10153.0100

Sixty-second Legislative Assembly of North Dakota

Introduced by

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FIRST DRAFT:

Prepared by the Legislative Council staff for the Energy Development and Transmission Committee August 2010

- 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:

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

57-39.2-04.2. (Effective through June 30, 2015) Sales tax exemption for power plant construction, production, environmental upgrade, and repowering equipment and oil refinery or gas processing plant environmental upgrade equipment.

- 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, equipment, and related facilities for reducing emissions or increasing efficiency at an existing power plant.
 - (2) "Environmental upgrade" for purposes of a process unit means an investment greater than one hundred thousand dollars in machinery, equipment, and related facilities for reducing emissions, increasing efficiency, or enhancing reliability of the equipment at a new or existing process unit.
 - b. "Operator" means any person owning, holding, or leasing a power plant or process unit.
 - c. "Power plant" means:

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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. 7 which provides electrical power through wind generation and which has 8 at least one single electrical energy generation unit with a nameplate 9 capacity of one hundred kilowatts or more. 10 (3)Any other type of electrical power generating facility excluding the types 11 of power plants identified in paragraphs 1 and 2 which has a capacity of 12 one 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 "Production equipment" means machinery and attachment units, other than e. 17 replacement parts, directly and exclusively used in the generation, 18 transmission, or distribution of electrical energy for sale by a power plant. 19 f. "Repowering" means an investment of more than two hundred million dollars 20 or one million dollars per megawatt of installed nameplate capacity, whichever 21 is less, in an existing power plant that modifies or replaces the process used 22 for 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 24 after January 1, 2007, and used exclusively in power plants or repowering existing 25 power plants or in processing units are exempt from the tax imposed by this 26 chapter. 27 3. Sales of tangible personal property, other than production or environmental 28 upgrade equipment, which is used in the construction of new power plants or to 29 expand existing power plants or to add environmental upgrades to existing power 30 plants or repowering existing power plants or to add environmental upgrades to 31 existing process units are exempt from the tax imposed by this chapter.

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1 To receive the exemption at the time of purchase, the operator must receive from 2 the commissioner a certificate that the tangible personal property or production 3 equipment the operator intends to purchase qualifies for the exemption. If a 4 certificate is not received prior to the purchase, the operator shall pay the 5 applicable tax imposed by this chapter and apply to the commissioner for a refund. 6 5. If the tangible personal property or production equipment is purchased or installed 7 by a contractor subject to the tax imposed by this chapter, the operator may apply 8 for a refund of the difference between the amount remitted by the contractor and 9 the 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 As used in this section, unless the context otherwise requires: 14 "Environmental upgrade" means an investment greater than twenty-five (1) a. 15 million dollars or one hundred thousand dollars per megawatt of 16 installed nameplate capacity, whichever is less, in machinery, 17 equipment, and related facilities for reducing emissions or increasing 18 efficiency at an existing power 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 "Power plant" means: C. 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 29

a capacity of fifty thousand kilowatts or more.

and which has at least one single electrical energy generation unit with

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1 (2) A wind-powered electrical generating facility, on which construction is 2 completed before January 1, 2015, 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 (3)Any other type of electrical power generating facility excluding the types 7 of power plants identified in paragraphs 1 and 2 which has a capacity of 8 one 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, 14 transmission, or distribution of electrical energy for sale by a power plant. f. 15 "Repowering" means an investment of more than two hundred million dollars 16 or one million dollars per megawatt of installed nameplate capacity, whichever 17 is less, in an existing power plant that modifies or replaces the process used 18 for converting coal from its natural form into electrical power. 19 2. Sales of production or environmental upgrade equipment that is delivered on or 20 after January 1, 2007, and used exclusively in power plants or repowering existing 21 power plants or in processing units are exempt from the tax imposed by this 22 chapter. 23 3. Sales of tangible personal property, other than production or environmental 24 upgrade equipment, which is used in the construction of new power plants or to 25 expand existing power plants or to add environmental upgrades to existing power 26 plants or repowering existing power plants or to add environmental upgrades to 27 existing process units are exempt from the tax imposed by this chapter. 28 To receive the exemption at the time of purchase, the operator must receive from 4. 29 the commissioner a certificate that the tangible personal property or production 30 equipment the operator intends to purchase qualifies for the exemption. If a

1		cer	tificate	is not received prior to the purchase, the operator shall pay the	
2		app	olicable	e 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	a contr	actor subject to the tax imposed by this chapter, the operator may apply	
5		for	a refur	nd of the difference between the amount remitted by the contractor and	
6		the	exem	otion imposed or allowed by this section.	
7	SE	ECTION 2. AMENDMENT. Section 57-40.2-04.2 of the North Dakota Century Code			
8	is amended and reenacted as follows:				
9	57-40.2-04.2. (Effective through June 30, 2015) Use tax exemption for power plant				
10	construction, production, environmental upgrade, and repowering equipment and oil				
11	refinery or	gas	proce	ssing plant environmental upgrade equipment.	
12	1.	As	used ii	n this section, unless the context otherwise requires:	
13		a.	(1)	"Environmental upgrade" means an investment greater than twenty-five	
14				million dollars or one hundred thousand dollars per megawatt of	
15				installed nameplate capacity, whichever is less, in machinery,	
16				equipment, and related facilities for reducing emissions or increasing	
17				efficiency at an existing power plant.	
18			(2)	"Environmental upgrade" for purposes of a process unit means an	
19				investment greater than one hundred thousand dollars in machinery,	
20				equipment, and related facilities for reducing emissions, increasing	
21				efficiency, or enhancing reliability of the equipment at a new or existing	
22				process unit.	
23		b.	"Оре	erator" means any person owning, holding, or leasing a power plant or	
24		process unit.			
25		c.	"Pow	ver plant" means:	
26			(1)	An electrical generating plant, and all additions to the plant, which	
27				processes or converts coal in its natural form or beneficiated coal into	
28				electrical power and which has at least one single electrical energy	
29				generation unit with a capacity of fifty thousand kilowatts or more.	
30			(2)	A wind-powered electrical generating facility, on which construction is	
31				completed before January 1, 2015, and all additions to the facility,	

1 which provides electrical power through wind generation and which has 2 at least one single electrical energy generation unit with a nameplate 3 capacity of one hundred kilowatts or more. 4 (3)Any other type of electrical power generating facility excluding the types 5 of power plants identified in paragraphs 1 and 2 which has a capacity of 6 one hundred kilowatts or more and produces electricity for resale or for 7 consumption in a business activity. 8 d. "Process unit" means an oil refinery or gas processing plant and all adjacent 9 units that are utilized in the processing of crude oil or natural gas. 10 "Production equipment" means machinery and attachment units, other than e. 11 replacement parts, directly and exclusively used in the generation, 12 transmission, or distribution of electrical energy for sale by a power plant. f. 13 "Repowering" means an investment of more than two hundred million dollars 14 or one million dollars per megawatt of installed nameplate capacity, whichever 15 is less, in an existing power plant that modifies or replaces the process used 16 for converting coal in its natural form or beneficiated coal into electric 17 electrical power. 18 2. Sales of production or environmental upgrade equipment that is delivered on or 19 after January 1, 2007, and used exclusively in power plants or repowering existing 20 power plants or in process units are exempt from the tax imposed by this chapter. 21 3. Sales of tangible personal property, other than production or environmental 22 upgrade equipment, which is used in the construction of new power plants or to 23 expand existing power plants or to add environmental upgrades to existing power 24 plants or repowering existing power plants or to add environmental upgrades to 25 existing process units are exempt from the tax imposed by this chapter. 26 To receive the exemption at the time of purchase, the operator must receive from 27 the commissioner a certificate that the tangible personal property or production 28 equipment the operator intends to purchase qualifies for the reduced rate or 29 exemption. If a certificate is not received prior to the purchase, the operator shall 30 pay the applicable tax imposed by this chapter and apply to the commissioner for a 31 refund.

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1 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 gas 7 processing plant environmental upgrade equipment. 8 As used in this section, unless the context otherwise requires: 9 "Environmental upgrade" means an investment greater than twenty-five a. (1) 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 "Power plant" means: C. 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 24 and which has at least one single electrical energy generation unit with 25 a capacity of fifty thousand kilowatts or more. 26 (2) A wind-powered electrical generating facility, on which construction is 27 completed before January 1, 2015, and all additions to the facility, 28 which provides electrical power through wind generation and which has 29 at least one single electrical energy generation unit with a nameplate

capacity of one hundred kilowatts or more.

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1 (3)Any other type of electrical power generating facility excluding the types 2 of power plants identified in paragraphs 1 and 2 which has a capacity of 3 one hundred kilowatts or more and produces electricity for resale or for 4 consumption in a business activity. 5 d. "Process unit" means an oil refinery or gas processing plant and all adjacent 6 units that are utilized in the processing of crude oil or natural gas. 7 "Production equipment" means machinery and attachment units, other than e. 8 replacement parts, directly and exclusively used in the generation, 9 transmission, or distribution of electrical energy for sale by a power plant. f. 10 "Repowering" means an investment of more than two hundred million dollars 11 or one million dollars per megawatt of installed nameplate capacity, whichever 12 is less, in an existing power plant that modifies or replaces the process used 13 for converting coal from its natural form into electric electrical power. 14 2. Sales of production or environmental upgrade equipment that is delivered on or 15 after January 1, 2007, and used exclusively in power plants or repowering existing 16 power plants or in process units are exempt from the tax imposed by this 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 reduced rate or 25 exemption. If a certificate is not received prior to the purchase, the operator shall 26 pay the applicable tax imposed by this chapter and apply to the commissioner for a 27 refund. 28 5. If the tangible personal property or production equipment is purchased or installed 29 by a contractor subject to the tax imposed by this chapter, the operator may apply

the reduced rate or exemption imposed or allowed by this section.

for a refund of the difference between the amount remitted by the contractor and

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