

**SECOND ENGROSSMENT
with Senate Amendments**

Sixty-first
Legislative Assembly
of North Dakota

REENGROSSED HOUSE BILL NO. 1304

Introduced by

Representatives Skarphol, Hatlestad, Wald

Senators Lyson, Wardner

1 A BILL for an Act to amend and reenact section 57-51-15 of the North Dakota Century Code,
2 relating to allocation of oil and gas gross production taxes; and to provide an effective date.

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

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

6 **57-51-15. Apportionment and use of proceeds of tax.** The gross production tax
7 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~~:

11 a. Credit thirty-three and one-third percent of the revenues to the oil and gas
12 impact grant fund, but not in an amount exceeding six million dollars per
13 biennium, including any amounts otherwise appropriated for oil and gas
14 impact grants for the biennium by the legislative assembly, ~~and who shall~~
15 credit;

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

24 c. Credit the remaining revenues to the state general fund.

- 1 2. After deduction of the amount provided in subsection 1, annual revenue collected
2 under this chapter from oil and gas produced in each county must be allocated as
3 follows:
- 4 a. ~~The first one million dollars of annual revenue after the deduction of the~~
5 ~~amount provided for in subsection 1 from oil or gas produced in any county~~
6 ~~must be allocated to that the county.~~
- 7 b. ~~The second next one million dollars of annual revenue after the deduction for~~
8 ~~the amount provided for in subsection 1 from oil and gas produced in any~~
9 ~~county must be allocated seventy-five percent to that the county and~~
10 ~~twenty-five percent to the state general fund.~~
- 11 c. ~~The third next one million dollars of annual revenue after the deduction of the~~
12 ~~amount provided for in subsection 1 from oil or gas produced in any county~~
13 ~~must be allocated fifty percent to that the county and fifty percent to the state~~
14 ~~general fund.~~
- 15 d. ~~All annual revenue after the deduction of the amount provided for in~~
16 ~~subsection 1 above three million dollars from oil or gas produced in any~~
17 ~~county remaining after the allocation in subdivision c must be allocated~~
18 ~~twenty-five percent to that the county and seventy-five percent to the state~~
19 ~~general fund. However, the~~
- 20 3. The amount to which each county is entitled pursuant to this under subsection 2
21 ~~must be limited based upon the population of~~ allocated within the county according
22 ~~to the last official decennial federal census as 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 allocation under~~
25 ~~subsection 4 for each fiscal year; however, a county may receive up to four~~
26 ~~million nine hundred thousand dollars under this subdivision. A county may~~
27 ~~receive the full amount to which it is entitled under subsection 2 for each fiscal~~
28 ~~year if during that fiscal year the county levies a total of at least ten mills for~~
29 ~~combined levies for county road and bridge, farm-to-market and federal-aid~~
30 ~~road, and county road purposes. Any amount received by a county~~
31 ~~exceeding three million nine hundred thousand dollars under this subdivision~~

- 1 is not subject to allocation under subsection ~~3~~ 4 but must be credited by the
2 county treasurer to the county ~~general~~ infrastructure 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 allocation under subsection 4 for each fiscal year; ~~however, a~~
6 ~~county may receive up to five million one hundred thousand dollars under this~~
7 ~~subdivision.~~ A county may receive the full amount to which it is entitled under
8 subsection 2 for each fiscal year if during that fiscal year the county levies a
9 total of at least ten mills for combined levies for county road and bridge,
10 farm-to-market and federal-aid road, and county road purposes. Any amount
11 received by a county exceeding four million one hundred thousand dollars
12 under this subdivision is not subject to allocation under subsection ~~3~~ 4 but
13 must be credited by the county treasurer to the county ~~general~~ infrastructure
14 fund.
- 15 c. Counties having a population of six thousand or more shall receive ~~no more~~
16 ~~than~~ four million six hundred thousand dollars for allocation under
17 subsection 4 for each fiscal year; ~~however, a county may receive up to five~~
18 ~~million six hundred thousand dollars under this subdivision.~~ A county may
19 receive the full amount to which it is entitled under subsection 2 for each fiscal
20 year if during that fiscal year the county levies a total of ten mills or more for
21 combined levies for county road and bridge, farm-to-market and federal-aid
22 road, and county road purposes. Any amount received by a county
23 exceeding four million six hundred thousand dollars under this subdivision is
24 not subject to allocation under subsection ~~3~~ 4 but must be credited by the
25 county treasurer to the county ~~general~~ infrastructure fund.
- 26 Any allocations for any county pursuant to this subsection which exceed the
27 applicable limitation for that county as provided in subdivisions a through c must be
28 deposited instead in the state's general fund.
- 29 ~~3. 4.~~ a. Forty-five percent of all revenues ~~as may by the legislative assembly be~~
30 allocated to any county ~~hereunder~~ for allocation under this subsection must
31 be credited by the county treasurer to the county general fund.

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

1 ~~this limitation must be deposited instead in that county's general fund.~~
2 ~~Provided, however, that in~~ In determining the population of any city that
3 receives a direct allocation under subsection 1, that city's population for
4 purposes of this subdivision must be reduced by forty percent. ~~In determining~~
5 the population of any city in which total employment increases by more than
6 two hundred percent seasonally due to tourism, the population of that city for
7 purposes of ~~determining the per capita limitation in this section~~ subdivision
8 must be increased by adding to the population of the city as determined by
9 the last official decennial federal census a number to be determined as
10 follows:

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

- 26 5. a. Forty-five percent of all revenues allocated to a county infrastructure fund
27 under subsection 3 must be credited by the county treasurer to the county
28 general fund.
- 29 b. Thirty-five percent of all revenues allocated to the county infrastructure fund
30 under subsection 3 must be allocated by the board of county commissioners
31 to or for the benefit of townships or school districts in the county on the basis

1 of applications by townships for funding to offset oil and gas development
2 impact to township roads or applications by school districts for repair or
3 replacement of school district vehicles necessitated by damage or
4 deterioration attributable to travel on oil and gas development-impacted
5 roads. For unorganized townships within the county, the board of county
6 commissioners may expend an appropriate portion of revenues under this
7 subdivision to offset oil and gas development impact to township roads in
8 those townships. Allocations to organized townships or to school districts
9 under this subdivision may be made only for reimbursement of qualifying
10 expenditures previously made by the applicant township or school district.
11 The amount deposited during each calendar year in the county infrastructure
12 fund which is designated for allocation under this subdivision and which is
13 unexpended and unobligated at the end of the calendar year must be
14 transferred by the county treasurer to the county road and bridge fund for use
15 on county road and bridge projects.
16 c. Twenty percent of all revenues allocated to any county infrastructure fund
17 under subsection 3 must be allocated by the county treasurer no less than
18 quarterly to the incorporated cities of the county. Apportionment among cities
19 under this subsection must be based upon the population of each
20 incorporated city according to the last official decennial federal census. In
21 determining the population of any city that receives a direct allocation under
22 subsection 1, that city's population for purposes of this subdivision must be
23 reduced by forty percent.

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