90808.0500

THIRD ENGROSSMENT
with House Amendments

Sixty-first
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2229

Introduced by

Senators Stenehjem, O'Connell

Representatives Boucher, Carlson

(At the request of the Governor)

A BILL for an Act to amend and reenact section 57-51-15 of the North Dakota Century Code, relating to apportionment of oil and gas gross production taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-51-15. 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~~ <u>ten</u> 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. <u>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:</u>
    <u>a.</u> 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~~ <u>the</u> county.

    <u>b.</u> The ~~second~~ <u>next</u> 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~~ the county and twenty-five percent to the state general fund.

c. The ~~third~~ next 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~~ the county and fifty percent to the state general fund.

d. 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~~ remaining after the allocation in subdivision c must be allocated twenty-five percent to ~~that~~ the county and seventy-five percent to the state general fund. ~~However, the~~

3. The amount to which each county is entitled ~~pursuant to this~~ under subsection 2 must be ~~limited based upon the population of~~ allocated within 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 allocation under subsection 4 for each fiscal year~~; however, a county may receive up to four million nine hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 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~~ 4 but must be credited by the ~~county~~ state treasurer to the infrastructure fund for 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 allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million one hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 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 to allocation under subsection ~~3~~ 4 but must be credited by the ~~county~~ state treasurer to the infrastructure fund for the county ~~general fund~~.

c. Counties having a population of six thousand or more shall receive ~~no more than~~ four million six hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million six hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies a total of ten mills or more 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 six hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the ~~county~~ state treasurer to the infrastructure fund for 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.~~ 4. a. Forty-five percent of all revenues ~~as may by the legislative assembly be~~ allocated to any county ~~hereunder~~ for allocation under this subsection must be credited by the county treasurer to the county general fund.

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 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.

c. Twenty percent of all revenues allocated to any county ~~hereunder~~ for allocation under this subsection must be ~~paid~~ apportioned 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~~ 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~~ subdivision 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.~~ (1) 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.~~ (2) 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.~~ (3) 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)~~ (a) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or

~~(2)~~ (b) Four hundred twenty.

5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsection 3 must be allocated by the state treasurer to the county for deposit in the county general fund.

b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsection 3 must be allocated by the board of county commissioners to or for the benefit of townships or school districts in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or applications by school districts for school district infrastructure needs that are not ongoing costs of the school district. 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 in those townships. The state treasurer annually shall make payments to townships and school districts, and to the county on behalf of unorganized townships, within the county upon receipt of a schedule of recipients and allocation amounts submitted by the board of county commissioners in a format prescribed by the state treasurer. The amount deposited during each calendar year in the infrastructure fund for the county 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 state treasurer to the county for deposit in the county road and bridge fund for use on county road and bridge projects.

c. Twenty percent of all revenues allocated to the infrastructure fund for the county under subsection 3 must be allocated by the state 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.

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