

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative S. Meyer

1 A BILL for an Act to amend and reenact section 57-51-15 of the North Dakota Century Code,
2 relating to the elimination of the maximum amount counties may receive under the oil and gas
3 growth production tax; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-51-15 is amended:

6 **57-51-15. (Effective through July 31, 2008) Apportionment and use of proceeds of**

7 **tax.** The gross production tax provided for in this chapter must be apportioned as follows:

- 8 1. First the tax revenue collected under this chapter equal to one percent of the gross
9 value at the well of the oil and one-fifth of the tax on gas must be deposited with
10 the state treasurer who shall credit thirty-three and one-third percent of the
11 revenues to the oil and gas impact grant fund, but not in an amount exceeding six
12 million dollars per biennium, including any amounts otherwise appropriated for oil
13 and gas impact grants for the biennium by the legislative assembly, and who shall
14 credit the remaining revenues to the state general fund.
- 15 2. The first one million dollars of annual revenue after the deduction of the amount
16 provided for in subsection 1 from oil or gas produced in any county must be
17 allocated seventy-five percent to that county and twenty-five percent to the state
18 general fund. The second one million dollars of annual revenue after the deduction
19 of the amount provided for in subsection 1 from oil or gas produced in any county
20 must be allocated fifty percent to that county and fifty percent to the state general
21 fund. All annual revenue after the deduction of the amount provided for in
22 subsection 1 above two million dollars from oil or gas produced in any county must
23 be allocated twenty-five percent to that county and seventy-five percent to the state
24 general fund. However, the amount to which each county is entitled pursuant to

- 1 this subsection must be limited based upon the population of the county according
2 to the last official decennial federal census as follows:
- 3 a. Counties having a population of three thousand or less shall receive no more
4 than three million nine hundred thousand dollars for each fiscal year;
5 however, a county may receive up to four million nine hundred thousand
6 dollars under this subdivision for each fiscal year if during that fiscal year the
7 county levies a total of at least ten mills for combined levies for county road
8 and bridge, farm-to-market and federal-aid road, and county road purposes.
9 Any amount received by a county exceeding three million nine hundred
10 thousand dollars under this subdivision is not subject to allocation under
11 subsection 3 but must be credited by the county treasurer to the county
12 general fund.
- 13 b. Counties having a population of over three thousand but less than six
14 thousand shall receive no more than four million one hundred thousand
15 dollars for each fiscal year; however, a county may receive up to five million
16 one hundred thousand dollars under this subdivision for each fiscal year if
17 during that fiscal year the county levies a total of at least ten mills for
18 combined levies for county road and bridge, farm-to-market and federal-aid
19 road, and county road purposes. Any amount received by a county exceeding
20 four million one hundred thousand dollars under this subdivision is not subject
21 to allocation under subsection 3 but must be credited by the county treasurer
22 to the county general fund.
- 23 c. Counties having a population of six thousand or more shall receive no more
24 than four million six hundred thousand dollars for each fiscal year; however, a
25 county may receive up to five million six hundred thousand dollars under this
26 subdivision for each fiscal year if during that fiscal year the county levies a
27 total of ten mills or more for combined levies for county road and bridge,
28 farm-to-market and federal-aid road, and county road purposes. Any amount
29 received by a county exceeding four million six hundred thousand dollars
30 under this subdivision is not subject to allocation under subsection 3 but must
31 be credited by the county treasurer to the county general fund.

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 under
20 this subsection, all excess funds to which the school district would be entitled as
21 part of its thirty-five percent share must be deposited instead in the county general
22 fund. The county superintendent of schools of each oil-producing county shall
23 certify to the county treasurer by July first of each year the amount to which each
24 school district is limited pursuant to this subsection. As used in this subsection,
25 "average daily attendance" means the average daily attendance for the school year
26 immediately preceding the certification by the county superintendent of schools
27 required by this subsection. Twenty percent of all revenues allocated to any
28 county hereunder must be paid no less than quarterly by the state treasurer to the
29 incorporated cities of the county based upon the population of each incorporated
30 city according to the last official decennial federal census. Once this level has
31 been reached through distributions under this subsection, all excess funds to which

1 any city would be entitled except for this limitation must be deposited instead in
2 that county's general fund. Provided, however, that in determining the population
3 of any city in which total employment increases by more than two hundred percent
4 seasonally due to tourism, the population of that city for purposes of determining
5 the per capita limitation in this section must be increased by adding to the
6 population of the city as determined by the last official decennial federal census a
7 number to be determined as follows:

- 8 a. Seasonal employees of state and federal tourist facilities within five miles
9 [8.05 kilometers] of the city must be included by adding the months all such
10 employees were employed during the prior year and dividing by twelve.
- 11 b. Seasonal employees of all private tourist facilities within the city and seasonal
12 employees employed by the city must be included by adding the months all
13 such employees were employed during the prior year and dividing by twelve.
- 14 c. The number of visitors to the tourist attraction within the city or within five
15 miles [8.05 kilometers] of the city which draws the largest number of visitors
16 annually must be included by taking the smaller of either of the following:
 - 17 (1) The total number of visitors to that tourist attraction the prior year
18 divided by three hundred sixty-five; or
 - 19 (2) Four hundred twenty.

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

- 22 1. First the tax revenue collected under this chapter equal to one percent of the gross
23 value at the well of the oil and one-fifth of the tax on gas must be deposited with
24 the state treasurer who shall credit thirty-three and one-third percent of the
25 revenues to the oil and gas impact grant fund, but not in an amount exceeding six
26 million dollars per biennium, including any amounts otherwise appropriated for oil
27 and gas impact grants for the biennium by the legislative assembly, and who shall
28 credit the remaining revenues to the state general fund.
- 29 2. The first one million dollars of annual revenue after the deduction of the amount
30 provided for in subsection 1 from oil or gas produced in any county must be
31 allocated to that county. The second one million dollars of annual revenue after

1 the deduction for the amount provided for in subsection 1 from oil and gas
2 produced in any county must be allocated seventy-five percent to that county and
3 twenty-five percent to the state general fund. The third one million dollars of
4 annual revenue after the deduction of the amount provided for in subsection 1 from
5 oil or gas produced in any county must be allocated fifty percent to that county and
6 fifty percent to the state general fund. All annual revenue after the deduction of the
7 amount provided for in subsection 1 above three million dollars from oil or gas
8 produced in any county must be allocated twenty-five percent to that county and
9 seventy-five percent to the state general fund. However, the amount to which each
10 county is entitled pursuant to this subsection must be limited based upon the
11 population of the county according to the last official decennial federal census as
12 follows:

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

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

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

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

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

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

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