

Sixty-first  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senator Christmann

1 A BILL for an Act to amend and reenact subdivision b of subsection 2 of section 57-62-02 of the  
2 North Dakota Century Code, relating to coal development fund allocations between  
3 coal-producing and non-coal-producing counties; and to provide an appropriation.

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

5 **SECTION 1. AMENDMENT.** Subdivision b of subsection 2 of section 57-62-02 of the  
6 North Dakota Century Code is amended and reenacted as follows:

- 7           b. If the tipple of a currently active coal mining operation in a county is within  
8           fifteen miles [24.14 kilometers] of another county in which no coal is mined,  
9           the revenue from the production not exceeding the production limitation in a  
10          calendar year which is apportioned from that coal mining operation according  
11          to this subsection must be allocated, subject to the definitions of terms and  
12          the requirements in paragraph 4, as provided in this subdivision. For  
13          purposes of this subdivision, the production limitation is three million eight  
14          hundred thousand tons [3447302.02 metric tons] through calendar year 1995,  
15          three million six hundred thousand tons [3265865.07 metric tons] in calendar  
16          years 1996 and 1997, and three million four hundred thousand tons  
17          [3084428.12 metric tons] in calendar years after 1997. Revenue from  
18          production exceeding the production limitation in a calendar year from that  
19          coal mining operation must be allocated only within the coal-producing county  
20          under subdivision a. Allocations under this subdivision must be made as  
21          follows:
- 22               (1) Thirty percent must be paid by the state treasurer to the incorporated  
23               cities of the coal-producing county and to any city of a  
24               non-coal-producing county when any portion of the city lies within

1                   fifteen miles [24.14 kilometers] of the tipple of the currently active coal  
2                   mining operation in the coal-producing county, based upon the  
3                   population of each incorporated city according to the last official regular  
4                   or special federal census or the census taken in accordance with the  
5                   provisions of chapter 40-02 in case of a city incorporated subsequent to  
6                   such census.

7                   (2)   Forty percent must be divided by the state treasurer between the  
8                   general fund of the coal-producing county and the general fund of any  
9                   non-coal-producing county when any portion of the latter county lies  
10                  within fifteen miles [24.14 kilometers] of the tipple of the currently active  
11                  coal mining operation in the coal-producing county. The  
12                  non-coal-producing county portion must be based upon the ratio which  
13                  the assessed valuation of all quarter sections of land in that county, any  
14                  portion of which lies within fifteen miles [24.14 kilometers] of the tipple  
15                  of the currently active coal mining operation, bears to the combined  
16                  assessed valuations of all land in the coal-producing county and the  
17                  quarter sections of land in the non-coal-producing county within fifteen  
18                  miles [24.14 kilometers] of the tipple of the currently active coal mining  
19                  operation. The county director of tax equalization of the coal-producing  
20                  county shall certify to the state treasurer the number of quarter sections  
21                  of land in the non-coal-producing counties which lie at least in part  
22                  within fifteen miles [24.14 kilometers] of the tipple of the currently active  
23                  coal mining operation and their assessed valuations.

24                  (3)   Thirty percent must be apportioned by the state treasurer to school  
25                  districts within the coal-producing county and to school districts in  
26                  adjoining non-coal-producing counties when a portion of those school  
27                  districts' land includes any of the quarter sections of land certified by  
28                  the director of tax equalization to the state treasurer to be eligible to  
29                  share county funds as provided for in paragraph 2. The county  
30                  superintendent of the non-coal-producing counties shall certify to the  
31                  state treasurer the number of students actually residing on these

1 quarter sections lying outside the coal-producing county and each  
2 school district in non-coal-producing counties shall receive a portion of  
3 the money under this paragraph based upon the ratio of the number of  
4 children residing on quarter sections of that school district within the  
5 fifteen-mile [24.14-kilometer] radius of the tipple of a currently active  
6 coal mining operation to the total number of schoolchildren from the  
7 coal-producing county combined with all the schoolchildren certified to  
8 be living on quarter sections within fifteen miles [24.14 kilometers] of  
9 the tipple of the currently active coal mining operation in the  
10 coal-producing county.

11 (4) For the purposes of this subsection:

- 12 (a) The terms "currently active coal mining operation in a county",  
13 "currently active coal mining operation in the coal-producing  
14 county", and "currently active coal mining operation" mean a coal  
15 mining operation that produced more than one hundred fifty  
16 thousand tons [136077.71 metric tons] of coal in a coal-producing  
17 county during the prior quarterly period.
- 18 (b) The term "coal-producing county" means a county in which more  
19 than one hundred fifty thousand tons [136077.71 metric tons] of  
20 coal were mined in the prior quarterly period.
- 21 (c) The term "another county in which no coal is mined" means a  
22 county in which not more than seventy-five thousand tons  
23 [68038.86 metric tons] of coal were mined in the prior quarterly  
24 period.
- 25 (d) The terms "non-coal-producing county" and "non-coal-producing  
26 counties" mean any county in which not more than seventy-five  
27 thousand tons [68038.86 metric tons] of coal were mined in the  
28 prior quarterly period.
- 29 (e) In computing each amount to be paid as provided in paragraph 1,  
30 2, or 3 for coal severance tax revenue from coal mined during a  
31 monthly period, the state treasurer shall deduct from the

1 allocation the amount of coal severance tax revenue, if any, that  
2 the governmental body in the non-coal-producing county received  
3 from the coal mined in the non-coal-producing county during the  
4 same monthly period.

5 (5) The tax commissioner shall allocate funds provided by legislative  
6 appropriation to cities, the county general fund, and school districts  
7 within a coal-producing county having a population of fewer than three  
8 thousand, according to the allocation method provided in subdivision a  
9 in an amount to offset the loss of that county's share of coal severance  
10 tax revenue allocated to a non-coal-producing county under this  
11 subdivision in the previous calendar year. The tax commissioner shall  
12 make the allocation, within the limits of legislative appropriations, under  
13 this paragraph at the time and in the manner funds are distributed  
14 under this section by the state treasurer. The tax commissioner shall  
15 include in each biennial budget request the amounts estimated to be  
16 necessary for the biennium for purposes of this paragraph, based on  
17 the allocations under this subdivision in the most recent calendar years.

18 **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the  
19 general fund in the state treasury, not otherwise appropriated, the sum of \$452,585, or so much  
20 of the sum as may be necessary, to the tax commissioner for allocation, in equal amounts in  
21 each year of the biennium, to cities, the county general fund, and school districts within a  
22 coal-producing county having a population of fewer than three thousand according to the  
23 allocation method provided in subdivision a of subsection 2 of section 57-62-02 if some of that  
24 county's share of coal severance tax revenue is allocated to a non-coal-producing county under  
25 subdivision b of subsection 2 of section 57-62-02. This appropriation is available for the  
26 biennium beginning July 1, 2009, and ending June 30, 2011.