

Sixty-second  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2336

Introduced by

Senators Wardner, Miller, O'Connell

Representatives Belter, Headland, S. Meyer

1 A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota  
2 Century Code, relating to a sales tax exemption for machinery or equipment used to produce  
3 coal from a new mine located in this state; and to provide an effective date.

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

5 **SECTION 1.** A new section to chapter 57-39.2 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Sales tax exemption for machinery or equipment used to produce coal from a new**  
8 **mine.**

9 1. Gross receipts from sales of machinery or equipment used to produce coal from a new  
10 mine located in this state are exempt from the tax imposed by this chapter. The  
11 exemption for each new mine under this section is limited to the first ~~two~~five million  
12 dollars of sales and use tax ~~liability exempted~~paid.

13 2. Purchase of replacement machinery or equipment and purchase of repair or  
14 replacement parts for existing machinery or equipment are not exempt under this  
15 section.

16 3. ~~To qualify for the exemption at the time of purchase, the mine operator must receive~~  
17 ~~from the tax commissioner a certificate stating that the machinery or equipment~~  
18 ~~qualifies for the exemption. If a certificate is not received before the purchase, the~~  
19 ~~mine operator must pay the tax and apply to the tax commissioner for a refund.~~

20 ~~4. If the machinery or equipment is purchased or installed by a contractor subject to the~~  
21 ~~tax under this chapter, the~~The mine operator ~~must~~shall apply to the ~~tax~~ commissioner  
22 for a refund of sales and use taxes paid for which the exemption is claimed under this  
23 section. A refund claim may not exceed the limitation in subsection 1. Application for

1 the refund must be made at the time and in the manner directed by the commissioner  
2 and must include sufficient information to verify the correctness of the refund claim.

3 5.4. 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, conveyor  
7 equipment, reclamation equipment, and equipment to pulverize coal but does not  
8 include rail spurs, office buildings, workshops, or any component not used  
9 directly to uncover, sever, crush, handle, or transport coal removed from the  
10 earth.

11 b. "New mine" means a mine ~~permitted under chapter 38-14.1 by the public service~~  
12 ~~commission after December 31, 2010~~ that was not producing coal as of  
13 December 31, 2010, and for which an application for a mine permit under chapter  
14 38-14.1 was submitted to the public service commission before July 1, 2011. New  
15 mine does not include an expansion of an existing mine that requires a separate  
16 permit from the public service commission under chapter 38-14.1.

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

21 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
22 June 30, 2011.