

**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)

1 A BILL for an Act to amend and reenact sections 57-51-15 and 57-62-06 of the North Dakota  
2 Century Code, relating to allocation of oil and gas gross production taxes; to provide an  
3 appropriation; to provide an effective date; and to declare an emergency.

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.** The gross production tax  
8 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  
11 the state treasurer who shall ~~credit~~:

12 a. Credit thirty-three and one-third percent of the revenues to the oil and gas  
13 impact grant fund, but not in an amount exceeding ~~six~~ eight million dollars per  
14 biennium, ~~including any amounts otherwise appropriated for oil and gas~~  
15 ~~impact grants for the biennium by the legislative assembly, and who shall~~  
16 ~~credit~~;

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

- 1           c. Credit the remaining revenues to the state general fund.
- 2           2. After deduction of the amount provided in subsection 1, annual revenue collected  
3 under this chapter from oil and gas produced in each county must be allocated as  
4 follows:
- 5           a. ~~The first one million dollars of annual revenue after the deduction of the~~  
6 ~~amount provided for in subsection 1 from oil or gas produced in any county~~  
7 ~~must be allocated to that the county.~~
- 8           b. ~~The second next one million dollars of annual revenue after the deduction for~~  
9 ~~the amount provided for in subsection 1 from oil and gas produced in any~~  
10 ~~county must be allocated seventy-five percent to that the county and~~  
11 ~~twenty-five percent to the state general fund.~~
- 12           c. ~~The third next one million dollars of annual revenue after the deduction of the~~  
13 ~~amount provided for in subsection 1 from oil or gas produced in any county~~  
14 ~~must be allocated fifty percent to that the county and fifty percent to the state~~  
15 ~~general fund.~~
- 16           d. ~~All annual revenue after the deduction of the amount provided for in~~  
17 ~~subsection 1 above three million dollars from oil or gas produced in any~~  
18 ~~county remaining after the allocation in subdivision c must be allocated~~  
19 ~~twenty-five percent to that the county and seventy-five percent to the state~~  
20 ~~general fund. However, the~~
- 21           3. The amount to which each county is entitled pursuant to this under subsection 2  
22 must be limited based upon the population of allocated within the county according  
23 to the last official decennial federal census as follows:
- 24           a. ~~Counties having a population of three thousand or less shall receive no more~~  
25 ~~than three million nine hundred thousand dollars for allocation under~~  
26 ~~subsection 4 for each fiscal year; however, a county may receive up to four~~  
27 ~~million nine hundred thousand dollars under this subdivision. A county may~~  
28 ~~receive the full amount to which it is entitled under subsection 2 for each fiscal~~  
29 ~~year if during that fiscal year the county levies a total of at least ten mills for~~  
30 ~~combined levies for county road and bridge, farm-to-market and federal-aid~~  
31 ~~road, and county road purposes. Any amount received by a county~~

1 exceeding three million nine hundred thousand dollars under this subdivision  
2 is not subject to allocation under subsection ~~3~~ 4 but must be credited by the  
3 county treasurer to the county ~~general~~ infrastructure fund.

4 b. Counties having a population of over three thousand but less than six  
5 thousand shall receive ~~no more than~~ four million one hundred thousand  
6 dollars for allocation under subsection 4 for each fiscal year; ~~however, a~~  
7 ~~county may receive up to five million one hundred thousand dollars under this~~  
8 ~~subdivision.~~ A county may receive the full amount to which it is entitled under  
9 subsection 2 for each fiscal year if during that fiscal year the county levies a  
10 total of at least ten mills for combined levies for county road and bridge,  
11 farm-to-market and federal-aid road, and county road purposes. Any amount  
12 received by a county exceeding four million one hundred thousand dollars  
13 under this subdivision is not subject to allocation under subsection ~~3~~ 4 but  
14 must be credited by the county treasurer to the county ~~general~~ infrastructure  
15 fund.

16 c. Counties having a population of six thousand or more shall receive ~~no more~~  
17 ~~than~~ four million six hundred thousand dollars for allocation under  
18 subsection 4 for each fiscal year; ~~however, a county may receive up to five~~  
19 ~~million six hundred thousand dollars under this subdivision.~~ A county may  
20 receive the full amount to which it is entitled under subsection 2 for each fiscal  
21 year if during that fiscal year the county levies a total of ten mills or more for  
22 combined levies for county road and bridge, farm-to-market and federal-aid  
23 road, and county road purposes. Any amount received by a county  
24 exceeding four million six hundred thousand dollars under this subdivision is  
25 not subject to allocation under subsection ~~3~~ 4 but must be credited by the  
26 county treasurer to the county ~~general~~ infrastructure fund.

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



1 population of each incorporated city according to the last official decennial  
2 federal census. ~~Once this level has been reached through distributions under~~  
3 ~~this subsection, all excess funds to which any city would be entitled except for~~  
4 ~~this limitation must be deposited instead in that county's general fund.~~  
5 ~~Provided, however, that in~~ In determining the population of any city that  
6 receives a direct allocation under subsection 1, that city's population for  
7 purposes of this subdivision must be reduced by forty percent. In determining  
8 the population of any city in which total employment increases by more than  
9 two hundred percent seasonally due to tourism, the population of that city for  
10 purposes of determining the per capita limitation in this section subdivision  
11 must be increased by adding to the population of the city as determined by  
12 the last official decennial federal census a number to be determined as  
13 follows:

14 a. (1) Seasonal employees of state and federal tourist facilities within five  
15 miles [8.05 kilometers] of the city must be included by adding the  
16 months all such employees were employed during the prior year and  
17 dividing by twelve.

18 b. (2) Seasonal employees of all private tourist facilities within the city and  
19 seasonal employees employed by the city must be included by adding  
20 the months all such employees were employed during the prior year  
21 and dividing by twelve.

22 e. (3) The number of visitors to the tourist attraction within the city or within  
23 five miles [8.05 kilometers] of the city which draws the largest number  
24 of visitors annually must be included by taking the smaller of either of  
25 the following:

26 (4) (a) The total number of visitors to that tourist attraction the prior year  
27 divided by three hundred sixty-five; or

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

29 5. a. Forty-five percent of all revenues allocated to a county infrastructure fund  
30 under subsection 3 must be credited by the county treasurer to the county  
31 general fund.

- 1           b. Thirty-five percent of all revenues allocated to the county infrastructure fund  
2           under subsection 3 must be allocated by the board of county commissioners  
3           to or for the benefit of townships or school districts in the county on the basis  
4           of applications by townships for funding to offset oil and gas development  
5           impact to township roads or applications by school districts for repair or  
6           replacement of school district vehicles necessitated by damage or  
7           deterioration attributable to travel on oil and gas development-impacted  
8           roads. For unorganized townships within the county, the board of county  
9           commissioners may expend an appropriate portion of revenues under this  
10           subdivision to offset oil and gas development impact to township roads in  
11           those townships. Allocations to organized townships or to school districts  
12           under this subdivision may be made only for reimbursement of qualifying  
13           expenditures previously made by the applicant township or school district.  
14           The amount deposited during each calendar year in the county infrastructure  
15           fund which is designated for allocation under this subdivision and which is  
16           unexpended and unobligated at the end of the calendar year must be  
17           transferred by the county treasurer to the county road and bridge fund for use  
18           on county road and bridge projects.
- 19           c. Twenty percent of all revenues allocated to any county infrastructure fund  
20           under subsection 3 must be allocated by the county treasurer no less than  
21           quarterly to the incorporated cities of the county. Apportionment among cities  
22           under this subsection must be based upon the population of each  
23           incorporated city according to the last official decennial federal census. In  
24           determining the population of any city that receives a direct allocation under  
25           subsection 1, that city's population for purposes of this subdivision must be  
26           reduced by forty percent.

27           **SECTION 2. AMENDMENT.** Section 57-62-06 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29           **57-62-06. Legislative intent and guidelines on impact grants.** The legislative  
30 assembly intends that the moneys appropriated to, and distributed by, the energy development  
31 impact office for grants are to be used by grantees to meet initial impacts affecting basic

1 governmental services, and directly necessitated by coal development and oil and gas  
2 development impact. However, the energy development impact office shall give priority to  
3 projects funded from the proceeds of the oil and gas gross production tax to transportation  
4 infrastructure projects. As used in this section, "basic governmental services" do not include  
5 activities relating to marriage or guidance counseling, services or programs to alleviate other  
6 sociological impacts, or services or facilities to meet secondary impacts. All grant applications  
7 and presentations to the energy development impact office must be made by an appointed or  
8 elected government official.

9         **SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the  
10 permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of  
11 \$5,000,000, or so much of the sum as may be necessary, to the energy development impact  
12 office for the purpose of allocation of oil and gas impact grants among political subdivisions in  
13 addition to the amounts to be allocated as provided by law, for the period beginning with the  
14 effective date of this Act and ending June 30, 2011. The funds provided in this section must be  
15 allocated to provide additional grant funds of \$5,000,000 in the grant round awarded in 2009.

16         **SECTION 4. EFFECTIVE DATE.** Section 1 of this Act is effective for taxable events  
17 occurring after June 30, 2009.

18         **SECTION 5. EMERGENCY.** Section 3 of this Act is declared to be an emergency  
19 measure.