

THIRD ENGROSSMENT
with House AmendmentsSixty-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.

~~3. 4.~~ a. Forty-five percent of all revenues as may by the legislative assembly be allocated to any county hereunder for allocation under this subsection must be credited by the county treasurer to the county general fund.

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.

c. Twenty percent of all revenues allocated to any county ~~hereunder for~~
allocation under this subsection must be ~~paid~~ 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. ~~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.~~

~~Provided, however, that in~~ In determining the population of any city that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent. 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 determining the per capita limitation in this section subdivision must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

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

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