

Sixty-second
Legislative Assembly
of North Dakota

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, 57-51.1-07, 57-51.1-07.2, and
2 57-51.1-07.3 of the North Dakota Century Code, relating to legacy fund deposits of oil and gas
3 tax collections and holding political subdivisions harmless against related allocation reductions
4 and oil and gas gross production and oil extraction tax deposits in the permanent oil tax trust
5 fund; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **57-51-15. Apportionment and use of proceeds of tax.**

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

- 11 1. First the tax revenue collected under this chapter equal to one percent of the gross
12 value at the well of the oil and one-fifth of the tax on gas must be deposited with the
13 state treasurer who shall:
- 14 a. Credit thirty-three and one-third percent of the revenues to the oil and gas impact
15 grant fund, but not in an amount exceeding eight million dollars per biennium;
- 16 b. Allocate five hundred thousand dollars per fiscal year to each city in an
17 oil-producing county which has a population of seven thousand five hundred or
18 more and more than two percent of its private covered employment engaged in
19 the mining industry, according to data compiled by job service North Dakota. The
20 allocation under this subdivision must be doubled if the city has more than seven
21 and one-half percent of its private covered employment engaged in the mining
22 industry, according to data compiled by job service North Dakota; and
- 23 c. Credit the remaining revenues to the ~~state general~~permanent oil tax trust fund.

2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
 - a. The first two million dollars ~~must be~~ is allocated to the county.
 - b. ~~The~~ Of the next one million dollars ~~must be allocated,~~ seventy-five percent is allocated to the county and ~~twenty-five percent to the state general fund.~~
 - c. ~~The~~ Of the next one million dollars ~~must be allocated,~~ fifty percent is allocated to the county and ~~fifty percent to the state general fund.~~
 - d. ~~The~~ Of the next fourteen million dollars ~~must be allocated,~~ twenty-five percent is allocated to the county and ~~seventy-five percent to the state general fund.~~
 - e. ~~All~~ Of all annual revenue remaining after the allocation in subdivision d ~~must be allocated~~ exceeding eighteen million dollars, ten percent is allocated to the county and ~~ninety percent to the state general fund.~~
 - f. After deduction of the amount allocated to counties under this subsection, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be deposited in the permanent oil tax trust fund.
3. The amount to which each county is entitled under subsection 2 must be allocated within the county so the first five million three hundred fifty thousand dollars is allocated under subsection 4 for each fiscal year and any amount received by a county exceeding five million three hundred fifty thousand dollars is credited by the county treasurer to the county infrastructure fund and allocated under subsection 5.
4.
 - a. Forty-five percent of all revenues allocated to any county for allocation under this subsection 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~~ permanent oil tax trust 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 any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to

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

21 The countywide allocation to school districts under this subdivision is subject
22 to the following:

- 23 (1) The first three hundred fifty thousand dollars is apportioned entirely among
24 school districts in the county.
- 25 (2) The next three hundred fifty thousand dollars is apportioned seventy-five
26 percent among school districts in the county and twenty-five percent to the
27 county infrastructure fund.
- 28 (3) The next two hundred sixty-two thousand five hundred dollars is
29 apportioned two-thirds among school districts in the county and one-third to
30 the county infrastructure fund.

- 1 (4) The next one hundred seventy-five thousand dollars is apportioned fifty
2 percent among school districts in the county and fifty percent to the county
3 infrastructure fund.
- 4 (5) Any remaining amount is apportioned to the county infrastructure fund
5 except from that remaining amount the following amounts are apportioned
6 among school districts in the county:
- 7 (a) Four hundred ninety thousand dollars, for counties having a
8 population of three thousand or fewer.
- 9 (b) Five hundred sixty thousand dollars, for counties having a population
10 of more than three thousand and fewer than six thousand.
- 11 (c) Seven hundred thirty-five thousand dollars, for counties having a
12 population of six thousand or more.
- 13 c. Twenty percent of all revenues allocated to any county for allocation under this
14 subsection must be apportioned no less than quarterly by the state treasurer to
15 the incorporated cities of the county. Apportionment among cities under this
16 subsection must be based upon the population of each incorporated city
17 according to the last official decennial federal census. A city may not receive an
18 allocation for a fiscal year under this subsection and subsection 5 which totals
19 more than seven hundred fifty dollars per capita. Once this level has been
20 reached through distributions under this subsection, all excess funds to which
21 any city would be entitled except for this limitation must be deposited instead in
22 that county's general fund. In determining the population of any city in which total
23 employment increases by more than two hundred percent seasonally due to
24 tourism, the population of that city for purposes of this subdivision must be
25 increased by eight hundred percent. If a city receives a direct allocation under
26 subsection 1, the allocation to that city under this subsection is limited to sixty
27 percent of the amount otherwise determined for that city under this subsection
28 and the amount exceeding this limitation must be reallocated among the other
29 cities in the county.
- 30 5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under
31 subsections 3 and 4 must be credited by the county treasurer to the county

1 general fund. However, the allocation to a county under this subdivision must be
2 credited to the ~~state general~~permanent oil tax trust fund if during that fiscal year
3 the county does not levy a total of at least ten mills for combined levies for county
4 road and bridge, farm-to-market and federal-aid road, and county road purposes.

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

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

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

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

8 a. The amount received by the county in its own behalf, the amount of those funds
9 expended for each purpose to which funds were devoted, and the share of
10 county property tax revenue expended for each of those purposes, and the
11 amount of those funds unexpended at the end of the fiscal year; and

12 b. The amount available in the county infrastructure fund for allocation to or for the
13 benefit of townships or school districts, the amount allocated to each organized
14 township or school district and the amount expended from each such allocation
15 by that township or school district, the amount expended by the board of county
16 commissioners on behalf of each unorganized township for which an expenditure
17 was made, and the amount available for allocation to or for the benefit of
18 townships or school districts which remained unexpended at the end of the fiscal
19 year.

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

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

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

28 **57-51.1-07. Allocation of moneys in oil extraction tax development fund.**

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

- 1 1. Twenty percent must be allocated and credited to the sinking fund established for
2 payment of the state of North Dakota water development bonds, southwest pipeline
3 series, and any moneys in excess of the sum necessary to maintain the accounts
4 within the sinking fund and for the payment of principal and interest on the bonds must
5 be credited to a special trust fund, to be known as the resources trust fund. The
6 resources trust fund must be established in the state treasury and the funds therein
7 must be deposited and invested as are other state funds to earn the maximum amount
8 permitted by law which income must be deposited in the resources trust fund. The
9 principal and income of the resources trust fund may be expended only pursuant to
10 legislative appropriation and are available to:
 - 11 a. The state water commission for planning for and construction of water-related
12 projects, including rural water systems. These water-related projects must be
13 those which the state water commission has the authority to undertake and
14 construct pursuant to chapter 61-02; and
 - 15 b. The industrial commission for the funding of programs for development of energy
16 conservation and renewable energy sources; for studies for development of
17 cogeneration systems that increase the capacity of a system to produce more
18 than one kind of energy from the same fuel; for studies for development of waste
19 products utilization; and for the making of grants and loans in connection
20 therewith.
- 21 2. Twenty percent must be allocated to the common schools trust fund and foundation
22 aid stabilization fund as provided in section 24 of article X of the Constitution of North
23 Dakota.
- 24 3. ~~Sixty~~Thirty percent must be allocated to the legacy fund as provided in section 26 of
25 article X of the Constitution of North Dakota.
- 26 4. Thirty percent must be allocated and credited to the ~~state's general~~permanent oil tax
27 trust fund for general state purposes.

28 **SECTION 3. AMENDMENT.** Section 57-51.1-07.2 of the North Dakota Century Code is
29 amended and reenacted as follows:

57-51.1-07.2. Permanent oil tax trust fund - Deposits - Interest - Adjustment of distribution formula.

The state treasurer shall deposit ~~seventy-one million dollars of~~ revenue derived from taxes imposed on oil and gas in the permanent oil tax trust fund as directed under chapters 57-51 and 57-51.1 ~~into the general fund. Revenue exceeding. As funds become available in the permanent oil tax trust fund, the state treasurer shall transfer a total of~~ seventy-one million dollars ~~must be deposited by the state treasurer in each biennium from~~ the permanent oil tax trust fund to the state general fund. Interest earnings of the permanent oil tax trust fund must be credited to the general fund. The principal of the permanent oil tax trust fund may not be expended except upon a two-thirds vote of the members elected to each house of the legislative assembly.

~~If the distribution formulas under chapter 57-51 or 57-51.1 are amended effective after June 30, 1997, the director of the budget shall adjust the seventy-one million dollar amount in this section by the same percentage increase or decrease in the amount of revenue allocable to the general fund after the change in the allocation formula, and transfers to the permanent oil tax trust fund shall thereafter be made using that adjusted figure so that the dollar amount of the transfers to the permanent oil tax trust fund is not increased or decreased merely because of changes in the distribution formulas.~~

SECTION 4. AMENDMENT. Section 57-51.1-07.3 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07.3. Oil and gas research fund - Deposits - Continuing appropriation.

There is established a special fund in the state treasury to be known as the oil and gas research fund. Before depositing oil and gas gross production tax and oil extraction tax revenues ~~in the general fund or the permanent oil tax trust fund~~, two percent of the revenues must be deposited monthly into the oil and gas research fund, up to four million dollars per biennium. All moneys deposited in the oil and gas research fund and interest on all such moneys are appropriated as a continuing appropriation to the oil and gas research council to be used for purposes stated in chapter 54-17.6.

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