

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1044

Introduced by

Representatives Drovdal, Grande, Kempenich

Senators Lyson, Warner

1 A BILL for an Act to amend and reenact section 57-51-15 of the North Dakota Century Code,
2 relating to allocation of oil and gas gross production tax revenues; to provide for application; to
3 provide an effective date; and to provide an expiration 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. (Effective through June 30, 2007) Apportionment and use of proceeds**

8 **of tax.** 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
11 the state treasurer, who shall credit thirty-three and one-third percent of the
12 revenues to the oil and gas impact grant fund, but not in an amount exceeding five
13 million dollars per biennium, including any amounts otherwise appropriated for oil
14 and gas impact grants for the biennium by the legislative assembly, and who shall
15 credit the remaining revenues to the state general fund.
- 16 2. The first one million dollars of annual revenue after the deduction of the amount
17 provided for in subsection 1 from oil or gas produced in any county must be
18 allocated seventy-five percent to that county and twenty-five percent to the state
19 general fund. The second one million dollars of annual revenue after the
20 deduction of the amount provided for in subsection 1 from oil or gas produced in
21 any county must be allocated fifty percent to that county and fifty percent to the
22 state general fund. All annual revenue after the deduction of the amount provided
23 for in subsection 1 above two million dollars from oil or gas produced in any county
24 must be allocated twenty-five percent to that county and seventy-five percent to

1 the state general fund. However, the amount to which each county is entitled
2 pursuant to this subsection must be limited based upon the population of the
3 county according to the last official decennial federal census as follows:

4 a. Counties having a population of three thousand or less shall receive no more
5 than three million nine hundred thousand dollars for each fiscal year.

6 b. Counties having a population of over three thousand but less than six
7 thousand shall receive no more than four million one hundred thousand
8 dollars for each fiscal year.

9 c. Counties having a population of six thousand or more shall receive no more
10 than four million six hundred thousand dollars for each fiscal year.

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

14 3. Forty-five percent of all revenues as may by the legislative assembly be allocated
15 to any county hereunder must be credited by the county treasurer to the county
16 general fund. Thirty-five percent of all revenues allocated to any county must be
17 apportioned by the county treasurer no less than quarterly to school districts within
18 the county on the average daily attendance distribution basis, as certified to the
19 county treasurer by the county superintendent of schools. However, no school
20 district may receive in any single academic year an amount under this subsection
21 greater than the county average per student cost multiplied by seventy percent,
22 then multiplied by the number of students in average daily attendance or the
23 number of children of school age in the school census for the county, whichever is
24 greater. Provided, however, that in any county in which the average daily
25 attendance or the school census, whichever is greater, is fewer than four hundred,
26 the county is entitled to one hundred twenty percent of the county average per
27 student cost multiplied by the number of students in average daily attendance or
28 the number of children of school age in the school census for the county,
29 whichever is greater. Once this level has been reached through distributions
30 under this subsection, all excess funds to which the school district would be
31 entitled as part of its thirty-five percent share must be deposited instead in the

1 county general fund. The county superintendent of schools of each oil-producing
2 county shall certify to the county treasurer by July first of each year the amount to
3 which each school district is limited pursuant to this subsection. As used in this
4 subsection, "average daily attendance" means the average daily attendance for
5 the school year immediately preceding the certification by the county
6 superintendent of schools required by this subsection. Twenty percent of all
7 revenues allocated to any county hereunder must be paid no less than quarterly by
8 the state treasurer to the incorporated cities of the county based upon the
9 population of each incorporated city according to the last official decennial federal
10 census. However, no city may receive in any fiscal year an amount under this
11 subsection greater than five hundred dollars per capita. Once this level has been
12 reached through distributions under this subsection, all excess funds to which any
13 city would be entitled except for this limitation must be deposited instead in that
14 county's general fund. Provided, however, that in determining the population of
15 any city in which total employment increases by more than two hundred percent
16 seasonally due to tourism, the population of that city for purposes of determining
17 the per capita limitation in this section must be increased by adding to the
18 population of the city as determined by the last official decennial federal census a
19 number to be determined as follows:

- 20 a. Seasonal employees of state and federal tourist facilities within five miles
21 [8.05 kilometers] of the city must be included by adding the months all such
22 employees were employed during the prior year and dividing by twelve.
- 23 b. Seasonal employees of all private tourist facilities within the city and seasonal
24 employees employed by the city must be included by adding the months all
25 such employees were employed during the prior year and dividing by twelve.
- 26 c. The number of visitors to the tourist attraction within the city or within five
27 miles [8.05 kilometers] of the city which draws the largest number of visitors
28 annually must be included by taking the smaller of either of the following:
 - 29 (1) The total number of visitors to that tourist attraction the prior year
30 divided by three hundred sixty-five; or
 - 31 (2) Four hundred twenty.

- 1 **(Effective after June 30, 2007) Apportionment and use of proceeds of tax.** The
2 gross production tax provided for in this chapter must be apportioned as follows:
- 3 1. First the tax revenue collected under this chapter equal to one percent of the gross
4 value at the well of the oil and one-fifth of the tax on gas must be deposited with
5 the state treasurer who shall credit thirty-three and one-third percent of the
6 revenues to the oil and gas impact grant fund, but not in an amount exceeding six
7 million dollars per biennium, including any amounts otherwise appropriated for oil
8 and gas impact grants for the biennium by the legislative assembly, and who shall
9 credit the remaining revenues to the state general fund.
- 10 2. The first one million dollars of annual revenue after the deduction of the amount
11 provided for in subsection 1 from oil or gas produced in any county must be
12 allocated to that county. The second one million dollars of annual revenue after
13 the deduction for the amount provided for in subsection 1 from oil and gas
14 produced in any county must be allocated seventy-five percent to that county and
15 twenty-five percent to the state general fund. The ~~second~~ third one million dollars
16 of annual revenue after the deduction of the amount provided for in subsection 1
17 from oil or gas produced in any county must be allocated fifty percent to that
18 county and fifty percent to the state general fund. All annual revenue after the
19 deduction of the amount provided for in subsection 1 above ~~two~~ three million
20 dollars from oil or gas produced in any county must be allocated twenty-five
21 percent to that county and seventy-five percent to the state general fund.
22 However, the amount to which each county is entitled pursuant to this subsection
23 must be limited based upon the population of the county according to the last
24 official decennial federal census as follows:
- 25 a. Counties having a population of three thousand or less shall receive no more
26 than three million nine hundred thousand dollars for each fiscal year.
- 27 b. Counties having a population of over three thousand but less than six
28 thousand shall receive no more than four million one hundred thousand
29 dollars for each fiscal year.
- 30 c. Counties having a population of six thousand or more shall receive no more
31 than four million six hundred thousand dollars for each fiscal year.

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

4 3. Forty-five percent of all revenues as may by the legislative assembly be allocated
5 to any county hereunder must be credited by the county treasurer to the county
6 general fund. Thirty-five percent of all revenues allocated to any county must be
7 apportioned by the county treasurer no less than quarterly to school districts within
8 the county on the average daily attendance distribution basis, as certified to the
9 county treasurer by the county superintendent of schools. However, no school
10 district may receive in any single academic year an amount under this subsection
11 greater than the county average per student cost multiplied by seventy percent,
12 then multiplied by the number of students in average daily attendance or the
13 number of children of school age in the school census for the county, whichever is
14 greater. Provided, however, that in any county in which the average daily
15 attendance or the school census, whichever is greater, is fewer than four hundred,
16 the county is entitled to one hundred twenty percent of the county average per
17 student cost multiplied by the number of students in average daily attendance or
18 the number of children of school age in the school census for the county,
19 whichever is greater. Once this level has been reached through distributions
20 under this subsection, all excess funds to which the school district would be
21 entitled as part of its thirty-five percent share must be deposited instead in the
22 county general fund. The county superintendent of schools of each oil-producing
23 county shall certify to the county treasurer by July first of each year the amount to
24 which each school district is limited pursuant to this subsection. As used in this
25 subsection, "average daily attendance" means the average daily attendance for
26 the school year immediately preceding the certification by the county
27 superintendent of schools required by this subsection. Twenty percent of all
28 revenues allocated to any county hereunder must be paid no less than quarterly by
29 the state treasurer to the incorporated cities of the county based upon the
30 population of each incorporated city according to the last official decennial federal
31 census. However, no city may receive in any fiscal year an amount under this

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

- 10 a. Seasonal employees of state and federal tourist facilities within five miles
11 [8.05 kilometers] of the city must be included by adding the months all such
12 employees were employed during the prior year and dividing by twelve.
- 13 b. Seasonal employees of all private tourist facilities within the city and seasonal
14 employees employed by the city must be included by adding the months all
15 such employees were employed during the prior year and dividing by twelve.
- 16 c. The number of visitors to the tourist attraction within the city or within five
17 miles [8.05 kilometers] of the city which draws the largest number of visitors
18 annually must be included by taking the smaller of either of the following:
- 19 (1) The total number of visitors to that tourist attraction the prior year
20 divided by three hundred sixty-five; or
- 21 (2) Four hundred twenty.

22 **SECTION 2. APPLICATION.** Notwithstanding the provisions of section 57-51.1-07.2,
23 the director of the budget may not consider the enactment of this Act to be an amendment of
24 the distribution formula under chapter 57-51 and the director of the budget may not adjust the
25 seventy-one million dollar amount under section 57-51.1-07.2 due to enactment of this Act.

26 **SECTION 3. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for
27 allocation of gross production taxes occurring after July 31, 2007, and before August 1, 2009,
28 and is thereafter ineffective.