

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~~

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

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

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

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

24 **57-51-15. (Effective for taxable events occurring through June 30, 2015) Gross**
25 **production tax allocation.**

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

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

- 1 percentage point of its private covered employment engaged in the mining
2 industry, according to data compiled by job service North Dakota;
- 3 b. Allocate to each hub city school district a monthly amount that will provide a total
4 allocation of one hundred twenty-five thousand dollars per fiscal year for each full
5 or partial percentage point of the hub city's private covered employment engaged
6 in the mining industry, according to data compiled by job service North Dakota;
- 7 c. Credit revenues to the oil and gas impact grant fund, but not in an amount
8 exceeding two hundred forty million dollars per biennium;
- 9 d. Credit the state highway fund, but not in an amount exceeding seventy-five
10 million dollars per biennium;
- 11 e. Credit four percent of the amount available under this subsection to the North
12 Dakota outdoor heritage fund, but not in an amount exceeding fifteen million
13 dollars in a state fiscal year and not in an amount exceeding thirty million dollars
14 per biennium;
- 15 e-f. Credit four percent of the amount available under this subsection to the
16 abandoned oil and gas well plugging and site reclamation fund, but not in an
17 amount exceeding five million dollars in a state fiscal year and not in an amount
18 that would bring the balance in the fund to more than seventy-five million dollars;
19 and
- 20 f-g. Allocate the remaining revenues under subsection 3.
- 21 2. After deduction of the amount provided in subsection 1, annual revenue collected
22 under this chapter from oil and gas produced in each county must be allocated as
23 follows:
- 24 a. The first five million dollars is allocated to the county.
- 25 b. Of all annual revenue exceeding five million dollars, twenty-five percent is
26 allocated to the county.
- 27 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first
28 to provide for deposit of thirty percent of all revenue collected under this chapter in the
29 legacy fund as provided in section 26 of article X of the Constitution of North Dakota
30 and the remainder must be allocated to the state general fund. If the amount available
31 for a monthly allocation under this subsection is insufficient to deposit thirty percent of

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

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

- 7 a. Forty-five percent must be distributed to the county treasurer and credited to the
8 county general fund. However, the allocation to a county under this subdivision
9 must be credited to the state general fund if in a taxable year after 2012 the
10 county is not levying a total of at least ten mills for combined levies for county
11 road and bridge, farm-to-market and federal aid road, and county road purposes.
- 12 b. Thirty-five percent of all revenues allocated to any county for allocation under this
13 subsection must be apportioned by the state treasurer no less than quarterly to
14 school districts within the county, excluding consideration of and allocation to any
15 hub city school district in the county, on the average daily attendance distribution
16 basis, as certified to the state treasurer by the county superintendent of schools.
- 17 c. Twenty percent must be apportioned no less than quarterly by the state treasurer
18 to the incorporated cities of the county. A hub city must be omitted from
19 apportionment under this subdivision. Apportionment among cities under this
20 subsection must be based upon the population of each incorporated city
21 according to the last official decennial federal census. In determining the
22 population of any city in which total employment increases by more than two
23 hundred percent seasonally due to tourism, the population of that city for
24 purposes of this subdivision must be increased by eight hundred percent.

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

- 28 a. Sixty percent must be distributed to the county treasurer and credited to the
29 county general fund. However, the allocation to a county under this subdivision
30 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.

- 1 e. Of all annual revenue exceeding eighteen million dollars, ten percent is allocated
2 to the county.
- 3 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first
4 to provide for deposit of thirty percent of all revenue collected under this chapter in the
5 legacy fund as provided in section 26 of article X of the Constitution of North Dakota
6 and the remainder must be allocated to the state general fund. If the amount available
7 for a monthly allocation under this subsection is insufficient to deposit thirty percent of
8 all revenue collected under this chapter in the legacy fund, the state treasurer shall
9 transfer the amount of the shortfall from the state general fund share of oil extraction
10 tax collections and deposit that amount in the legacy fund.
- 11 4. The amount to which each county is entitled under subsection 2 must be allocated
12 within the county so the first five million three hundred fifty thousand dollars is
13 allocated under subsection 5 for each fiscal year and any amount received by a county
14 exceeding five million three hundred fifty thousand dollars is credited by the county
15 treasurer to the county infrastructure fund and allocated under subsection 6.
- 16 5. a. Forty-five percent of all revenues allocated to any county for allocation under this
17 subsection must be credited by the county treasurer to the county general fund.
18 However, the allocation to a county under this subdivision must be credited to the
19 state general fund if during that fiscal year the county does not levy a total of at
20 least ten mills for combined levies for county road and bridge, farm-to-market and
21 federal aid road, and county road purposes.
- 22 b. Thirty-five percent of all revenues allocated to any county for allocation under this
23 subsection must be apportioned by the county treasurer no less than quarterly to
24 school districts within the county on the average daily attendance distribution
25 basis, as certified to the county treasurer by the county superintendent of
26 schools. However, no school district may receive in any single academic year an
27 amount under this subsection greater than the county average per student cost
28 multiplied by seventy percent, then multiplied by the number of students in
29 average daily attendance or the number of children of school age in the school
30 census for the county, whichever is greater. Provided, however, that in any county
31 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.