

LETTER OPINION
93-L-34

February 10, 1993

Senator Dan Wogsland
Majority Leader
Senate Chamber
North Dakota Legislative Assembly
Bismarck, ND 58505

Dear Senator Wogsland:

Thank you for your February 5, 1993, letter requesting an opinion as to whether it is a violation of North Dakota Constitution Article X, Section 21, for the Legislature to provide that moneys in the permanent trust fund created by that section (the "Fund") may be used to make loans to school districts for school construction projects regardless of whether the school districts have been "coal impacted."

North Dakota Constitution Article X, Section 21 provides, in relevant part:

Not less than fifteen percent of the tax imposed for severing coal shall be placed into a permanent trust fund in the state treasury to be held in trust and administered by the board of university and school lands, which shall have full authority to invest said trust funds as provided by law, and may loan moneys from the fund to political subdivisions as provided by law. The interest earned on the moneys in said trust fund shall be used first to replace uncollectible loans made from the fund, ~~and the balance shall be credited to the general fund of the state. . . .~~

N.D. Const. art. X, ? 21 (emphasis added). Thus, the Board of University and School Lands (the "Board") may loan moneys from the Fund to political subdivisions as the Legislature provides. The Legislature has designated the Fund as the "coal development trust fund" and has authorized the Board to use moneys in the Fund to make "loans to coal impacted counties, cities, and school districts as provided in section 57-62-03." N.D.C.C. ? 57-62-02. The statute, and not

Senator Dan Wogsland
February 10, 1993
Page 2

the constitution, currently limits the making of loans from the Fund to coal impacted political subdivisions.

The constitution simply and clearly authorizes the Legislature to determine the purposes for which loans may be made to political subdivisions from the Fund and does not limit the making of loans from the Fund to only coal impacted political subdivisions. "Where constitutional . . . provisions are clear and unambiguous, it is improper for the courts to attempt to construe the provisions so as to legislate additional requirements or proscriptions which the words of the provisions do not themselves provide." Haggard v. Meier, 368 N.W.2d 539, 541 (N.D. 1985).

Therefore, it is my opinion that it is not a violation of Article X, Section 21 of the North Dakota Constitution for the Legislature to provide that loans may be made from the permanent trust fund created by that section to school districts for school construction projects regardless of whether the school districts have been coal impacted.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

las\jfl