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Sixty-second
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2129

Introduced by

Senators Bowman, Lyson, Wardner, Warner

Representatives S. Meyer, Sukut

A BILL for an Act to amend and reenact sections 57-51-15~~,~~ and 57-51.1-07~~, 57-51.1-07.2, and 57-51.1-07.3~~ of the North Dakota Century Code, relating to legacy fund deposits of oil and gas tax collections and holding political subdivisions harmless against related allocation reductions ~~and oil and gas gross production and oil extraction tax deposits in the permanent oil tax trust fund~~; 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~~Gross production tax allocation.

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

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

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

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

c. ~~Credit~~Allocate the remaining revenues ~~to the state general~~~~permanent oil tax trust fund~~under subsection 3.

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.~~3. After ~~deduction of the amount allocated to counties~~the allocations under ~~this subsection~~subsections 1 and 2, 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~~state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.

~~3.~~4. 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~~5 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~~6.

~~4.~~5. 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 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.

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

(1) The first three hundred fifty thousand dollars is apportioned entirely among 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 ~~5~~6 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 ~~3~~4 and ~~4~~5 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 the county infrastructure fund under subsections ~~3~~4 and ~~4~~5 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 ~~3~~4 and ~~4~~5 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 ~~4~~5 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.

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

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

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

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

1. Twenty percent must be allocated and credited to the sinking fund established for 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~~permanent oil tax trust~~ fund ~~for general state purposes~~.

~~**SECTION 3. AMENDMENT.** Section 57-51.1-07.2 of the North Dakota Century Code is 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 ineach 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 3. EFFECTIVE DATE. This Act is effective for oil and gas produced after June 30, 2011.