

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2301

Introduced by

Senators Christmann, Dotzenrod, Wardner

Representatives Berg, Kreidt, Wald

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 according to the allocation method
8 provided in subdivision a in an amount to offset the loss of that county's
9 share of coal severance tax revenue allocated to a non-coal-producing
10 county under this subdivision in the previous calendar year. The tax
11 commissioner shall make the allocation, within the limits of legislative
12 appropriations, under this paragraph at the time and in the manner
13 funds are distributed under this section by the state treasurer. The tax
14 commissioner shall include in each biennial budget request the
15 amounts estimated to be necessary for the biennium for purposes of
16 this paragraph, based on the allocations under this subdivision in the
17 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 according to the allocation method provided in subdivision a of
23 subsection 2 of section 57-62-02 if some of that county's share of coal severance tax revenue is
24 allocated to a non-coal-producing county under subdivision b of subsection 2 of section
25 57-62-02. This appropriation is available for the biennium beginning July 1, 2009, and ending
26 June 30, 2011.