

Sixty-first  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representative S. Meyer

1 A BILL for an Act to amend and reenact section 57-51-15 of the North Dakota Century Code,  
2 relating to the elimination of the maximum amount counties may receive under the oil and gas  
3 growth production tax; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-51-15 is amended:

6 **57-51-15. (Effective through July 31, 2008) Apportionment and use of proceeds of**

7 **tax.** The gross production tax provided for in this chapter must be apportioned as follows:

- 8 1. First the tax revenue collected under this chapter equal to one percent of the gross  
9 value at the well of the oil and one-fifth of the tax on gas must be deposited with  
10 the state treasurer who shall credit thirty-three and one-third percent of the  
11 revenues to the oil and gas impact grant fund, but not in an amount exceeding six  
12 million dollars per biennium, including any amounts otherwise appropriated for oil  
13 and gas impact grants for the biennium by the legislative assembly, and who shall  
14 credit the remaining revenues to the state general fund.
- 15 2. The first one million dollars of annual revenue after the deduction of the amount  
16 provided for in subsection 1 from oil or gas produced in any county must be  
17 allocated seventy-five percent to that county and twenty-five percent to the state  
18 general fund. The second one million dollars of annual revenue after the deduction  
19 of the amount provided for in subsection 1 from oil or gas produced in any county  
20 must be allocated fifty percent to that county and fifty percent to the state general  
21 fund. All annual revenue after the deduction of the amount provided for in  
22 subsection 1 above two million dollars from oil or gas produced in any county must  
23 be allocated twenty-five percent to that county and seventy-five percent to the state  
24 general fund. However, the amount to which each county is entitled pursuant to

1           this subsection must be limited based upon the population of the county according  
2           to the last official decennial federal census as follows:

3           a.   Counties having a population of three thousand or less shall receive no more  
4           than three million nine hundred thousand dollars for each fiscal year;

5           however, a county may receive up to four million nine hundred thousand  
6           dollars under this subdivision for each fiscal year if during that fiscal year the  
7           county levies a total of at least ten mills for combined levies for county road  
8           and bridge, farm-to-market and federal-aid road, and county road purposes.

9           Any amount received by a county exceeding three million nine hundred  
10          thousand dollars under this subdivision is not subject to allocation under  
11          subsection 3 but must be credited by the county treasurer to the county  
12          general fund.

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

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

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

3. Forty-five percent of all revenues as may by the legislative assembly be allocated to any county hereunder must be credited by the county treasurer to the county general fund. Thirty-five percent of all revenues allocated to any county must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection. Twenty percent of all revenues allocated to any county hereunder must be paid no less than quarterly by the state treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official decennial federal census. Once this level has been reached through distributions under this subsection, all excess funds to which

any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of determining the per capita limitation in this section must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

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

**(Effective after July 31, 2008) Apportionment and use of proceeds of tax.** The gross production tax provided for in this chapter must be apportioned as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall credit thirty-three and one-third percent of the revenues to the oil and gas impact grant fund, but not in an amount exceeding six million dollars per biennium, including any amounts otherwise appropriated for oil and gas impact grants for the biennium by the legislative assembly, and who shall credit the remaining revenues to the state general fund.
2. The first one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county must be allocated to that county. The second one million dollars of annual revenue after

the deduction for the amount provided for in subsection 1 from oil and gas produced in any county must be allocated seventy-five percent to that county and twenty-five percent to the state general fund. The third one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county must be allocated fifty percent to that county and fifty percent to the state general fund. All annual revenue after the deduction of the amount provided for in subsection 1 above three million dollars from oil or gas produced in any county must be allocated twenty-five percent to that county and seventy-five percent to the state general fund. However, the amount to which each county is entitled pursuant to this subsection must be limited based upon the population of the county according to the last official decennial federal census as follows:

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

1 to allocation under subsection 3 but must be credited by the county treasurer  
2 to the county general fund.

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

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

- 15 3. Forty-five percent of all revenues as may by the legislative assembly be allocated  
16 to any county hereunder must be credited by the county treasurer to the county  
17 general fund. Thirty-five percent of all revenues allocated to any county must be  
18 apportioned by the county treasurer no less than quarterly to school districts within  
19 the county on the average daily attendance distribution basis, as certified to the  
20 county treasurer by the county superintendent of schools. However, no school  
21 district may receive in any single academic year an amount under this subsection  
22 greater than the county average per student cost multiplied by seventy percent,  
23 then multiplied by the number of students in average daily attendance or the  
24 number of children of school age in the school census for the county, whichever is  
25 greater. Provided, however, that in any county in which the average daily  
26 attendance or the school census, whichever is greater, is fewer than four hundred,  
27 the county is entitled to one hundred twenty percent of the county average per  
28 student cost multiplied by the number of students in average daily attendance or  
29 the number of children of school age in the school census for the county,  
30 whichever is greater. Once this level has been reached through distributions under  
31 this subsection, all excess funds to which the school district would be entitled as

1 part of its thirty-five percent share must be deposited instead in the county general  
2 fund. The county superintendent of schools of each oil-producing county shall  
3 certify to the county treasurer by July first of each year the amount to which each  
4 school district is limited pursuant to this subsection. As used in this subsection,  
5 "average daily attendance" means the average daily attendance for the school year  
6 immediately preceding the certification by the county superintendent of schools  
7 required by this subsection. Twenty percent of all revenues allocated to any  
8 county hereunder must be paid no less than quarterly by the state treasurer to the  
9 incorporated cities of the county based upon the population of each incorporated  
10 city according to the last official decennial federal census. Once this level has  
11 been reached through distributions under this subsection, all excess funds to which  
12 any city would be entitled except for this limitation must be deposited instead in  
13 that county's general fund. Provided, however, that in determining the population  
14 of any city in which total employment increases by more than two hundred percent  
15 seasonally due to tourism, the population of that city for purposes of determining  
16 the per capita limitation in this section must be increased by adding to the  
17 population of the city as determined by the last official decennial federal census a  
18 number to be determined as follows:

- 19 a. Seasonal employees of state and federal tourist facilities within five miles  
20 [8.05 kilometers] of the city must be included by adding the months all such  
21 employees were employed during the prior year and dividing by twelve.
- 22 b. Seasonal employees of all private tourist facilities within the city and seasonal  
23 employees employed by the city must be included by adding the months all  
24 such employees were employed during the prior year and dividing by twelve.
- 25 c. The number of visitors to the tourist attraction within the city or within five  
26 miles [8.05 kilometers] of the city which draws the largest number of visitors  
27 annually must be included by taking the smaller of either of the following:
  - 28 (1) The total number of visitors to that tourist attraction the prior year  
29 divided by three hundred sixty-five; or
  - 30 (2) Four hundred twenty.

1           **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
2   June 30, 2009.