

Introduced by

Legislative Management

(Energy Development and Transmission Committee)

1 A BILL for an Act to amend and reenact section 57-51-15 of the North Dakota Century Code,  
2 relating to the abandoned oil and gas well plugging and site reclamation fund; and to provide an  
3 effective 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 for taxable events occurring through June 30, 2015) Gross**  
8 **production tax allocation.**

9 The gross production tax must be allocated monthly as follows:

- 10 1. First the tax revenue collected under this chapter equal to one percent of the gross  
11 value at the well of the oil and one-fifth of the tax on gas must be deposited with the  
12 state treasurer who shall:
- 13 a. Allocate to each hub city a monthly amount that will provide a total allocation of  
14 three hundred seventy-five thousand dollars per fiscal year for each full or partial  
15 percentage point of its private covered employment engaged in the mining  
16 industry, according to data compiled by job service North Dakota;
- 17 b. Allocate to each hub city school district a monthly amount that will provide a total  
18 allocation of one hundred twenty-five thousand dollars per fiscal year for each full  
19 or partial percentage point of the hub city's private covered employment engaged  
20 in the mining industry, according to data compiled by job service North Dakota;
- 21 c. Credit revenues to the oil and gas impact grant fund, but not in an amount  
22 exceeding two hundred forty million dollars per biennium;
- 23 d. Credit four percent of the amount available under this subsection to the North  
24 Dakota outdoor heritage fund, but not in an amount exceeding fifteen million

- 1                   dollars in a state fiscal year and not in an amount exceeding thirty million dollars  
2                   per biennium;
- 3           e.   Credit four percent of the amount available under this subsection to the  
4                   abandoned oil and gas well plugging and site reclamation fund, but not in an  
5                   amount exceeding ~~five~~ten million dollars in a state fiscal year and not in an  
6                   amount that would bring the balance in the fund to more than ~~seventy-five~~one  
7                   hundred million dollars; and
- 8           f.   Allocate the remaining revenues under subsection 3.
- 9           2.   After deduction of the amount provided in subsection 1, annual revenue collected  
10               under this chapter from oil and gas produced in each county must be allocated as  
11               follows:
- 12           a.   The first five million dollars is allocated to the county.
- 13           b.   Of all annual revenue exceeding five million dollars, twenty-five percent is  
14               allocated to the county.
- 15           3.   After the allocations under subsections 1 and 2, the amount remaining is allocated first  
16               to provide for deposit of thirty percent of all revenue collected under this chapter in the  
17               legacy fund as provided in section 26 of article X of the Constitution of North Dakota  
18               and the remainder must be allocated to the state general fund. If the amount available  
19               for a monthly allocation under this subsection is insufficient to deposit thirty percent of  
20               all revenue collected under this chapter in the legacy fund, the state treasurer shall  
21               transfer the amount of the shortfall from the state general fund share of oil extraction  
22               tax collections and deposit that amount in the legacy fund.
- 23           4.   For a county that received less than five million dollars of allocations under  
24               subsection 2 in the most recently completed state fiscal year, revenues allocated to  
25               that county must be distributed by the state treasurer as follows:
- 26           a.   Forty-five percent must be distributed to the county treasurer and credited to the  
27               county general fund. However, the allocation to a county under this subdivision  
28               must be credited to the state general fund if in a taxable year after 2012 the  
29               county is not levying a total of at least ten mills for combined levies for county  
30               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 state treasurer no less than quarterly to school districts within the county, excluding consideration of and allocation to any hub city school district in the county, on the average daily attendance distribution basis, as certified to the state treasurer by the county superintendent of schools.

c. Twenty percent must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. A hub city must be omitted from apportionment under this subdivision. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. 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.

5. For a county that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year, revenues allocated to that county must be distributed by the state treasurer as follows:

a. Sixty percent must be distributed to the county treasurer and credited to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying 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. Five percent must be apportioned by the state treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from consideration and apportionment under this subdivision.

c. Twenty percent must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. A hub city must be omitted from apportionment under this subdivision. Apportionment among cities under this subsection must be based upon the population of each incorporated city

1 according to the last official decennial federal census. In determining the  
2 population of any city in which total employment increases by more than two  
3 hundred percent seasonally due to tourism, the population of that city for  
4 purposes of this subdivision must be increased by eight hundred percent.

5 d. Three percent must be apportioned no less than quarterly by the state treasurer  
6 among the organized and unorganized townships of the county. The state  
7 treasurer shall apportion the funds available under this subdivision among  
8 townships in the proportion that township road miles in the township bear to the  
9 total township road miles in the county. The amount apportioned to unorganized  
10 townships under this subdivision must be distributed to the county treasurer and  
11 credited to a special fund for unorganized township roads, which the board of  
12 county commissioners shall use for the maintenance and improvement of roads  
13 in unorganized townships.

14 e. Three percent must be allocated by the state treasurer among the organized and  
15 unorganized townships in all the counties that received five million dollars or  
16 more of allocations under subsection 2 in the most recently completed state fiscal  
17 year. The amount available under this subdivision must be allocated no less than  
18 quarterly by the state treasurer in an equal amount to each eligible organized and  
19 unorganized township. The amount allocated to unorganized townships under  
20 this subdivision must be distributed to the county treasurer and credited to a  
21 special fund for unorganized township roads, which the board of county  
22 commissioners shall use for the maintenance and improvement of roads in  
23 unorganized townships.

24 f. Nine percent must be allocated by the state treasurer among hub cities. The  
25 amount available for allocation under this subdivision must be apportioned by the  
26 state treasurer no less than quarterly among hub cities. Sixty percent of funds  
27 available under this subdivision must be distributed to the hub city receiving the  
28 greatest percentage of allocations to hub cities under subdivision a of  
29 subsection 1 for the quarterly period, thirty percent of funds available under this  
30 subdivision must be distributed to the hub city receiving the second greatest  
31 percentage of such allocations, and ten percent of funds available under this

1 subdivision must be distributed to the hub city receiving the third greatest  
2 percentage of such allocations.

3 6. Within thirty days after the end of each calendar year, the board of county  
4 commissioners of each county that has received an allocation under this section shall  
5 file a report for the calendar year with the commissioner, in a format prescribed by the  
6 commissioner, including:

7 a. The county's statement of revenues and expenditures; and

8 b. The amount allocated to or for the benefit of townships or school districts, the  
9 amount allocated to each organized township or school district and the amount  
10 expended from each such allocation by that township or school district, the  
11 amount expended by the board of county commissioners on behalf of each  
12 unorganized township for which an expenditure was made, and the amount  
13 available for allocation to or for the benefit of townships or school districts which  
14 remained unexpended at the end of the fiscal year.

15 Within fifteen days after the time when reports under this subsection were due, the  
16 commissioner shall provide the reports to the legislative council compiling the  
17 information from reports received under this subsection.

18 **(Effective for taxable events occurring after June 30, 2015) Gross production tax**

19 **allocation.** The gross production tax must be allocated monthly as follows:

20 1. First the tax revenue collected under this chapter equal to one percent of the gross  
21 value at the well of the oil and one-fifth of the tax on gas must be deposited with the  
22 state treasurer who shall:

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

30 b. Credit revenues to the oil and gas impact grant fund, but not in an amount  
31 exceeding one hundred million dollars per biennium;

- 1           c. Credit four percent of the amount available under this subsection to the North
- 2           Dakota outdoor heritage fund, but not in an amount exceeding fifteen million
- 3           dollars in a state fiscal year and not in an amount exceeding thirty million dollars
- 4           per biennium;
- 5           d. Credit four percent of the amount available under this subsection to the
- 6           abandoned oil and gas well plugging and site reclamation fund, but not in an
- 7           amount exceeding ~~five~~ten million dollars in a state fiscal year and not in an
- 8           amount that would bring the balance in the fund to more than ~~seventy-five~~one
- 9           hundred million dollars; and
- 10          e. Allocate the remaining revenues under subsection 3.
- 11        2. After deduction of the amount provided in subsection 1, annual revenue collected
- 12        under this chapter from oil and gas produced in each county must be allocated as
- 13        follows:
- 14          a. The first two million dollars is allocated to the county.
- 15          b. Of the next one million dollars, seventy-five percent is allocated to the county.
- 16          c. Of the next one million dollars, fifty percent is allocated to the county.
- 17          d. Of the next fourteen million dollars, twenty-five percent is allocated to the county.
- 18          e. Of all annual revenue exceeding eighteen million dollars, ten percent is allocated
- 19          to the county.
- 20        3. After the allocations under subsections 1 and 2, the amount remaining is allocated first
- 21        to provide for deposit of thirty percent of all revenue collected under this chapter in the
- 22        legacy fund as provided in section 26 of article X of the Constitution of North Dakota
- 23        and the remainder must be allocated to the state general fund. If the amount available
- 24        for a monthly allocation under this subsection is insufficient to deposit thirty percent of
- 25        all revenue collected under this chapter in the legacy fund, the state treasurer shall
- 26        transfer the amount of the shortfall from the state general fund share of oil extraction
- 27        tax collections and deposit that amount in the legacy fund.
- 28        4. The amount to which each county is entitled under subsection 2 must be allocated
- 29        within the county so the first five million three hundred fifty thousand dollars is
- 30        allocated under subsection 5 for each fiscal year and any amount received by a county

1 exceeding five million three hundred fifty thousand dollars is credited by the county  
2 treasurer to the county infrastructure fund and allocated under subsection 6.

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

5 However, the allocation to a county under this subdivision must be credited to the  
6 state general fund if during that fiscal year the county does not levy a total of at  
7 least ten mills for combined levies for county road and bridge, farm-to-market and  
8 federal aid road, and county road purposes.

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

1           this subsection is limited to sixty percent of the amount otherwise determined for  
2           that city under this subsection and the amount exceeding this limitation must be  
3           reallocated among the other cities in the county.

- 4           6.   a.   Forty-five percent of all revenues allocated to a county infrastructure fund under  
5                subsections 4 and 5 must be credited by the county treasurer to the county  
6                general fund. However, the allocation to a county under this subdivision must be  
7                credited to the state general fund if during that fiscal year the county does not  
8                levy a total of at least ten mills for combined levies for county road and bridge,  
9                farm-to-market and federal aid road, and county road purposes.
- 10          b.   Thirty-five percent of all revenues allocated to the county infrastructure fund  
11                under subsections 4 and 5 must be allocated by the board of county  
12                commissioners to or for the benefit of townships in the county on the basis of  
13                applications by townships for funding to offset oil and gas development impact to  
14                township roads or other infrastructure needs or applications by school districts for  
15                repair or replacement of school district vehicles necessitated by damage or  
16                deterioration attributable to travel on oil and gas development-impacted roads. An  
17                organized township is not eligible for an allocation of funds under this subdivision  
18                unless during that fiscal year that township levies at least ten mills for township  
19                purposes. For unorganized townships within the county, the board of county  
20                commissioners may expend an appropriate portion of revenues under this  
21                subdivision to offset oil and gas development impact to township roads or other  
22                infrastructure needs in those townships. The amount deposited during each  
23                calendar year in the county infrastructure fund which is designated for allocation  
24                under this subdivision and which is unexpended and unobligated at the end of  
25                the calendar year must be transferred by the county treasurer to the county road  
26                and bridge fund for use on county road and bridge projects.
- 27          c.   Twenty percent of all revenues allocated to any county infrastructure fund under  
28                subsections 4 and 5 must be allocated by the county treasurer no less than  
29                quarterly to the incorporated cities of the county. Apportionment among cities  
30                under this subsection must be based upon the population of each incorporated  
31                city according to the last official decennial federal census. If a city receives a

1 direct allocation under subsection 1, the allocation to that city under this  
2 subsection is limited to sixty percent of the amount otherwise determined for that  
3 city under this subsection and the amount exceeding this limitation must be  
4 reallocated among the other cities in the county.

5 7. Within thirty days after the end of each calendar year, the board of county  
6 commissioners of each county that has received an allocation under this section shall  
7 file a report for the calendar year with the commissioner, in a format prescribed by the  
8 commissioner, including:

- 9 a. The county's statement of revenues and expenditures; and  
10 b. The amount available in the county infrastructure fund for allocation to or for the  
11 benefit of townships or school districts, the amount allocated to each organized  
12 township or school district and the amount expended from each such allocation  
13 by that township or school district, the amount expended by the board of county  
14 commissioners on behalf of each unorganized township for which an expenditure  
15 was made, and the amount available for allocation to or for the benefit of  
16 townships or school districts which remained unexpended at the end of the fiscal  
17 year.

18 Within fifteen days after the time when reports under this subsection were due, the  
19 commissioner shall provide the reports to the legislative council compiling the  
20 information from reports received under this subsection.

21 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events after June 30,  
22 2015.