

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2317

Introduced by

Senator Bell

Representative Porter

1 A BILL for an Act to create and enact chapter 15-72 of the North Dakota Century Code, relating
2 to the establishment of a coal mine reclamation trust utilizing private assets; to provide a
3 continuing appropriation; and to provide for a transfer.

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

5 **SECTION 1.** Chapter 15-72 of the North Dakota Century Code is created and enacted as
6 follows:

7 **15-72-01. Trust establishment.**

8 The coal mine reclamation trust is established to reclaim coal mines at the direction of the
9 public service commission by utilizing private assets pledged as collateral which may be used to
10 fulfill the performance bond obligations under section 38-14.1-16 and North Dakota
11 Administrative Code chapter 69-05.2-12. The coal mine reclamation trust may be used to fulfill
12 the requirement of a qualified third party and the requirements of a collateral bond.

13 **15-72-02. Powers and duties of the board - Transfer.**

14 The board of university and school lands shall set up a coal mine reclamation trust. The
15 coal mine reclamation trust may receive and accept assets as directed by the public service
16 commission which are held in the public service commission's custody under North Dakota
17 Administrative Code section 69-05.2-12-04 as collateral in a security agreement with any
18 person as defined in section 38-14.1-02. The commissioner of university and school lands shall
19 consult with the public service commission in carrying out the powers and duties of
20 administering the coal mine reclamation trust. Any expenses incurred by the board of university
21 and school lands or the public service commission under this section must be reimbursed by
22 the permit applicant or qualified third party.

15-72-03. Assets and custody.

1. Any person proposing to pledge assets to the public service commission's custody under North Dakota Administrative Code chapter 69-05.2-12 shall certify to the public service commission:

~~1.~~ a. The trust will have first priority security interest in the pledged assets in accordance with North Dakota Administrative Code chapter 69-05.2-12.

~~2.~~ b. The person has authority to place the assets in custody under all applicable federal and state law.

c. All other requirements of North Dakota Administrative Code chapter 69-05.2-12 have been satisfied.

2. Real property posted as a collateral bond by the person must:

a. Grant the regulatory authority a first mortgage, first deed of trust, or perfected first-lien security interest in the real property with a right to sell or dispose of the real property in the event of forfeiture; and

b. Include a schedule, submitted by the applicant, of the real property mortgaged or pledged to secure the obligations under the indemnity agreement. The schedule of the real property must allow the regulatory authority to evaluate the adequacy of the real property offered to satisfy collateral requirements. The schedule must include:

(1) A description of the property;

(2) The fair market value of the property, as determined by an independent appraisal conducted by a certified appraiser; and

(3) Proof of possession and title to the real property.

15-72-04. Trust management.

The board of university and school lands must be reimbursed from trust proceeds for all reasonable costs and expenses incurred in the management of trust assets and the investment of trust proceeds. Reimbursements to the board must be deposited in the trust fund account from which the expenses were incurred. The net income derived from the assets held in trust must be used for trust purposes. Any assets placed in the trust may be sold, leased, invested, managed, or otherwise disposed of by the board to fulfill the reclamation activities and obligations related to the performance bond. If any of the trust assets include real property, net

1 income from the trust assets must be used in part to pay to the county where the real property
2 is located the same amount that would have been assessed against the real property for real
3 property taxes if the real property was privately owned. The board may maintain separate
4 accounts in the trust if necessary. The board shall manage all assets in the trust in the same
5 manner that the board manages the board's other trust assets or as otherwise may be required
6 to satisfy the purposes of this chapter.

7 **15-72-05. Continuing appropriation for trust management.**

8 There is appropriated annually the amounts necessary to pay expenses for assets held in
9 trust under this chapter and managed by the board of university and school lands, including
10 expenses for survey costs, surface lease refunds, weed and insect control, cleanup costs,
11 capital improvement rent credits, in lieu of tax payments, or other expenses necessary to
12 manage, preserve, and enhance the value of trust assets, as determined by the board.
13 Payments under this section must be made from the trust fund account for which the asset is
14 held. Upon completion of all reclamation activities and obligations, all remaining assets held by
15 the coal mine reclamation trust must be transferred to the common schools trust fund.