

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2129**

Introduced by

Senators Bowman, Lyson, Wardner, Warner

Representatives S. Meyer, Sukut

1 A BILL for an Act to amend and reenact sections 57-51-15 and 57-51.1-07 of the North Dakota
2 Century Code, relating to legacy fund deposits of oil and gas tax collections and holding political
3 subdivisions harmless against related allocation reductions; 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 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-51-15. Apportionment and use of proceeds of Gross production tax allocation.**

8 The gross production tax ~~provided for in this chapter~~ must be ~~apportioned~~allocated monthly
9 as follows:

10 1. First the tax revenue collected under this chapter equal to one percent of the gross
11 value at the well of the oil and one-fifth of the tax on gas must be deposited with the
12 state treasurer who shall:

13 a. ~~Credit thirty-three and one-third percent of the revenues to the oil and gas impact~~
14 ~~grant fund, but not in an amount exceeding eight million dollars per biennium;~~

15 b. Allocate five hundred thousand dollars per fiscal year to each city in an
16 oil-producing county which has a population of seven thousand five hundred or
17 more and more than two percent of its private covered employment engaged in
18 the mining industry, according to data compiled by job service North Dakota. The
19 allocation under this subdivision must be doubled if the city has more than seven
20 and one-half percent of its private covered employment engaged in the mining
21 industry, according to data compiled by job service North Dakota; ~~and~~

22 b. Allocate thirty-three and one-third percent of the revenues to the oil and gas
23 impact grant fund, but not in an amount exceeding eight million dollars per
24 biennium; and

1 c. ~~Credit~~Allocate the remaining revenues to the state general fund under
2 subsection 3.

3 2. After deduction of the amount provided in subsection 1, annual revenue collected
4 under this chapter from oil and gas produced in each county must be allocated as
5 follows:

6 a. The first two million dollars ~~must be~~is allocated to the county.

7 b. ~~The~~Of the next one million dollars ~~must be allocated,~~ seventy-five percent is
8 allocated to the county and ~~twenty-five percent to the state general fund.~~

9 c. ~~The~~Of the next one million dollars ~~must be allocated,~~ fifty percent is allocated to
10 the county and ~~fifty percent to the state general fund.~~

11 d. ~~The~~Of the next fourteen million dollars ~~must be allocated,~~ twenty-five percent is
12 allocated to the county and ~~seventy-five percent to the state general fund.~~

13 e. ~~All~~Of all annual revenue remaining after the allocation in subdivision d ~~must be~~
14 ~~allocated~~exceeding eighteen million dollars, ten percent is allocated to the county
15 and ~~ninety percent to the state general fund.~~

16 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first
17 to provide for deposit of thirty percent of all revenue collected under this chapter in the
18 legacy fund as provided in section 26 of article X of the Constitution of North Dakota
19 and the remainder must be deposited in the state general fund. If the amount available
20 for a monthly allocation under this subsection is insufficient to deposit thirty percent of
21 all revenue collected under this chapter in the legacy fund, the state treasurer shall
22 transfer the amount of the shortfall from the state general fund share of oil extraction
23 tax collections and deposit that amount in the legacy fund.

24 ~~3.4.~~ The amount to which each county is entitled under subsection 2 must be allocated
25 within the county so the first five million three hundred fifty thousand dollars is
26 allocated under subsection ~~45~~ for each fiscal year and any amount received by a
27 county exceeding five million three hundred fifty thousand dollars is credited by the
28 county treasurer to the county infrastructure fund and allocated under subsection ~~56~~.

29 ~~4.5.~~ a. Forty-five percent of all revenues allocated to any county for allocation under this
30 subsection must be credited by the county treasurer to the county general fund.
31 However, the allocation to a county under this subdivision must be credited to the

1 state general fund if during that fiscal year the county does not levy a total of at
2 least ten mills for combined levies for county road and bridge, farm-to-market and
3 federal-aid road, and county road purposes.

- 4 b. Thirty-five percent of all revenues allocated to any county for allocation under this
5 subsection must be apportioned by the county treasurer no less than quarterly to
6 school districts within the county on the average daily attendance distribution
7 basis, as certified to the county treasurer by the county superintendent of
8 schools. However, no school district may receive in any single academic year an
9 amount under this subsection greater than the county average per student cost
10 multiplied by seventy percent, then multiplied by the number of students in
11 average daily attendance or the number of children of school age in the school
12 census for the county, whichever is greater. Provided, however, that in any county
13 in which the average daily attendance or the school census, whichever is greater,
14 is fewer than four hundred, the county is entitled to one hundred twenty percent
15 of the county average per student cost multiplied by the number of students in
16 average daily attendance or the number of children of school age in the school
17 census for the county, whichever is greater. Once this level has been reached
18 through distributions under this subsection, all excess funds to which the school
19 district would be entitled as part of its thirty-five percent share must be deposited
20 instead in the county general fund. The county superintendent of schools of each
21 oil-producing county shall certify to the county treasurer by July first of each year
22 the amount to which each school district is limited pursuant to this subsection. As
23 used in this subsection, "average daily attendance" means the average daily
24 attendance for the school year immediately preceding the certification by the
25 county superintendent of schools required by this subsection.

26 The countywide allocation to school districts under this subdivision is subject
27 to the following:

- 28 (1) The first three hundred fifty thousand dollars is apportioned entirely among
29 school districts in the county.

- (2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.
 - (3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.
 - (4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.
 - (5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:
 - (a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.
 - (b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.
 - (c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.
- c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. A city may not receive an allocation for a fiscal year under this subsection and subsection 56 which totals more than seven hundred fifty dollars per capita. 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. 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 this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under

subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

- 5-6. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsections 34 and 45 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy 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.
- b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsections 34 and 45 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads or other infrastructure needs in those townships. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.
- c. Twenty percent of all revenues allocated to any county infrastructure fund under subsections 34 and 45 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated

city according to the last official decennial federal census. A city may not receive an allocation for a fiscal year under this subsection and subsection 45 which totals more than seven hundred fifty dollars per capita. Once this per capita limitation has been reached, all excess funds to which a city would otherwise be entitled must be deposited instead in that county's general fund. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

6.7. Within ~~sixty~~thirty days after the end of each ~~fiscal~~calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the ~~fiscal~~calendar year with the tax commissioner, in a format prescribed by the tax commissioner, ~~showing~~including:

- a. ~~The amount received by the county in its own behalf, the amount of those funds expended for each purpose to which funds were devoted, and the share of county property tax revenue expended for each of those purposes, and the amount of those funds unexpended at the end of the fiscal year~~The county's statement of revenues and expenditures; and
- b. The amount available in the county infrastructure fund for allocation to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

Within ~~sixty~~fifteen days after the time when reports under this subsection were due, the tax commissioner shall provide ~~a report~~the reports to the legislative council compiling the information from reports received under this subsection.

1 ~~In developing the format for reports under this subsection, the tax commissioner-~~
2 ~~shall consult the energy development impact office and at least two county auditors-~~
3 ~~from oil-producing counties.~~

4 **SECTION 2. AMENDMENT.** Section 57-51.1-07 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **57-51.1-07. Allocation of moneys in oil extraction tax development fund.**

7 Moneys deposited in the oil extraction tax development fund must be transferred monthly by
8 the state treasurer as follows:

9 1. Twenty percent must be allocated and credited to the sinking fund established for
10 payment of the state of North Dakota water development bonds, southwest pipeline
11 series, and any moneys in excess of the sum necessary to maintain the accounts
12 within the sinking fund and for the payment of principal and interest on the bonds must
13 be credited to a special trust fund, to be known as the resources trust fund. The
14 resources trust fund must be established in the state treasury and the funds therein
15 must be deposited and invested as are other state funds to earn the maximum amount
16 permitted by law which income must be deposited in the resources trust fund. The
17 principal and income of the resources trust fund may be expended only pursuant to
18 legislative appropriation and are available to:

19 a. The state water commission for planning for and construction of water-related
20 projects, including rural water systems. These water-related projects must be
21 those which the state water commission has the authority to undertake and
22 construct pursuant to chapter 61-02; and
23 b. The industrial commission for the funding of programs for development of energy
24 conservation and renewable energy sources; for studies for development of
25 cogeneration systems that increase the capacity of a system to produce more
26 than one kind of energy from the same fuel; for studies for development of waste
27 products utilization; and for the making of grants and loans in connection
28 therewith.

29 2. Twenty percent must be allocated to the common schools trust fund and foundation
30 aid stabilization fund as provided in section 24 of article X of the Constitution of North
31 Dakota.

1 3. ~~Sixty~~Thirty percent must be allocated to the legacy fund as provided in section 26 of
2 article X of the Constitution of North Dakota.

3 4. Thirty percent must be allocated and credited to the state's general fund ~~for general-~~
4 ~~state purposes.~~

5 **SECTION 3. EFFECTIVE DATE.** This Act is effective for oil and gas produced after
6 June 30, 2011.