

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1031

Introduced by

Legislative Management

(Energy Development and Transmission Committee)

1 A BILL for an Act to amend and reenact ~~sections 24-02-37 and~~ section 57-51-15 of the North  
2 Dakota Century Code, relating to oil and gas production tax funding for the state highway fund;  
3 and to provide an effective date.

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

5 ~~— **SECTION 1. AMENDMENT.** Section 24-02-37 of the North Dakota Century Code is~~  
6 ~~amended and reenacted as follows:~~

7 ~~— **24-02-37. State highway fund – Priorities for expenditure – Use of investment income.**~~

8 ~~— The state highway fund, created by law and not otherwise appropriated and allocated, must~~  
9 ~~be applied and used for the purposes named in this section, as follows:~~

10 ~~— 1. Except for investment income as provided in subsection 3 and oil and gas production~~  
11 ~~tax from section 57-51-15, the fund must be applied in the following order of priority:~~

12 ~~— a. The cost of maintaining the state highway system.~~

13 ~~— b. The cost of construction and reconstruction of highways in the amount necessary~~  
14 ~~to match, in whatever proportion may be required, federal aid granted to this~~  
15 ~~state by the United States government for road purposes in North Dakota.~~

16 ~~— c. Any portion of the highway fund not allocated as provided in subdivisions a and b~~  
17 ~~may be expended for the construction of state highways without federal aid or~~  
18 ~~may be expended in the construction, improvement, or maintenance of such~~  
19 ~~state highways.~~

20 ~~— 2. All funds heretofore appropriated or hereafter appropriated or transferred to the~~  
21 ~~department, whether earmarked or designated for special projects or special purposes~~  
22 ~~or not, must be placed or transferred into a single state highway fund in the office of~~  
23 ~~the state treasurer and any claims for money expended by the department upon~~  
24 ~~warrants prepared and issued by the office of management and budget and signed by~~

~~the state auditor under this title must be paid out of the state highway fund by the state treasurer; provided, however, that the commissioner shall keep and maintain complete and accurate records showing that all expenditures have been made in accordance with legislative appropriations and authorizations.~~

~~3. The state treasurer shall deposit the moneys in the state highway fund in an interest-bearing account at the Bank of North Dakota. The state treasurer shall deposit eighty percent of the income derived from the interest-bearing account in a special interest-bearing account in the state treasury known as the special road fund. The special road fund may be used, within the limits of legislative appropriation, exclusively for the construction and maintenance of access roads to and roads within recreational, tourist, and historical areas as designated by the special road committee. A political subdivision or state agency may request funds from the special road fund by applying to the committee on forms designated by the committee. The committee may require the political subdivision or state agency to contribute to the cost of the project as a condition of any expenditure authorized from the special road fund. Any moneys in the fund not obligated by the special road committee by June thirtieth of each odd-numbered year must be held for an additional two years after which the funds revert to the state highway fund.~~

~~4. Oil and gas production tax deposited in the state highway fund under section 57-51-15 must be used for consideration in expanding to four lanes United States highway 85. These moneys are not subject to section 54-44.1-11.~~

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

**57-51-15. (Effective for taxable events occurring through June 30, 2015) Gross production tax allocation.**

The gross production tax must be allocated monthly as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
  - a. Allocate to each hub city a monthly amount that will provide a total allocation of three hundred seventy-five thousand dollars per fiscal year for each full or partial

percentage point of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;

b. Allocate to each hub city school district a monthly amount that will provide a total allocation of one hundred twenty-five thousand dollars per fiscal year for each full or partial percentage point of the hub city's private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;

c. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding two hundred forty million dollars per biennium;

d. Credit the state highway fund, but not in an amount exceeding seventy-five million dollars per biennium;

e. Credit four percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding fifteen million dollars in a state fiscal year and not in an amount exceeding thirty million dollars per biennium;

e-f. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding five million dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than seventy-five million dollars; and

f-g. Allocate the remaining revenues under subsection 3.

2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:

a. The first five million dollars is allocated to the county.

b. Of all annual revenue exceeding five million dollars, twenty-five percent is allocated to the county.

3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of

all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.

4. For a county that received less than five million dollars 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. Forty-five 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. 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

1 county is not levying a total of at least ten mills for combined levies for county  
2 road and bridge, farm-to-market and federal aid road, and county road purposes.

3 b. Five percent must be apportioned by the state treasurer no less than quarterly to  
4 school districts within the county on the average daily attendance distribution  
5 basis for kindergarten through grade twelve students residing within the county,  
6 as certified to the state treasurer by the county superintendent of schools.  
7 However, a hub city school district must be omitted from consideration and  
8 apportionment under this subdivision.

9 c. Twenty percent must be apportioned no less than quarterly by the state treasurer  
10 to the incorporated cities of the county. A hub city must be omitted from  
11 apportionment under this subdivision. Apportionment among cities under this  
12 subsection must be based upon the population of each incorporated city  
13 according to the last official decennial federal census. In determining the  
14 population of any city in which total employment increases by more than two  
15 hundred percent seasonally due to tourism, the population of that city for  
16 purposes of this subdivision must be increased by eight hundred percent.

17 d. Three percent must be apportioned no less than quarterly by the state treasurer  
18 among the organized and unorganized townships of the county. The state  
19 treasurer shall apportion the funds available under this subdivision among  
20 townships in the proportion that township road miles in the township bear to the  
21 total township road miles in the county. The amount apportioned to unorganized  
22 townships under this subdivision must be distributed to the county treasurer and  
23 credited to a special fund for unorganized township roads, which the board of  
24 county commissioners shall use for the maintenance and improvement of roads  
25 in unorganized townships.

26 e. Three percent must be allocated by the state treasurer among the organized and  
27 unorganized townships in all the counties that received five million dollars or  
28 more of allocations under subsection 2 in the most recently completed state fiscal  
29 year. The amount available under this subdivision must be allocated no less than  
30 quarterly by the state treasurer in an equal amount to each eligible organized and  
31 unorganized township. The amount allocated to unorganized townships under

1 this subdivision must be distributed to the county treasurer and credited to a  
2 special fund for unorganized township roads, which the board of county  
3 commissioners shall use for the maintenance and improvement of roads in  
4 unorganized townships.

5 f. Nine percent must be allocated by the state treasurer among hub cities. The  
6 amount available for allocation under this subdivision must be apportioned by the  
7 state treasurer no less than quarterly among hub cities. Sixty percent of funds  
8 available under this subdivision must be distributed to the hub city receiving the  
9 greatest percentage of allocations to hub cities under subdivision a of  
10 subsection 1 for the quarterly period, thirty percent of funds available under this  
11 subdivision must be distributed to the hub city receiving the second greatest  
12 percentage of such allocations, and ten percent of funds available under this  
13 subdivision must be distributed to the hub city receiving the third greatest  
14 percentage of such allocations.

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

- 19 a. The county's statement of revenues and expenditures; and  
20 b. The amount allocated to or for the benefit of townships or school districts, the  
21 amount allocated to each organized township or school district and the amount  
22 expended from each such allocation by that township or school district, the  
23 amount expended by the board of county commissioners on behalf of each  
24 unorganized township for which an expenditure was made, and the amount  
25 available for allocation to or for the benefit of townships or school districts which  
26 remained unexpended at the end of the fiscal year.

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

30 **(Effective for taxable events occurring after June 30, 2015) Gross production tax**  
31 **allocation.** The gross production tax must be allocated monthly as follows:

- 1       1. First the tax revenue collected under this chapter equal to one percent of the gross  
2       value at the well of the oil and one-fifth of the tax on gas must be deposited with the  
3       state treasurer who shall:
  - 4       a. Allocate five hundred thousand dollars per fiscal year to each city in an  
5       oil-producing county which has a population of seven thousand five hundred or  
6       more and more than two percent of its private covered employment engaged in  
7       the mining industry, according to data compiled by job service North Dakota. The  
8       allocation under this subdivision must be doubled if the city has more than seven  
9       and one-half percent of its private covered employment engaged in the mining  
10      industry, according to data compiled by job service North Dakota;
  - 11     b. Credit revenues to the oil and gas impact grant fund, but not in an amount  
12      exceeding one hundred million dollars per biennium;
  - 13     c. Credit the state highway fund, but not in an amount exceeding seventy-five  
14      million dollars per biennium;
  - 15     d. Credit four percent of the amount available under this subsection to the North  
16      Dakota outdoor heritage fund, but not in an amount exceeding fifteen million  
17      dollars in a state fiscal year and not in an amount exceeding thirty million dollars  
18      per biennium;
  - 19     ~~d.e.~~ Credit four percent of the amount available under this subsection to the  
20      abandoned oil and gas well plugging and site reclamation fund, but not in an  
21      amount exceeding five million dollars in a state fiscal year and not in an amount  
22      that would bring the balance in the fund to more than seventy-five million dollars;  
23      and
  - 24     ~~e.f.~~ Allocate the remaining revenues under subsection 3.
- 25     2. After deduction of the amount provided in subsection 1, annual revenue collected  
26      under this chapter from oil and gas produced in each county must be allocated as  
27      follows:
  - 28      a. The first two million dollars is allocated to the county.
  - 29      b. Of the next one million dollars, seventy-five percent is allocated to the county.
  - 30      c. Of the next one million dollars, fifty percent is allocated to the county.
  - 31      d. Of the next fourteen million dollars, twenty-five percent is allocated to the county.

e. Of all annual revenue exceeding eighteen million dollars, ten percent is allocated to the county.

3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.

4. The amount to which each county is entitled under subsection 2 must be allocated within the county so the first five million three hundred fifty thousand dollars is allocated under subsection 5 for each fiscal year and any amount received by a county exceeding five million three hundred fifty thousand dollars is credited by the county treasurer to the county infrastructure fund and allocated under subsection 6.

5. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy 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. 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,



1 is fewer than four hundred, the county is entitled to one hundred twenty percent  
2 of the county average per student cost multiplied by the number of students in  
3 average daily attendance or the number of children of school age in the school  
4 census for the county, whichever is greater. Once this level has been reached  
5 through distributions under this subsection, all excess funds to which the school  
6 district would be entitled as part of its thirty-five percent share must be deposited  
7 instead in the county general fund. The county superintendent of schools of each  
8 oil-producing county shall certify to the county treasurer by July first of each year  
9 the amount to which each school district is limited pursuant to this subsection. As  
10 used in this subsection, "average daily attendance" means the average daily  
11 attendance for the school year immediately preceding the certification by the  
12 county superintendent of schools required by this subsection.

13 The countywide allocation to school districts under this subdivision is subject  
14 to the following:

- 15 (1) The first three hundred fifty thousand dollars is apportioned entirely among  
16 school districts in the county.
- 17 (2) The next three hundred fifty thousand dollars is apportioned seventy-five  
18 percent among school districts in the county and twenty-five percent to the  
19 county infrastructure fund.
- 20 (3) The next two hundred sixty-two thousand five hundred dollars is  
21 apportioned two-thirds among school districts in the county and one-third to  
22 the county infrastructure fund.
- 23 (4) The next one hundred seventy-five thousand dollars is apportioned fifty  
24 percent among school districts in the county and fifty percent to the county  
25 infrastructure fund.
- 26 (5) Any remaining amount is apportioned to the county infrastructure fund  
27 except from that remaining amount the following amounts are apportioned  
28 among school districts in the county:
- 29 (a) Four hundred ninety thousand dollars, for counties having a  
30 population of three thousand or fewer.

- 1 (b) Five hundred sixty thousand dollars, for counties having a population  
2 of more than three thousand and fewer than six thousand.
- 3 (c) Seven hundred thirty-five thousand dollars, for counties having a  
4 population of six thousand or more.
- 5 c. Twenty percent of all revenues allocated to any county for allocation under this  
6 subsection must be apportioned no less than quarterly by the state treasurer to  
7 the incorporated cities of the county. Apportionment among cities under this  
8 subsection must be based upon the population of each incorporated city  
9 according to the last official decennial federal census. In determining the  
10 population of any city in which total employment increases by more than two  
11 hundred percent seasonally due to tourism, the population of that city for  
12 purposes of this subdivision must be increased by eight hundred percent. If a city  
13 receives a direct allocation under subsection 1, the allocation to that city under  
14 this subsection is limited to sixty percent of the amount otherwise determined for  
15 that city under this subsection and the amount exceeding this limitation must be  
16 reallocated among the other cities in the county.
- 17 6. a. Forty-five percent of all revenues allocated to a county infrastructure fund under  
18 subsections 4 and 5 must be credited by the county treasurer to the county  
19 general fund. However, the allocation to a county under this subdivision must be  
20 credited to the state general fund if during that fiscal year the county does not  
21 levy a total of at least ten mills for combined levies for county road and bridge,  
22 farm-to-market and federal aid road, and county road purposes.
- 23 b. Thirty-five percent of all revenues allocated to the county infrastructure fund  
24 under subsections 4 and 5 must be allocated by the board of county  
25 commissioners to or for the benefit of townships in the county on the basis of  
26 applications by townships for funding to offset oil and gas development impact to  
27 township roads or other infrastructure needs or applications by school districts for  
28 repair or replacement of school district vehicles necessitated by damage or  
29 deterioration attributable to travel on oil and gas development-impacted roads. An  
30 organized township is not eligible for an allocation of funds under this subdivision  
31 unless during that fiscal year that township levies at least ten mills for township

1 purposes. For unorganized townships within the county, the board of county  
2 commissioners may expend an appropriate portion of revenues under this  
3 subdivision to offset oil and gas development impact to township roads or other  
4 infrastructure needs in those townships. The amount deposited during each  
5 calendar year in the county infrastructure fund which is designated for allocation  
6 under this subdivision and which is unexpended and unobligated at the end of  
7 the calendar year must be transferred by the county treasurer to the county road  
8 and bridge fund for use on county road and bridge projects.

9 c. Twenty percent of all revenues allocated to any county infrastructure fund under  
10 subsections 4 and 5 must be allocated by the county treasurer no less than  
11 quarterly to the incorporated cities of the county. Apportionment among cities  
12 under this subsection must be based upon the population of each incorporated  
13 city according to the last official decennial federal census. If a city receives a  
14 direct allocation under subsection 1, the allocation to that city under this  
15 subsection is limited to sixty percent of the amount otherwise determined for that  
16 city under this subsection and the amount exceeding this limitation must be  
17 reallocated among the other cities in the county.

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

- 22 a. The county's statement of revenues and expenditures; and  
23 b. The amount available in the county infrastructure fund for allocation to or for the  
24 benefit of townships or school districts, the amount allocated to each organized  
25 township or school district and the amount expended from each such allocation  
26 by that township or school district, the amount expended by the board of county  
27 commissioners on behalf of each unorganized township for which an expenditure  
28 was made, and the amount available for allocation to or for the benefit of  
29 townships or school districts which remained unexpended at the end of the fiscal  
30 year.

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

4           **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events beginning after  
5   June 30, 2015.