

**FIRST ENGROSSMENT
with House Amendments**

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2178

Introduced by

Senators Bowman, Lyson, O'Connell

Representatives S. Meyer, Skarphol

1 A BILL for an Act to amend and reenact subsections 2 and 3 of section 57-51-15 of the North
2 Dakota Century Code, relating to apportionment of oil and gas gross production tax revenues;
3 to repeal section 57-51.1-07.2 of the North Dakota Century Code, relating to the permanent oil
4 tax trust fund; to provide for application; to provide an effective date; and to provide an
5 expiration date.

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

7 **SECTION 1. AMENDMENT.** Subsections 2 and 3 of section 57-51-15 of the North
8 Dakota Century Code, as effective after June 30, 2007, are amended and reenacted as follows:

9 2. The first one million dollars of annual revenue after the deduction of the amount
10 provided for in subsection 1 from oil or gas produced in any county must be
11 allocated seventy-five percent to that county and twenty-five percent to the state
12 general fund. The second one million dollars of annual revenue after the
13 deduction of the amount provided for in subsection 1 from oil or gas produced in
14 any county must be allocated fifty percent to that county and fifty percent to the
15 state general fund. All annual revenue after the deduction of the amount provided
16 for in subsection 1 above two million dollars from oil or gas produced in any county
17 must be allocated twenty-five percent to that county and seventy-five percent to
18 the state general fund. However, the amount to which each county is entitled
19 pursuant to this subsection must be limited based upon the population of the
20 county according to the last official decennial federal census as follows:

21 a. Counties having a population of three thousand or less shall receive no more
22 than three million nine hundred thousand dollars for each fiscal year;
23 however, a county may receive up to four million nine hundred thousand
24 dollars under this subdivision for each fiscal year if during that fiscal year the

1 county levies a total of at least ten mills for combined levies for county road
2 and bridge, farm-to-market and federal-aid road, and county road purposes.
3 Any amount received by a county exceeding three million nine hundred
4 thousand dollars under this subdivision is not subject to allocation under
5 subsection 3 but must be credited by the county treasurer to the county
6 general fund.

7 b. Counties having a population of over three thousand but less than six
8 thousand shall receive no more than four million one hundred thousand
9 dollars for each fiscal year; however, a county may receive up to five million
10 one hundred thousand dollars under this subdivision for each fiscal year if
11 during that fiscal year the county levies a total of at least ten mills for
12 combined levies for county road and bridge, farm-to-market and federal-aid
13 road, and county road purposes. Any amount received by a county
14 exceeding four million one hundred thousand dollars under this subdivision is
15 not subject to allocation under subsection 3 but must be credited by the
16 county treasurer to the county general fund.

17 c. Counties having a population of six thousand or more shall receive no more
18 than four million six hundred thousand dollars for each fiscal year; however, a
19 county may receive up to five million six hundred thousand dollars under this
20 subdivision for each fiscal year if during that fiscal year the county levies a
21 total of ten mills or more for combined levies for county road and bridge,
22 farm-to-market and federal-aid road, and county road purposes. Any amount
23 received by a county exceeding four million six hundred thousand dollars
24 under this subdivision is not subject to allocation under subsection 3 but must
25 be credited by the county treasurer to the county general fund.

26 Any allocations for any county pursuant to this subsection which exceed the
27 applicable limitation for that county as provided in subdivisions a through c must be
28 deposited instead in the state's general fund.

29 3. Forty-five percent of all revenues as may by the legislative assembly be allocated
30 to any county hereunder must be credited by the county treasurer to the county
31 general fund. Thirty-five percent of all revenues allocated to any county must be

1 apportioned by the county treasurer no less than quarterly to school districts within
2 the county on the average daily attendance distribution basis, as certified to the
3 county treasurer by the county superintendent of schools. However, no school
4 district may receive in any single academic year an amount under this subsection
5 greater than the county average per student cost multiplied by seventy percent,
6 then multiplied by the number of students in average daily attendance or the
7 number of children of school age in the school census for the county, whichever is
8 greater. Provided, however, that in any county in which the average daily
9 attendance or the school census, whichever is greater, is fewer than four hundred,
10 the county is entitled to one hundred twenty percent of the county average per
11 student cost multiplied by the number of students in average daily attendance or
12 the number of children of school age in the school census for the county,
13 whichever is greater. Once this level has been reached through distributions
14 under this subsection, all excess funds to which the school district would be
15 entitled as part of its thirty-five percent share must be deposited instead in the
16 county general fund. The county superintendent of schools of each oil-producing
17 county shall certify to the county treasurer by July first of each year the amount to
18 which each school district is limited pursuant to this subsection. As used in this
19 subsection, "average daily attendance" means the average daily attendance for
20 the school year immediately preceding the certification by the county
21 superintendent of schools required by this subsection. Twenty percent of all
22 revenues allocated to any county hereunder must be paid no less than quarterly by
23 the state treasurer to the incorporated cities of the county based upon the
24 population of each incorporated city according to the last official decennial federal
25 census. ~~However, no city may receive in any fiscal year an amount under this~~
26 ~~subsection greater than five hundred dollars per capita.~~ Once this level has been
27 reached through distributions under this subsection, all excess funds to which any
28 city would be entitled except for this limitation must be deposited instead in that
29 county's general fund. Provided, however, that in determining the population of
30 any city in which total employment increases by more than two hundred percent
31 seasonally due to tourism, the population of that city for purposes of determining

1 the per capita limitation in this section must be increased by adding to the
2 population of the city as determined by the last official decennial federal census a
3 number to be determined as follows:

- 4 a. Seasonal employees of state and federal tourist facilities within five miles
5 [8.05 kilometers] of the city must be included by adding the months all such
6 employees were employed during the prior year and dividing by twelve.
- 7 b. Seasonal employees of all private tourist facilities within the city and seasonal
8 employees employed by the city must be included by adding the months all
9 such employees were employed during the prior year and dividing by twelve.
- 10 c. The number of visitors to the tourist attraction within the city or within five
11 miles [8.05 kilometers] of the city which draws the largest number of visitors
12 annually must be included by taking the smaller of either of the following:
- 13 (1) The total number of visitors to that tourist attraction the prior year
14 divided by three hundred sixty-five; or
- 15 (2) Four hundred twenty.

16 **SECTION 2. REPEAL.** Section 57-51.1-07.2 of the North Dakota Century Code is
17 repealed.

18 **SECTION 3. APPLICATION.** Notwithstanding the provisions of section 57-51.1-07.2,
19 the director of the budget may not consider the enactment of this Act to be an amendment of
20 the distribution formula under chapter 57-51 and the director of the budget may not adjust the
21 seventy-one million dollar amount under section 57-51.1-07.2 due to enactment of this Act.

22 **SECTION 4. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for
23 allocations of oil and gas gross production tax revenues occurring after June 30, 2007, and
24 before July 1, 2009, and is thereafter ineffective. Section 2 of this Act becomes effective on the
25 date that the proposed new section to article X of the Constitution of North Dakota as contained
26 in House Concurrent Resolution No. 3045, as agreed to by the sixtieth legislative assembly and
27 approved by the electors, becomes effective.