

Sixty-second  
Legislative Assembly  
of North Dakota

**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 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 tax.**

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

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

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

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

21 c. Credit the remaining revenues to the state general fund.

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

- 1           a.    The first two million dollars ~~must be~~ is allocated to the county.
- 2           b.    ~~The~~Of the next one million dollars ~~must be allocated,~~ seventy-five percent is
- 3               allocated to the county and ~~twenty-five percent to the state general fund.~~
- 4           c.    ~~The~~Of the next one million dollars ~~must be allocated,~~ fifty percent is allocated to
- 5               the county and ~~fifty percent to the state general fund.~~
- 6           d.    ~~The~~Of the next fourteen million dollars ~~must be allocated,~~ twenty-five percent is
- 7               allocated to the county and ~~seventy-five percent to the state general fund.~~
- 8           e.    ~~All~~Of all annual revenue remaining after the allocation in subdivision d ~~must be~~
- 9               ~~allocated~~exceeding eighteen million dollars, ten percent is allocated to the county
- 10              and ~~ninety percent to the state general fund.~~
- 11           f.    After deduction of the amount allocated to counties under this subsection, the
- 12               amount remaining is allocated first to provide for deposit of thirty percent of all
- 13               revenue collected under this chapter in the legacy fund as provided in section 26
- 14               of article X of the Constitution of North Dakota and the remainder must be
- 15               deposited in the state general fund.
- 16        3.    The amount to which each county is entitled under subsection 2 must be allocated
- 17              within the county so the first five million three hundred fifty thousand dollars is
- 18              allocated under subsection 4 for each fiscal year and any amount received by a county
- 19              exceeding five million three hundred fifty thousand dollars is credited by the county
- 20              treasurer to the county infrastructure fund and allocated under subsection 5.
- 21        4.    a.    Forty-five percent of all revenues allocated to any county for allocation under this
- 22               subsection must be credited by the county treasurer to the county general fund.
- 23               However, the allocation to a county under this subdivision must be credited to the
- 24               state general fund if during that fiscal year the county does not levy a total of at
- 25               least ten mills for combined levies for county road and bridge, farm-to-market and
- 26               federal-aid road, and county road purposes.
- 27           b.    Thirty-five percent of all revenues allocated to any county for allocation under this
- 28               subsection must be apportioned by the county treasurer no less than quarterly to
- 29               school districts within the county on the average daily attendance distribution
- 30               basis, as certified to the county treasurer by the county superintendent of
- 31               schools. However, no school district may receive in any single academic year an

1 amount under this subsection greater than the county average per student cost  
2 multiplied by seventy percent, then multiplied by the number of students in  
3 average daily attendance or the number of children of school age in the school  
4 census for the county, whichever is greater. Provided, however, that in any county  
5 in which the average daily attendance or the school census, whichever is greater,  
6 is fewer than four hundred, the county is entitled to one hundred twenty percent  
7 of the county average per student cost multiplied by the number of students in  
8 average daily attendance or the number of children of school age in the school  
9 census for the county, whichever is greater. Once this level has been reached  
10 through distributions under this subsection, all excess funds to which the school  
11 district would be entitled as part of its thirty-five percent share must be deposited  
12 instead in the county general fund. The county superintendent of schools of each  
13 oil-producing county shall certify to the county treasurer by July first of each year  
14 the amount to which each school district is limited pursuant to this subsection. As  
15 used in this subsection, "average daily attendance" means the average daily  
16 attendance for the school year immediately preceding the certification by the  
17 county superintendent of schools required by this subsection.

18 The countywide allocation to school districts under this subdivision is subject  
19 to the following:

- 20 (1) The first three hundred fifty thousand dollars is apportioned entirely among  
21 school districts in the county.
- 22 (2) The next three hundred fifty thousand dollars is apportioned seventy-five  
23 percent among school districts in the county and twenty-five percent to the  
24 county infrastructure fund.
- 25 (3) The next two hundred sixty-two thousand five hundred dollars is  
26 apportioned two-thirds among school districts in the county and one-third to  
27 the county infrastructure fund.
- 28 (4) The next one hundred seventy-five thousand dollars is apportioned fifty  
29 percent among school districts in the county and fifty percent to the county  
30 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 5 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. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsections 3 and 4 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

1                   levy a total of at least ten mills for combined levies for county road and bridge,  
2                   farm-to-market and federal-aid road, and county road purposes.

3                   b.   Thirty-five percent of all revenues allocated to the county infrastructure fund  
4                   under subsections 3 and 4 must be allocated by the board of county  
5                   commissioners to or for the benefit of townships in the county on the basis of  
6                   applications by townships for funding to offset oil and gas development impact to  
7                   township roads or other infrastructure needs or applications by school districts for  
8                   repair or replacement of school district vehicles necessitated by damage or  
9                   deterioration attributable to travel on oil and gas development-impacted roads. An  
10                  organized township is not eligible for an allocation of funds under this subdivision  
11                  unless during that fiscal year that township levies at least ten mills for township  
12                  purposes. For unorganized townships within the county, the board of county  
13                  commissioners may expend an appropriate portion of revenues under this  
14                  subdivision to offset oil and gas development impact to township roads or other  
15                  infrastructure needs in those townships. The amount deposited during each  
16                  calendar year in the county infrastructure fund which is designated for allocation  
17                  under this subdivision and which is unexpended and unobligated at the end of  
18                  the calendar year must be transferred by the county treasurer to the county road  
19                  and bridge fund for use on county road and bridge projects.

20                  c.   Twenty percent of all revenues allocated to any county infrastructure fund under  
21                  subsections 3 and 4 must be allocated by the county treasurer no less than  
22                  quarterly to the incorporated cities of the county. Apportionment among cities  
23                  under this subsection must be based upon the population of each incorporated  
24                  city according to the last official decennial federal census. A city may not receive  
25                  an allocation for a fiscal year under this subsection and subsection 4 which totals  
26                  more than seven hundred fifty dollars per capita. Once this per capita limitation  
27                  has been reached, all excess funds to which a city would otherwise be entitled  
28                  must be deposited instead in that county's general fund. If a city receives a direct  
29                  allocation under subsection 1, the allocation to that city under this subsection is  
30                  limited to sixty percent of the amount otherwise determined for that city under this

1 subsection and the amount exceeding this limitation must be reallocated among  
2 the other cities in the county.

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

- 7 a. The amount received by the county in its own behalf, the amount of those funds  
8 expended for each purpose to which funds were devoted, and the share of  
9 county property tax revenue expended for each of those purposes, and the  
10 amount of those funds unexpended at the end of the fiscal year; and  
11 b. The amount available in the county infrastructure fund for allocation to or for the  
12 benefit of townships or school districts, the amount allocated to each organized  
13 township or school district and the amount expended from each such allocation  
14 by that township or school district, the amount expended by the board of county  
15 commissioners on behalf of each unorganized township for which an expenditure  
16 was made, and the amount available for allocation to or for the benefit of  
17 townships or school districts which remained unexpended at the end of the fiscal  
18 year.

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

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

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

27 **57-51.1-07. Allocation of moneys in oil extraction tax development fund.**

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

- 30 1. Twenty percent must be allocated and credited to the sinking fund established for  
31 payment of the state of North Dakota water development bonds, southwest pipeline

series, and any moneys in excess of the sum necessary to maintain the accounts within the sinking fund and for the payment of principal and interest on the bonds must be credited to a special trust fund, to be known as the resources trust fund. The resources trust fund must be established in the state treasury and the funds therein must be deposited and invested as are other state funds to earn the maximum amount permitted by law which income must be deposited in the resources trust fund. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation and are available to:

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

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

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

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

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