

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 a
3 contingent 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~~seven million ~~five hundred thousand~~ dollars in a state
6 fiscal year and not in an amount that would bring the balance in the fund to more
7 than ~~seventy-five~~one 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.

- 1 b. Thirty-five percent of all revenues allocated to any county for allocation under this
2 subsection must be apportioned by the state treasurer no less than quarterly to
3 school districts within the county, excluding consideration of and allocation to any
4 hub city school district in the county, on the average daily attendance distribution
5 basis, as certified to the state treasurer by the county superintendent of schools.
- 6 c. Twenty percent must be apportioned no less than quarterly by the state treasurer
7 to the incorporated cities of the county. A hub city must be omitted from
8 apportionment under this subdivision. Apportionment among cities under this
9 subsection must be based upon the population of each incorporated city
10 according to the last official decennial federal census. In determining the
11 population of any city in which total employment increases by more than two
12 hundred percent seasonally due to tourism, the population of that city for
13 purposes of this subdivision must be increased by eight hundred percent.
- 14 5. For a county that received five million dollars or more of allocations under subsection 2
15 in the most recently completed state fiscal year, revenues allocated to that county
16 must be distributed by the state treasurer as follows:
- 17 a. Sixty percent must be distributed to the county treasurer and credited to the
18 county general fund. However, the allocation to a county under this subdivision
19 must be credited to the state general fund if in a taxable year after 2012 the
20 county is not levying a total of at least ten mills for combined levies for county
21 road and bridge, farm-to-market and federal aid road, and county road purposes.
- 22 b. Five percent must be apportioned by the state treasurer no less than quarterly to
23 school districts within the county on the average daily attendance distribution
24 basis for kindergarten through grade twelve students residing within the county,
25 as certified to the state treasurer by the county superintendent of schools.
26 However, a hub city school district must be omitted from consideration and
27 apportionment under this subdivision.
- 28 c. Twenty percent must be apportioned no less than quarterly by the state treasurer
29 to the incorporated cities of the county. A hub city must be omitted from
30 apportionment under this subdivision. Apportionment among cities under this
31 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~~seven million ~~million~~ five hundred thousand dollars in a state
8 fiscal year and not in an amount that would bring the balance in the fund to more
9 than ~~seventy-five~~one 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.

1 The countywide allocation to school districts under this subdivision is subject
2 to the following:

3 (1) The first three hundred fifty thousand dollars is apportioned entirely among
4 school districts in the county.

5 (2) The next three hundred fifty thousand dollars is apportioned seventy-five
6 percent among school districts in the county and twenty-five percent to the
7 county infrastructure fund.

8 (3) The next two hundred sixty-two thousand five hundred dollars is
9 apportioned two-thirds among school districts in the county and one-third to
10 the county infrastructure fund.

11 (4) The next one hundred seventy-five thousand dollars is apportioned fifty
12 percent among school districts in the county and fifty percent to the county
13 infrastructure fund.

14 (5) Any remaining amount is apportioned to the county infrastructure fund
15 except from that remaining amount the following amounts are apportioned
16 among school districts in the county:

17 (a) Four hundred ninety thousand dollars, for counties having a
18 population of three thousand or fewer.

19 (b) Five hundred sixty thousand dollars, for counties having a population
20 of more than three thousand and fewer than six thousand.

21 (c) Seven hundred thirty-five thousand dollars, for counties having a
22 population of six thousand or more.

23 c. Twenty percent of all revenues allocated to any county for allocation under this
24 subsection must be apportioned no less than quarterly by the state treasurer to
25 the incorporated cities of the county. Apportionment among cities under this
26 subsection must be based upon the population of each incorporated city
27 according to the last official decennial federal census. In determining the
28 population of any city in which total employment increases by more than two
29 hundred percent seasonally due to tourism, the population of that city for
30 purposes of this subdivision must be increased by eight hundred percent. If a city
31 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. CONTINGENT EFFECTIVE DATE.** This Act is effective for taxable events
22 after December 31, 2015, only if the exemption under subsection 3 of section 57-51.1-03 is
23 ineffective for the completion of any new horizontal well during the period beginning July 1,
24 2015, and ending December 31, 2015.