

Sixty-first  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representative Drovdal

1 A BILL for an Act to amend and reenact subsection 3 of section 57-51-15 of the North Dakota  
2 Century Code, relating to apportionment of the oil and gas gross production tax.

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

4 **SECTION 1. AMENDMENT.** Subsection 3 of section 57-51-15 of the North Dakota  
5 Century Code is amended and reenacted as follows:

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

1           ~~oil producing county shall certify to the county treasurer by July first of each year~~  
2           ~~the amount to which each school district is limited pursuant to this subsection. As~~  
3           ~~used in this subsection, "average daily attendance" means the average daily~~  
4           ~~attendance for the school year immediately preceding the certification by the~~  
5           ~~county superintendent of schools required by this subsection.~~ Twenty percent of  
6           all revenues allocated to any county hereunder must be paid no less than quarterly  
7           by the state treasurer to the incorporated cities of the county based upon the  
8           population of each incorporated city according to the last official decennial federal  
9           census. Once this level has been reached through distributions under this  
10          subsection, all excess funds to which any city would be entitled except for this  
11          limitation must be deposited instead in that county's general fund. Provided,  
12          however, that in determining the population of any city in which total employment  
13          increases by more than two hundred percent seasonally due to tourism, the  
14          population of that city for purposes of determining the per capita limitation in this  
15          section must be increased by adding to the population of the city as determined by  
16          the last official decennial federal census a number to be determined as follows:  
17          a.     Seasonal employees of state and federal tourist facilities within five miles  
18                [8.05 kilometers] of the city must be included by adding the months all such  
19                employees were employed during the prior year and dividing by twelve.  
20          b.     Seasonal employees of all private tourist facilities within the city and seasonal  
21                employees employed by the city must be included by adding the months all  
22                such employees were employed during the prior year and dividing by twelve.  
23          c.     The number of visitors to the tourist attraction within the city or within five  
24                miles [8.05 kilometers] of the city which draws the largest number of visitors  
25                annually must be included by taking the smaller of either of the following:  
26                (1)    The total number of visitors to that tourist attraction the prior year  
27                        divided by three hundred sixty-five; or  
28                (2)    Four hundred twenty.

29           **(Effective after July 31, 2008) Apportionment and use of proceeds of tax.** The  
30           gross production tax provided for in this chapter must be apportioned as follows:

- 1           1.    First the tax revenue collected under this chapter equal to one percent of the gross  
2                    value at the well of the oil and one-fifth of the tax on gas must be deposited with  
3                    the state treasurer who shall credit thirty-three and one-third percent of the  
4                    revenues to the oil and gas impact grant fund, but not in an amount exceeding six  
5                    million dollars per biennium, including any amounts otherwise appropriated for oil  
6                    and gas impact grants for the biennium by the legislative assembly, and who shall  
7                    credit the remaining revenues to the state general fund.
- 8           2.    The first one million dollars of annual revenue after the deduction of the amount  
9                    provided for in subsection 1 from oil or gas produced in any county must be  
10                   allocated to that county. The second one million dollars of annual revenue after  
11                   the deduction for the amount provided for in subsection 1 from oil and gas  
12                   produced in any county must be allocated seventy-five percent to that county and  
13                   twenty-five percent to the state general fund. The third one million dollars of  
14                   annual revenue after the deduction of the amount provided for in subsection 1 from  
15                   oil or gas produced in any county must be allocated fifty percent to that county and  
16                   fifty percent to the state general fund. All annual revenue after the deduction of the  
17                   amount provided for in subsection 1 above three million dollars from oil or gas  
18                   produced in any county must be allocated twenty-five percent to that county and  
19                   seventy-five percent to the state general fund. However, the amount to which each  
20                   county is entitled pursuant to this subsection must be limited based upon the  
21                   population of the county according to the last official decennial federal census as  
22                   follows:
  - 23                a.    Counties having a population of three thousand or less shall receive no more  
24                        than three million nine hundred thousand dollars for each fiscal year;  
25                        however, a county may receive up to four million nine hundred thousand  
26                        dollars under this subdivision for each fiscal year if during that fiscal year the  
27                        county levies a total of at least ten mills for combined levies for county road  
28                        and bridge, farm-to-market and federal-aid road, and county road purposes.  
29                        Any amount received by a county exceeding three million nine hundred  
30                        thousand dollars under this subdivision is not subject to allocation under

1 subsection 3 but must be credited by the county treasurer to the county  
2 general fund.

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

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

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

25 3. Forty-five percent of all revenues as may by the legislative assembly be allocated  
26 to any county hereunder must be credited by the county treasurer to the county  
27 general fund. Thirty-five percent of all revenues allocated to any county must be  
28 apportioned by the county treasurer no less than quarterly to school districts within  
29 the county on the average daily attendance distribution basis, as certified to the  
30 county treasurer by the county superintendent of schools. However, no school  
31 district may receive in any single academic year an amount under this subsection

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

29 a. Seasonal employees of state and federal tourist facilities within five miles  
30 [8.05 kilometers] of the city must be included by adding the months all such  
31 employees were employed during the prior year and dividing by twelve.

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- 1                   b.   Seasonal employees of all private tourist facilities within the city and seasonal  
2                   employees employed by the city must be included by adding the months all  
3                   such employees were employed during the prior year and dividing by twelve.  
4                   c.   The number of visitors to the tourist attraction within the city or within five  
5                   miles [8.05 kilometers] of the city which draws the largest number of visitors  
6                   annually must be included by taking the smaller of either of the following:  
7                   (1)   The total number of visitors to that tourist attraction the prior year  
8                   divided by three hundred sixty-five; or  
9                   (2)   Four hundred twenty.