04.2 of the North
7 Dakota Century Code is 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
10 twenty-five million dollars or one hundred thousand dollars per
11 megawatt of installed nameplate capacity, whichever is less, in
12 machinery, equipment, and related facilities for reducing emissions or
13 increasing 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
18 existing process unit.

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

21 c. "Power plant" means:

(1) An electrical generating plant, and all additions to the plant, which 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.

1 **SECTION 2. AMENDMENT.** Subsection 3 of section 57-39.2-04.2 of the North
2 Dakota Century Code is amended and reenacted as follows.

- 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
5 to expand existing power plants or to add environmental upgrades to existing
6 power plants or repowering existing power plants or to add environmental
7 upgrades to existing process units are exempt from the tax imposed by this
8 chapter.

9 **SECTION 3. AMENDMENT.** Subsection 1 of section 57-40.2-04.2 of the North
10 Dakota Century Code is amended and reenacted as follows.

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

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

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

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

24 c. "Power plant" means:

25 (1) An electrical generating plant, and all additions to the plant, which

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 electric power.

1 **SECTION 4. AMENDMENT.** Subsection 3 of section 57-40.2-04.2 of the North
2 Dakota Century Code is amended and reenacted as follows.

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
5 to expand existing power plants or to add environmental upgrades to existing
6 power plants or repowering existing power plants or to add environmental
7 upgrades to existing process units are exempt from the tax imposed by this
8 chapter.

9 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable events occurring
10 after June 30, 2009.