Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2036
(Legislative Management)
(Energy Development and Transmission Committee)

AN ACT to amend and reenact sections 57-39.2-04, 57-39.2-04.2, 57-40.2-04.2, 57-60-02, and 57-61-01.4 of the North Dakota Century Code, relating to the sales and use tax exemption for beneficiated coal and equipment for certain power plants, an exemption from the coal conversion facility privilege tax for beneficiated coal produced for use within a coal conversion facility, and the severance and sales and use tax exemption for coal used in certain plants; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04. ~~(Effective through June 30, 2015)~~ Exemptions.

There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of North Dakota.

2. Gross receipts from the sales, furnishing, or service of passenger transportation service and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier.

3. Repealed by S.L. 1971, ch. 567, § 1.

4. a. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs.

   b. Gross receipts from educational, religious, or charitable activities when the entire amount of net receipts is expended for educational, religious, or charitable purposes. The exemption specified in this subsection does not apply to:

      (1) Gross receipts from taxable sales in excess of ten thousand dollars per event if the activities are held in a publicly owned facility; or

      (2) Gross receipts from activities if the seller competes with retailers by maintaining inventory, conducting retail sales on a regular basis from a permanent or seasonal location, or soliciting sales from a website prepared for or maintained by the seller.

   c. Gross receipts derived by any public school district if such receipts are expended in accordance with section 15.1-07-10 or 15.1-07-11.

   d. Gross receipts of a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.

5. Gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private

nonprofit elementary school, secondary school, or any other nonprofit institution of higher learning conducting courses of study similar to those conducted by public schools in this state.

6. Gross receipts from all sales otherwise taxable under this chapter made to the United States, an Indian tribe, or to any state, including the state of North Dakota, or any of the subdivisions, departments, agencies, or institutions of any state. A political subdivision of another state is exempt under this subsection only if a sale to a North Dakota political subdivision is treated as an exempt sale in that state. The governmental units exempted by this subsection must be issued a certificate of exemption by the commissioner and the certificate must be presented to each retailer whenever this exemption is claimed. For purposes of this subsection, an Indian tribe means a tribal government agency, instrumentality, or political subdivision that performs essential government functions and does not include business entities or agencies the primary purpose of which is to operate a business enterprise.

7. Gross receipts from the sale of drugs sold under a doctor's prescription.

8. Gross receipts from sales of adjuvants, agrichemical tank cleaners and foam markers, commercial fertilizers, fungicides, seed treatments, inoculants and fumigants, herbicides, and insecticides to agricultural or commercial vegetable producers and commercial applicators; chemicals used to preserve agricultural crops being stored; and seeds, roots, bulbs, and small plants to commercial users or consumers for planting or transplanting for commercial vegetable gardens or agricultural purposes.

9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for the person's own use for medical purposes.

10. Gross receipts from the sale of motor vehicles, farm machinery, alcoholic beverages, gasoline, insurance premiums, gaming tickets, or any other article or product, except as otherwise provided, upon which the state of North Dakota imposes a special tax.

11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, milk, meat, fibers, or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur-bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a feed ration, and other generally recognized animal feeds. The term "feed" includes drugs used as part of a feed ration, medicants, disinfectants, wormers, tonics, and like items.

12. Gross receipts from a sale otherwise taxable under this chapter made to a person from an adjoining state which does not impose or levy a retail sales tax, under the following conditions:

    a. The person is in the state of North Dakota for the express purpose of making a purchase.

    b. The person furnishes to the North Dakota retailer a certificate signed by the person in a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless the certificate is furnished it must be presumed, until the contrary is shown, that the person was not in the state of North Dakota for the express purpose of making a purchase.

    c. The sale is fifty dollars or more.

13. Gross receipts from the sale of any motor vehicle taxable under the provisions of the motor vehicle excise tax laws of North Dakota. However, gross receipts from the rental of any motor vehicle for fewer than thirty days are not exempt but taxes imposed under home rule authority do not apply to such rentals.

14. Repealed by S.L. 1969, ch. 528, § 24.

15. Gross receipts from sales in which a contractor furnishes to the retailer a certificate which includes the contractor's license number assigned to the contractor under the provisions of chapter 43-07. Such certificate shall be in the form prescribed by the commissioner and shall be furnished by the contractor to the retailer each calendar year prior to the making of any purchases during such calendar year from the retailer without liability for paying the tax to the retailer. Any contractor furnishing such certificate must report and remit the tax to the commissioner on purchases taxable under this chapter made by the contractor in the same manner as retailers remit such tax under this chapter.

16. Gross receipts from the sale of newsprint and ink used in the publication of a newspaper.

17. Gross receipts from the sale of all services furnished by any hospital, infirmary, sanatorium, nursing home, basic care facility, or similar institution to any patient or occupant.

18. Repealed by S.L. 1973, ch. 480, § 6.

19. Repealed by S.L. 1971, ch. 555, § 3.

20. Gross receipts from the sale of food supplies to any public school, to any parochial or private nonprofit school conducting courses of study similar to those conducted by public schools in this state, or to any nonprofit organization, for use by the public, parochial, or private school or nonprofit organization in sponsoring or conducting a lunch program or programs in and for any such public, parochial, or private nonprofit school.

21. Gross receipts from the leasing or renting of motion picture film to motion picture exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film is subject to the sales tax imposed by this chapter.

22. Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or tourist court accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days.

23. Food purchased by a student under a boarding contract with a college, university, fraternity, or sorority.

24. Gross receipts from all sales when made to an eligible facility or emergency medical services provider for the use or benefit of its patient or occupant. For the purposes of this subsection:

    a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care facility, or basic care facility licensed by the state department of health, or any assisted living facility licensed by the department of human services; and

    b. "Emergency medical services provider" means an emergency medical services operation licensed by the state department of health under chapter 23-27.

25. Gross receipts from the sale of Bibles, hymnals, textbooks, and prayerbooks sold to nonprofit religious organizations.

26. Gross receipts from sales of prosthetic devices, durable medical equipment, mobility-enhancing equipment, or supplies for ostomy care or bladder dysfunction. For purposes of this subsection:

    a. "Durable medical equipment" means equipment, not including mobility-enhancing equipment, for home use, including repair and replacement parts for such equipment, which:

        (1) Can withstand repeated use;

(2) Is primarily and customarily used to serve a medical purpose;

(3) Generally is not useful to a person in the absence of illness or injury; and

(4) Is not worn in or on the body.

"Durable medical equipment" includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction. An exemption certificate is not required to obtain exemption. Repair and replacement parts as used in this definition include all components or attachments used in conjunction with the durable medical equipment. Repair and replacement parts do not include items which are for single patient use only.

b. "Mobility-enhancing equipment" means equipment, not including durable medical equipment sold under a doctor's written prescription, including repair and replacement parts for mobility-enhancing equipment, which:

(1) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle;

(2) Is not generally used by persons with normal mobility; and

(3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Mobility-enhancing equipment" includes crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.

c. "Prosthetic device" means a replacement, corrective, or supportive device sold under a doctor's written prescription, including repair and replacement parts for such a device, worn on or in the body to:

(1) Artificially replace a missing portion of the body;

(2) Prevent or correct a physical deformity or malfunction; or

(3) Support a weak or deformed portion of the body.

"Prosthetic device" includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure, including the extremities of the individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.

d. "Supplies for ostomy care or bladder dysfunction" includes:

(1) Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.

(2) Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.

27. Gross receipts from the sale of electricity.

28. Gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable.

29. Gross receipts from all sales otherwise taxable under this chapter when made to any nonprofit organization for meals, including the containers, packages, and materials used for wrapping food items, for delivery to persons who are confined to their homes by illness or incapacity, including senior citizens and disabled persons, for consumption by such shut-ins in their homes.

30. Gross receipts from all sales of recreational travel trailers not exceeding eight feet [2.44 meters] in width or thirty-two feet [9.75 meters] in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of such recreational travel trailers.

31. Gross receipts from the sale of money, including all legal tender coins and currency, and from the sale of precious metal bullion that has been refined to a purity of not less than nine hundred ninety-nine parts per one thousand and is in such form or condition that its value depends upon its precious metal content and not its form.

32. Gross receipts from sales to nonprofit voluntary health associations which are exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a voluntary health association is an organization recognized by the internal revenue service, the national health council, the state tax commissioner, and the North Dakota secretary of state as a nonprofit organization that is exempt under section 501(c)(3) of the United States Internal Revenue Code and meets the following requirements: It has been organized and operated exclusively in providing services for the purposes of preventing and alleviating human illness and injury. Methods used to obtain these goals would include education, research, community service, and direct patient services, income being derived solely from private donations with some exceptions of a minimal membership fee. Its members are not limited to only individuals, who themselves are licensed or otherwise legally authorized to render the same professional services as the organization. The disbursement of funds within a volunteer health association is to be controlled by a board of directors who work voluntarily and without pay.

33. Repealed by S.L. 2005, ch. 580, § 19.

34. Gross receipts from the sale of byproducts, arising from the processing of agricultural products, for use in the manufacture or generation of steam or electricity.

35. Gross receipts from the sale of a manufactured home that has been sold, bargained, exchanged, given away, or transferred by the person who first acquired it from a retailer in a sale at retail and upon which the North Dakota sales tax has previously been imposed.

36. Gross receipts from all sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician, all sales of glucose usable for treatment of insulin reactions, all sales of urine and blood testing kits and materials, and all sales of insulin measuring and injecting devices, including insulin syringes and hypodermic needles.

37. Gross receipts from the sale of any aircraft taxable under the provisions of chapter 57-40.5.

38. Gross receipts from all sales of air carrier transportation property subject to ad valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-08, 57-13, and 57-32.

39. Gross receipts from sales of tangible personal property consisting of flight simulators or mechanical or electronic equipment for use in association with a flight simulator.

40. Gross receipts from sales of tickets or admissions to, or sales made at, an annual church supper or bazaar held in a publicly owned facility. For purposes of this subsection, "annual" means occurring not more than once in any calendar year.

41. Gross receipts from the initial sale of beneficiated coal.

42. Gross receipts from electronic gaming devices licensed by the attorney general under chapter 53-06.1.

43. Gross receipts from all sales made to a nonprofit medical research institute. For purposes of this subsection, "nonprofit medical research institute" means an institute that is a member of the association of independent research institutes, which is not a private foundation, and which is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3).

44. Gross receipts from all sales of coal that is exempt from the coal severance tax.

45. Gross receipts from the sale or lease of farm machinery, farm machinery repair parts, irrigation equipment, or irrigation equipment repair parts used exclusively for agricultural purposes.

46. Gross receipts from sales of tangible personal property purchased by a charitable organization to be awarded as a prize in a raffle conducted in accordance with law if the winner of the tangible personal property will be subject to sales or use taxes upon receiving the property.

47. Gross receipts from the sale of lottery tickets under chapter 53-12.1.

48. Gross receipts from all sales of tangible personal property purchased by a commerce authority and made a part of the infrastructure of a commerce authority, otherwise taxable under this chapter, if the personal property is placed within the geographic boundaries of the political subdivisions that created the commerce authority and is necessary and directly services infrastructure needs of the commerce authority. The commissioner shall issue a certificate of exemption to a political subdivision exempted by this subsection, and the political subdivision shall present the certificate of exemption to each retailer whenever the exemption is claimed.

49. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas.

50. Gross receipts from the sale at retail of hydrogen to power an internal combustion engine or fuel cell and equipment used directly and exclusively in production and storage of the hydrogen by a hydrogen generation facility in this state. For purposes of this subsection, "storage" means stationary and portable hydrogen containers or pressure vessels, piping, tubing, fittings, gaskets, controls, valves, gauges, pressure regulators, safety relief devices, and other accessories intended for hydrogen storage containers or pressure vessels.

51. Gross receipts from the sale of equipment to a facility, licensed under section 57-43.2-05, to enable the facility to sell diesel fuel containing at least two percent biodiesel or green diesel fuel as defined under section 57-43.2-01 by volume.

52. Gross receipts from sales within the boundaries of any reservation in this state to an individual who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe.

53. Gross receipts from sales of natural gas or sales of fuels used for heating purposes.

54. Gross receipts from the sale of items delivered electronically, including specified digital products. For purposes of this subsection:

    a. "Specified digital products" means:

        (1) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

        (2) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and

        (3) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.

    b. For purposes of the definition of "specified digital products", "transferred electronically" means obtained by the purchaser by means other than tangible storage media.

    c. For purposes of the definition of "digital audio work", "ringtones" means digitized sound files that are downloaded onto a device and which may be used to alert the customer with respect to a communication.

    d. "Specified digital products" may not be construed to include prewritten computer software as that term is defined in subdivision g of subsection 1 of section 57-39.2-02.1.

55. Gross receipts from memberships, admissions, and entrance fees to activities and events organized and operated by nonprofit social and recreation clubs organized under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] and operated solely by nonsalaried officers and staff.

56. Gross receipts from the sale of any potash or byproducts taxable under chapter 57-65.

57. Gross receipts from coin-operated amusement or entertainment machines.

58. **(Contingent effective date - See note)** Gross receipts from sales of liquefied natural gas used for agricultural, industrial, or railroad purposes as defined in section 57-43.2-01.

~~**(Effective after June 30, 2015) Exemptions.** There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:~~

~~1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of North Dakota.~~

~~2. Gross receipts from the sales, furnishing, or service of passenger transportation service and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier.~~

~~3. Repealed by S.L. 1971, ch. 567, § 1.~~

~~4. a. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs.~~

~~b. Gross receipts from educational, religious, or charitable activities when the entire amount of net receipts is expended for educational, religious, or charitable purposes. The exemption specified in this subsection does not apply to:~~

~~(1) Gross receipts from taxable sales in excess of ten thousand dollars per event if the activities are held in a publicly owned facility; or~~

(2) Gross receipts from activities if the seller competes with retailers by maintaining inventory, conducting retail sales on a regular basis from a permanent or seasonal location, or soliciting sales from a website prepared for or maintained by the seller.

c. Gross receipts derived by any public school district if such receipts are expended in accordance with section 15.1-07-10 or 15.1-07-11.

d. Gross receipts of a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.

5. Gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private nonprofit elementary school, secondary school, or any other nonprofit institution of higher learning conducting courses of study similar to those conducted by public schools in this state.

6. Gross receipts from all sales otherwise taxable under this chapter made to the United States, an Indian tribe, or to any state, including the state of North Dakota, or any of the subdivisions, departments, agencies, or institutions of any state. A political subdivision of another state is exempt under this subsection only if a sale to a North Dakota political subdivision is treated as an exempt sale in that state. The governmental units exempted by this subsection must be issued a certificate of exemption by the commissioner and the certificate must be presented to each retailer whenever this exemption is claimed. For purposes of this subsection, an Indian tribe means a tribal government agency, instrumentality, or political subdivision that performs essential government functions and does not include business entities or agencies the primary purpose of which is to operate a business enterprise.

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10. Gross receipts from the sale of motor vehicles, farm machinery, alcoholic beverages, gasoline, insurance premiums, gaming tickets, or any other article or product, except as otherwise provided, upon which the state of North Dakota imposes a special tax.

11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, milk, meat, fibers, or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur-bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a feed ration, and other generally recognized animal feeds. The term "feed" includes drugs used as part of a feed ration, medicants, disinfectants, wormers, tonics, and like items.

12. Gross receipts from a sale otherwise taxable under this chapter made to a person from an adjoining state which does not impose or levy a retail sales tax, under the following conditions:

a. The person is in the state of North Dakota for the express purpose of making a purchase.

b. The person furnishes to the North Dakota retailer a certificate signed by the person in a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless the certificate is furnished it must be presumed, until the contrary is shown, that the person was not in the state of North Dakota for the express purpose of making a purchase.

c. The sale is fifty dollars or more.

13. Gross receipts from the sale of any motor vehicle taxable under the provisions of the motor vehicle excise tax laws of North Dakota. However, gross receipts from the rental of any motor vehicle for fewer than thirty days are not exempt but taxes imposed under home rule authority do not apply to such rentals.

14. Repealed by S.L. 1969, ch. 528, § 24.

15. Gross receipts from sales in which a contractor furnishes to the retailer a certificate which includes the contractor's license number assigned to the contractor under the provisions of chapter 43-07. Such certificate shall be in the form prescribed by the commissioner and shall be furnished by the contractor to the retailer each calendar year prior to the making of any purchases during such calendar year from the retailer without liability for paying the tax to the retailer. Any contractor furnishing such certificate must report and remit the tax to the commissioner on purchases taxable under this chapter made by the contractor in the same manner as retailers remit such tax under this chapter.

16. Gross receipts from the sale of newsprint and ink used in the publication of a newspaper.

17. Gross receipts from the sale of all services furnished by any hospital, infirmary, sanatorium, nursing home, basic care facility, or similar institution to any patient or occupant.

18. Repealed by S.L. 1973, ch. 480, § 6.

19. Repealed by S.L. 1971, ch. 555, § 3.

20. Gross receipts from the sale of food supplies to any public school, to any parochial or private nonprofit school conducting courses of study similar to those conducted by public schools in this state, or to any nonprofit organization, for use by the public, parochial, or private school or nonprofit organization in sponsoring or conducting a lunch program or programs in and for any such public, parochial, or private nonprofit school.

21. Gross receipts from the leasing or renting of motion picture film to motion picture exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film is subject to the sales tax imposed by this chapter.

22. Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or tourist court accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days.

23. Food purchased by a student under a boarding contract with a college, university, fraternity, or sorority.

24. Gross receipts from all sales when made to an eligible facility or emergency medical services provider for the use or benefit of its patient or occupant. For the purposes of this subsection:

a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care facility, or basic care facility licensed by the state department of health, or any assisted living facility licensed by the department of human services; and

b. "Emergency medical services provider" means an emergency medical services operation licensed by the state department of health under chapter 23-27.

25. Gross receipts from the sale of Bibles, hymnals, textbooks, and prayerbooks sold to nonprofit religious organizations.

26. Gross receipts from sales of prosthetic devices, durable medical equipment, mobility enhancing equipment, or supplies for ostomy care or bladder dysfunction. For purposes of this subsection:

a. "Durable medical equipment" means equipment, not including mobility enhancing equipment, for home use, including repair and replacement parts for such equipment, which:

(1) Can withstand repeated use;

(2) Is primarily and customarily used to serve a medical purpose;

(3) Generally is not useful to a person in the absence of illness or injury; and

(4) Is not worn in or on the body.

"Durable medical equipment" includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction. An exemption certificate is not required to obtain exemption. Repair and replacement parts as used in this definition include all components or attachments used in conjunction with the durable medical equipment. Repair and replacement parts do not include items which are for single patient use only.

b. "Mobility enhancing equipment" means equipment, not including durable medical equipment sold under a doctor's written prescription, including repair and replacement parts for mobility enhancing equipment, which:

(1) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle;

(2) Is not generally used by persons with normal mobility; and

(3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Mobility enhancing equipment" includes crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.

c. "Prosthetic device" means a replacement, corrective, or supportive device sold under a doctor's written prescription, including repair and replacement parts for such a device, worn on or in the body to:

(1) Artificially replace a missing portion of the body;

(2) Prevent or correct a physical deformity or malfunction; or

(3) Support a weak or deformed portion of the body.

"Prosthetic device" includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure, including the extremities of the individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.

d. "Supplies for ostomy care or bladder dysfunction" includes:

(1) Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.

(2) Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.

27. Gross receipts from the sale of electricity.

28. Gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable.

29. Gross receipts from all sales otherwise taxable under this chapter when made to any nonprofit organization for meals, including the containers, packages, and materials used for wrapping food items, for delivery to persons who are confined to their homes by illness or incapacity, including senior citizens and disabled persons, for consumption by such shut-ins in their homes.

30. Gross receipts from all sales of recreational travel trailers not exceeding eight feet [2.44 meters] in width or thirty-two feet [9.75 meters] in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of such recreational travel trailers.

31. Gross receipts from the sale of money, including all legal tender coins and currency, and from the sale of precious metal bullion that has been refined to a purity of not less than nine hundred ninety-nine parts per one thousand and is in such form or condition that its value depends upon its precious metal content and not its form.

32. Gross receipts from sales to nonprofit voluntary health associations which are exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a voluntary health association is an organization recognized by the internal revenue service, the national health council, the state tax commissioner, and the North Dakota secretary of state as a nonprofit organization that is exempt under section 501(c)(3) of the United States Internal Revenue Code and meets the following requirements: It has been organized and operated exclusively in providing services for the purposes of preventing and alleviating human illness and injury. Methods used to obtain these goals would include education, research, community service, and direct patient services, income being derived solely from private donations with some exceptions of a minimal membership fee. Its members are not limited to only individuals, who themselves are licensed or otherwise legally authorized to render the same professional services as the organization. The disbursement of funds within a volunteer health association is to be controlled by a board of directors who work voluntarily and without pay.

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~~35. Gross receipts from the sale of a manufactured home that has been sold, bargained, exchanged, given away, or transferred by the person who first acquired it from a retailer in a sale at retail and upon which the North Dakota sales tax has previously been imposed.~~

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~~38. Gross receipts from all sales of air carrier transportation property subject to ad valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-08, 57-13, and 57-32.~~

~~39. Gross receipts from sales of tangible personal property consisting of flight simulators or mechanical or electronic equipment for use in association with a flight simulator.~~

~~40. Gross receipts from sales of tickets or admissions to, or sales made at, an annual church supper or bazaar held in a publicly owned facility. For purposes of this subsection, "annual" means occurring not more than once in any calendar year.~~

~~41. Gross receipts from the initial sale of beneficiated coal taxed under chapter 57-60.~~

~~42. Gross receipts from electronic gaming devices licensed by the attorney general under chapter 53-06.1.~~

~~43. Gross receipts from all sales made to a nonprofit medical research institute. For purposes of this subsection, "nonprofit medical research institute" means an institute that is a member of the association of independent research institutes, which is not a private foundation, and which is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3).~~

~~44. Gross receipts from all sales of coal that is exempt from the coal severance tax.~~

~~45. Gross receipts from the sale or lease of farm machinery, farm machinery repair parts, irrigation equipment, or irrigation equipment repair parts used exclusively for agricultural purposes.~~

~~46. Gross receipts from sales of tangible personal property purchased by a charitable organization to be awarded as a prize in a raffle conducted in accordance with law if the winner of the tangible personal property will be subject to sales or use taxes upon receiving the property.~~

~~47. Gross receipts from the sale of lottery tickets under chapter 53-12.1.~~

~~48. Gross receipts from all sales of tangible personal property purchased by a commerce authority and made a part of the infrastructure of a commerce authority, otherwise taxable under this chapter, if the personal property is placed within the geographic boundaries of the political subdivisions that created the commerce authority and is necessary and directly services infrastructure needs of the commerce authority. The commissioner shall issue a certificate of exemption to a political subdivision exempted by this subsection, and the political subdivision shall present the certificate of exemption to each retailer whenever the exemption is claimed.~~

~~49. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas.~~

~~50. Gross receipts from the sale at retail of hydrogen to power an internal combustion engine or fuel cell and equipment used directly and exclusively in production and storage of the~~

~~hydrogen by a hydrogen generation facility in this state. For purposes of this subsection, "storage" means stationary and portable hydrogen containers or pressure vessels, piping, tubing, fittings, gaskets, controls, valves, gauges, pressure regulators, safety relief devices, and other accessories intended for hydrogen storage containers or pressure vessels.~~

~~51. Gross receipts from the sale of equipment to a facility, licensed under section 57-43.2-05, to enable the facility to sell diesel fuel containing at least two percent biodiesel or green diesel fuel as defined under section 57-43.2-01 by volume.~~

~~52. Gross receipts from sales within the boundaries of any reservation in this state to an individual who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe.~~

~~53. Gross receipts from sales of natural gas or sales of fuels used for heating purposes.~~

~~54. Gross receipts from the sale of items delivered electronically, including specified digital products. For purposes of this subsection:~~

~~a. "Specified digital products" means:~~

~~(1) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;~~

~~(2) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and~~

~~(3) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.~~

~~b. For purposes of the definition of "specified digital products", "transferred electronically" means obtained by the purchaser by means other than tangible storage media.~~

~~c. For purposes of the definition of "digital audio work", "ringtones" means digitized sound files that are downloaded onto a device and which may be used to alert the customer with respect to a communication.~~

~~d. "Specified digital products" may not be construed to include prewritten computer software as that term is defined in subdivision g of subsection 1 of section 57-39.2-02.1.~~

~~55. Gross receipts from memberships, admissions, and entrance fees to activities and events organized and operated by nonprofit social and recreation clubs organized under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] and operated solely by nonsalaried officers and staff.~~

~~56. Gross receipts from the sale of any potash or byproducts taxable under chapter 57-65.~~

~~57. Gross receipts from coin-operated amusement or entertainment machines.~~

~~58. **(Contingent effective date - See note)** Gross receipts from sales of liquefied natural gas used for agricultural, industrial, or railroad purposes as defined in section 57-43.2-01.~~

SECTION 2. 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, 2017)~~ 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:

   (1) An electrical generating plant, and all additions to the plant, which processes or converts coal in its natural form or beneficiated coal 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, 2017, 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 in its natural form or beneficiated coal into electrical power.

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

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.

4. To receive the exemption at the time of purchase, the operator must receive from the commissioner a certificate that the tangible personal property or production equipment the

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

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

~~(Effective after June 30, 2017) 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:~~

~~(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, 2017, 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.~~

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

~~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.~~

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

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

SECTION 3. AMENDMENT. Section 57-40.2-04.2 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-04.2. ~~(Effective through June 30, 2015)~~ Use 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:

   (1) An electrical generating plant, and all additions to the plant, which processes or converts coal in its natural form or beneficiated coal 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, 2015, 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 in its natural form or beneficiated coal into electric power.

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

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.

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

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

~~(Effective after June 30, 2015) Use 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:~~

~~(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, 2015, 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.~~

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

~~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.~~

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

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

SECTION 4. AMENDMENT. Section 57-60-02 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02. Imposition of taxes.

There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from such facility for the preceding month and is in the amount of four and one-tenth percent of such gross receipts. For purposes of this subsection, "gross receipts" of a coal gasification plant do not include any amount that is received by the operator of the plant for production of synthetic natural gas in excess of one hundred ten million cubic feet per day. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.

2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.

4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.

5. a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.

   b. The board of county commissioners may, by resolution, grant to the operator of a coal conversion facility, other than an electrical generating plant, located within the county a partial or complete exemption from the remaining fifteen percent of tax imposed by this section for a period not exceeding five years from the date of the first taxable production from the facility. Notwithstanding the provisions of section 57-60-14, any tax collected which is based upon the production of a facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.

6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant <u>or produced for use within a coal conversion facility</u> is exempt from such tax.

SECTION 5. AMENDMENT. Section 57-61-01.4 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01.4. ~~(Effective through June 30, 2015)~~ Severance and sales and use tax exemptions for coal used in certain plants.

No state severance tax may be imposed on coal used in, or coal used to produce steam that is used in, agricultural commodity processing facilities as defined in subsection 4 of section 57-39.2-04.4 located within North Dakota or adjacent states or any facility owned by the state or a political subdivision of the state. No state severance tax may be imposed on coal purchased for improvement through the process of coal beneficiation defined in ~~subsection 2 of~~ section 57-60-01 which is subsequently used in, or used to produce steam that is used in, agricultural commodity processing facilities located within North Dakota or adjacent states or any facility owned by the state or a political subdivision of the state. The coal mine owner or operator shall require the person purchasing the coal to certify that amount of coal purchased for use in agricultural commodity processing facilities or for beneficiation and subsequent use in agricultural commodity processing facilities or any facility owned by the state or a political subdivision of the state or to produce steam that is used in any of those facilities.

~~**(Effective after June 30, 2015) Severance and sales and use tax exemptions for coal used in certain plants.** No state severance tax may be imposed on coal used in agricultural processing or sugar beet refining plants located within North Dakota or adjacent states. The coal mine owner or operator shall require the person purchasing the coal to certify that amount of coal purchased for agricultural processing or sugar beet refining purposes. Coal exempted from the severance tax by this section is not subject to sales and use taxes.~~

SECTION 6. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2015.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2036.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 84	Nays 1	Absent 9

Secretary of the Senate

Received by the Governor at 8:45 A M. on March 12, 2015.

Approved at 1:04 P M. on March 12, 2015.

Governor

Filed in this office this 12th day of March, 2015,

at 4:25 o'clock P M.

Secretary of State