

(Prepare in triplicate)

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(AMENDED)
FISCAL NOTE

Prepared in regard to:

(List bill or resolution and number, if available, or subject)

Amendment to: Senate Bill 2500

(List bill or resolution and number)

Requested by: Legislative Council Date of receipt: 3-9 1977

In the following space note the fiscal effect in dollars of the legislative proposal. If additional space is needed, attach a supplementary sheet. (Please type)

	Coal Severance Tax 77-79 Biennium (Continuation of Present Law)	Coal Severance Tax 77-79 Biennium SB 2500 (As Amended)	Net Effect
State General Fund	\$ 4,800,000 (30%)	\$ 5,800,000 (30%)	+\$1,000,000
Counties	800,000 (5%)	3,900,000 (20%)	+3,100,000
Trust Fund	4,800,000 (30%)	2,900,000 (15%)	-1,900,000
Impact	5,600,000 (25%)	6,800,000 (35%)	+1,200,000
	<u>\$16,000,000 (100%)</u>	<u>\$19,400,000 (100%)</u>	<u>+\$3,400,000</u>

Date of preparation: 3-10-77

Signed



Typed Name C. William Cudworth

Department Tax

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2500

On page 1, line 1, delete everything after the words "A BILL", delete the remainder of the bill and insert in lieu thereof the following: "for an Act to provide for a severance tax upon all coal mined; to provide procedures for the imposition, collection, and administration of such tax; to provide for the allocation of moneys collected; to provide an impact program for impacted school districts, cities, counties, and other taxing districts; to provide for the establishment of a coal impact office in the office of the governor; to provide for impact loans to be administered by the board of university and school lands; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. SEVERANCE TAX UPON COAL - IMPOSITION - COMPUTATION OF INCREASES - IN LIEU OF SALES AND USE TAXES - PAYMENT TO THE TAX COMMISSIONER.) There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax in an amount to be determined as follows:

1. Sixty-five cents per ton of two thousand pounds; and
2. For every three points increase in the index of wholesale prices for all commodities prepared by the United States department of labor, bureau of labor statistics, the amount of the severance tax provided in subsection 1 shall be increased one cent per ton of two thousand pounds. For the purposes of this computation, a fractional point increase shall be disregarded if less than one-half point and treated as one full point if one-half point or more. The

state tax commissioner shall determine such increases based upon increases in the wholesale price index from the level of such index as of ~~January 1975~~ ^{June 1977} to the level of such index as of the last month of the quarter immediately preceding the quarter for which any taxes are due. At no time shall the amount of the severance tax be reduced. If the wholesale price index declines, the severance tax shall remain at the highest level determined prior to such decline, and shall remain at such level until further increases are warranted because of further increases in the wholesale price index beyond the point at which the last increase was determined.

Such severance tax shall be in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit such tax for each calendar quarter, within thirty days after the end of each quarter, to the state tax commissioner upon such reports and forms as the tax commissioner shall deem necessary. If the method of determining increases in the amount of the severance tax provided in subsection 2 is for any reason held to be invalid, such decision shall not affect the validity of the amount of the tax provided in subsection 1.

SECTION 2. WHEN TAX DUE - WHEN DELINQUENT.) The severance tax as provided in this chapter shall be due within thirty days after the end of each quarter, and if not received by the thirtieth day, shall become delinquent and shall be collected as herein provided. The tax commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax, and when such a request is granted, the tax shall not be delinquent until the extended period has expired. The tax commissioner shall require a report to be filed quarterly by each owner or operator of a coal mine, in such

form as the tax commissioner may specify, to list a full description of the mine, the number of tons of coal severed, the amount of tax due and remitted, and any other information deemed necessary by the tax commissioner for the proper administration of this chapter.

SECTION 3. POWERS OF STATE TAX COMMISSIONER.) The state tax commissioner shall have the power to require any person engaged in such production, and the agent or employee of such person, or purchaser of such coal, or the owner of any royalty interest therein, to furnish any additional information by him deemed to be necessary for the purpose of correctly computing the amount of said tax, and to examine the books, records, and files of such person, and shall have power to conduct hearings and compel the attendance of witnesses, the production of books, records, and papers of any person, and full authority to make any investigation or hold any inquest deemed necessary to a full and complete disclosure of the true facts as to the amount of production from any coal mine or of any company or other producer thereof, and as to the rendition thereof for taxing purposes.

SECTION 4. TAX COMMISSIONER TO COMPUTE TAX ON INCORRECT RETURNS.) The state tax commissioner shall have the power and authority to ascertain and determine whether or not any report or remittances filed with him are correct, and if the owner or operator has made an untrue or incorrect report or remittance, the commissioner shall ascertain the correct amount of taxes due, and give immediate notice to the owner or operator filing the incorrect return or remittance. Any coal mine operator or owner receiving notice from the tax commissioner that he has filed an incorrect return or remittance shall remit the tax assessed by the commissioner within fifteen days of such notice. Any owner or operator aggrieved by a decision of the tax commissioner may make application in writing within fifteen days of notification for a hearing which shall be granted not later than fifteen days after receipt of the

application. The tax commissioner may grant or reject, in whole or in part, the contentions of the owner or operator and upon conclusion of the hearing shall proceed to make a final determination of taxes due. Such taxes assessed by the commissioner shall become delinquent five days after the conclusion of the hearing, except in such cases where an owner or operator shall appeal such assessment to the district court of Burleigh County, in which case they shall become delinquent five days following final judicial determination.

SECTION 5. PENALTY ON DELINQUENCY - FAILURE TO FILE REPORTS.) Where the severance tax provided for in this chapter shall become delinquent, it shall, as a penalty for such delinquency, bear interest at the rate of eight percent per annum. If the quarterly report is not filed within thirty days after the end of any quarter and taxes due paid, the tax commissioner shall notify the delinquent owner or operator of such delinquency, and if such report and remittance are not filed within an additional fifteen days, the tax commissioner shall notify the public service commission, which shall forthwith suspend such owner's or operator's license or permit until such time as payment is received, or the issues settled to the satisfaction of the tax commissioner.

SECTION 6. LIEN FOR TAX.) The severance tax herein referred to shall, at all times, be and constitute a first and paramount lien against the producer's property as the case may be, both real and personal. In all cases where such tax is not paid, it may be recovered in a civil action by the state tax commissioner, brought in the name of the state, in any court of competent jurisdiction of the county where any such property, assets, and effects are located.

SECTION 7. APPEAL FROM DECISION OF TAX COMMISSIONER.) Any person aggrieved because of any action or decision of the tax commissioner under the provisions of sections 1 through 8 of this Act may appeal to the district court of Burleigh County.

SECTION 8. RULES AND REGULATIONS - BOND.) The tax commissioner is hereby authorized and empowered to prescribe and promulgate all necessary rules and regulations for the purpose of making and filing of all reports required hereunder and otherwise necessary to the enforcement of sections 1 through 8 of this Act, and may, at his option and discretion, require a sufficient bond from any coal mine operator or owner charged with the making and filing of reports and the payment of the taxes herein imposed, and said bond shall run to the state of North Dakota and shall be conditioned upon the making and filing of reports as required by law or regulation, and for the prompt payment, by the principal therein, of all taxes justly due the state by virtue of the provisions of sections 1 through 8 of this Act.

SECTION 9. PENALTY.) Any person intentionally violating any of the provisions of sections 1 through 8 of this Act is guilty of a class A misdemeanor.

SECTION 10. COAL DEVELOPMENT FUND ESTABLISHED.) Moneys collected by the state tax commissioner pursuant to the provisions of sections 1 through 9 of this Act shall be paid to the state treasurer and shall be credited to a special fund in the state treasury, to be known as the coal development fund. The moneys accumulated in such fund shall be allocated as provided by law and as appropriated by the legislative assembly.

SECTION 11. DEFINITIONS.) As used in sections 11 through 15 of this Act, unless the context or subject matter otherwise requires:_____

1. "Coal development" means the mining of coal and industries directly related to the processing of coal, including, but not limited to: the generation of electricity from coal or coal products, coal gasification, coal liquefaction, and the manufacture of fertilizer from coal.

2. "Impacted city" means a city which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
3. "Impacted county" means a county which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
4. "Impacted school district" means a public school district which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
5. "Impacted taxing district" means a taxing district as defined in subsection 6 of this section which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
6. "Taxing district" means any political subdivision, other than those included in subsections 2 through 4 of this section, empowered by law to levy taxes.

SECTION 12. ALLOCATION OF MONEYS IN COAL DEVELOPMENT FUND.) Moneys deposited in the coal development fund shall be apportioned quarterly by the state treasurer as follows:

1. Thirty-five percent shall be credited to a special fund in the state treasury for distribution through grants by the coal development impact office to impacted cities, counties, school districts, and other taxing districts, subject to appropriation by the legislative assembly.
2. Fifteen percent shall be credited to a special fund in the state treasury to be held in trust to be administered by the board of university and school lands for loans to impacted counties, cities, school districts, and other taxing districts as provided in section 13 of this Act. The board of university and

school lands shall have full authority to invest such funds as are not loaned as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from such trust shall be deposited in the state's general fund. Loan principal payments shall be redeposited in the trust fund. Such trust fund shall be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter.

3. Twenty percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons of coal severed in each county bears to the total number of tons of coal severed in the state during such quarterly period. Such allocations shall be apportioned as follows:
 - a. Thirty percent shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census;
 - b. Forty percent shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes; and
 - c. Thirty percent shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.
4. The balance shall be deposited in the state's general fund.

SECTION 13. LOANS - TERMS AND CONDITIONS - REPAYMENT.)

The board of university and school lands is authorized to make loans to impacted taxing districts from moneys deposited in the trust fund established by subsection 2 of section 12 of this Act. Loans may be made for any purpose for which a grant may be made pursuant to this chapter, but before making any loan the board of university and school lands shall receive the recommendation of the coal development impact office. The board of university and school lands shall prescribe the terms and conditions of such loans within the provisions of this chapter and shall require a warrant executed by the governing body of the taxing district as evidence of such loan. The warrants shall bear interest at a rate not to exceed six percent. The warrants shall be payable only from the allocations of moneys from the coal development fund to the borrowing taxing district and shall not constitute a general obligation of the taxing district nor shall such loans be considered as indebtedness of the taxing district. The terms of the loan shall provide that not less than ten percent of each allocation made to the borrowing taxing district pursuant to this chapter shall be withheld by the state treasurer to repay the principal of the warrants and the interest thereon. The amount withheld by the state treasurer as payment of interest shall be deposited in the general fund and the amount withheld by the state treasurer as payment of principal shall be remitted to the board of university and school lands and deposited by the board in the trust fund provided for in subsection 2 of section 12 of this Act. The warrants executed by the taxing district shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state of North Dakota or by any political subdivision thereof.

The board of university and school lands is authorized to sell such warrants to other parties and the proceeds of such sale which constitute principal shall be deposited in the

trust fund and that which constitutes interest in the general fund. If the future allocations of moneys to the borrowing taxing district should, for any reason, permanently cease, the loan shall be canceled except that if the taxing district is merged with another taxing district which receives an allocation of moneys from the coal development fund, the surviving taxing district shall be obligated to repay the loan from such allocation. If the loan is canceled due to the permanent cessation of allocations of moneys to the taxing district pursuant to this chapter, the board of university and school lands shall cancel those warrants it holds from such taxing district and shall pay from any moneys in the trust fund provided for in subsection 2 of section 12 of this Act the principal and interest, as it becomes due, on those warrants of the taxing district which are held by another party.

SECTION 14. COAL DEVELOPMENT IMPACT OFFICE - APPOINTMENT OF DIRECTOR.) There is hereby created in the office of the governor a coal development impact office. The director shall be appointed by and shall serve at the pleasure of the governor. The salary of the director shall be set by the governor within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose.

SECTION 15. POWERS AND DUTIES OF COAL DEVELOPMENT IMPACT OFFICE.) The coal development impact office shall:

1. Develop a plan for the assistance, through financial grants for services and facilities, of counties, cities, school districts, and other political subdivisions in a coal development impact area.
2. Advise, study, recommend, and report to the governor and the legislative assembly on the impact to the state and the political subdivisions of the state resulting from coal development.

3. Establish procedures and provide proper forms to political subdivisions for use in making application for funds for impact assistance as provided in this chapter.
4. Make grants to counties, cities, school districts, and other taxing districts as provided in this chapter and within the appropriations made for such purposes. In determining the amount of impact grants for which political subdivisions are eligible, the amount of revenue to which such political subdivisions will be entitled from taxes upon the real property of coal development plants and from other tax or fund distribution formulas provided by law shall be considered."

And renumber the lines, sections, and pages accordingly