

HOUSE BILL NO. 1303

Introduced by

Representative Conklin

1 A BILL for an Act to create and enact section 57-51.1-02.1 and chapter 57-51.3 of the North
2 Dakota Century Code, relating to application of the extraction tax to natural gas and imposition
3 of a separate and additional oil and gas infrastructure maintenance tax; and to provide an
4 effective date.

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

6 **SECTION 1.** Section 57-51.1-02.1 of the North Dakota Century Code is created and
7 enacted as follows:

8 **57-51.1-02.1. Extraction tax - Gas - Allocation - Administration.**

9 An extraction tax is levied upon all gas produced within this state except gas that is exempt
10 from taxation. The tax levied must attach to the whole production, including the royalty interest.
11 The tax on gas must be calculated by taking the taxable production in thousand cubic feet times
12 the gas tax rate.

13 1. The gas tax rate is five and two-tenths cents times the gas base rate adjustment for
14 each fiscal year as calculated under subsection 2.

15 2. a. The tax department annually shall determine the gas base rate adjustment and
16 the resulting gas tax rate for each fiscal year beginning on July first.

17 b. The gas base rate adjustment for the fiscal year is a fraction, the numerator of
18 which is the annual average of the gas fuels producer price index, commodity
19 code 05-3, as calculated and published by the United States department of labor,
20 bureau of labor statistics, for the previous calendar year, and the denominator of
21 which is seventy-five and seven-tenths.

22 c. The tax department shall provide the gas base rate adjustment and the gas tax
23 rate for the fiscal year, as determined under this subsection, to affected
24 producers by written notice mailed before June first.

- 1 d. If the index used to determine the gas base rate adjustment is substantially
2 revised, or if the base year for the index is changed, the department by
3 administrative rule shall make appropriate adjustment to the method used to
4 determine the gas base rate adjustment to ensure a result which is reasonably
5 consistent with the result which would have been obtained had the index not
6 been revised or the base year changed.
- 7 e. If the gas fuels producer price index is discontinued, a comparable index must be
8 adopted by the department by an administrative rule.
- 9 3. Notwithstanding the provisions of this chapter relating to allocation of the tax imposed
10 by section 57-51.1-02, the tax imposed by this section must be paid to the state
11 treasurer when collected by the tax commissioner and the amount remaining after any
12 allocation required by the Constitution of North Dakota must be allocated to the
13 producing county. Amounts allocated to a county must be deposited in the county road
14 and bridge fund and used for county road and bridge maintenance and enhancement.
- 15 4. The tax imposed by this section is subject to administration as provided under section
16 57-51.1-05.

17 **SECTION 2.** Chapter 57-51.3 of the North Dakota Century Code is created and enacted as
18 follows:

19 **57-51.3-01. Imposition of oil and gas infrastructure maintenance tax.**

20 There is imposed an excise tax upon the activity in this state of extracting oil and gas from
21 the earth, and every owner, including any royalty owner, of any part of the oil and gas extracted
22 is deemed for the purposes of this chapter to be engaged in the activity of extracting that oil and
23 gas. The rate of tax is one percent of the gross value of the oil extracted and eight-tenths of one
24 cent times the gas base rate adjustment for each fiscal year as calculated under subsection 2 of
25 section 57-51-02.1.

26 **57-51.3-02. Administration.**

27 For purposes of administering the tax imposed by this chapter, the provisions of chapters
28 57-51 and 57-51.1 relating to administration of the oil and gas gross production tax and oil and
29 gas extraction tax not in conflict with the provisions of this chapter, including provisions relating
30 to filing of returns, deduction of the tax by the purchaser or producer in making settlement with
31 any owner of the oil and gas, payment of the tax and interest and penalties thereon, refunds,

1 attachment of liens for failure to pay the tax, and civil and criminal penalties for failure to comply
2 with the provisions of this chapter and chapters 57-51 and 57-51.1, govern the administration of
3 the tax imposed by this chapter.

4 **57-51.3-03. Allocation.**

5 The tax imposed by this chapter must be paid to the state treasurer when collected by the
6 tax commissioner, and the amount remaining after any allocation required by the Constitution of
7 North Dakota must be allocated to the producing county. Amounts allocated to a county must be
8 deposited in the county road and bridge fund and used for county road and bridge maintenance
9 and enhancement.

10 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
11 June 30, 2011.