

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2208

Introduced by

Senators Patten, Bekkedahl, Erbele, Kessel

Representatives Brandenburg, Porter

1 A BILL for an Act to amend and reenact subsection 9 of section 57-51.1-07.5 and sections
2 57-51.1-07.7 and 57-51.1-07.8 of the North Dakota Century Code, relating to the state share of
3 oil and gas tax revenue allocations, the municipal infrastructure fund, and the county and
4 township infrastructure fund.

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

6 **SECTION 1. AMENDMENT.** Subsection 9 of section 57-51.1-07.5 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 9. The next fifty-nine million seven hundred fifty thousand dollars, or the amount
9 necessary to provide for twice the amount of the distributions under subsection 24 of
10 section 57-51.1-07.7, into the funds designated for infrastructure development in
11 non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty
12 percent deposited into the municipal infrastructure fund and fifty percent deposited into
13 the county and township infrastructure fund;

14 **SECTION 2. AMENDMENT.** Section 57-51.1-07.7 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **57-51.1-07.7. Municipal infrastructure fund - Continuing appropriation - State**
17 **treasurer - Reports.**

18 1. There is created in the state treasury the municipal infrastructure fund. The fund
19 consists of all moneys deposited in the fund under section 57-51.1-07.5. All moneys in
20 the fund are appropriated to the state treasurer on a continuing basis for the purpose
21 of providing grants to cities located in non-oil-producing counties. The grant funding

1 may be distributed only to cities located in non-oil-producing counties, excluding hub
2 cities, and may be used only for essential infrastructure projects.

3 ~~4.2.~~ By November thirtieth of each even-numbered year, ~~starting in 2022~~, a city that
4 receives a grant from the fund shall provide a report to the state treasurer on the use
5 of the funding. The state treasurer shall notify cities of the reporting requirement by
6 November first of each even-numbered year, ~~starting in 2022~~. Upon request, the state
7 treasurer may provide an extension of up to fifteen days for a city to submit the report.
8 The state treasurer shall determine the format of the report. The report must include
9 the amount of grant funding received and spent by the city and a description of the
10 infrastructure projects completed in part or in whole with the grant funding. The state
11 treasurer shall make the reports available to the public on the state treasurer's
12 website.

13 3. a. A city that does not provide the report in a timely manner or in the correct format
14 is not eligible to receive a grant from the fund for a period of two years starting
15 from the date the report was due.

16 b. If a city uses the funding in a manner inconsistent with the requirements of this
17 section as identified in any financial audits conducted by the state auditor or an
18 independent accounting firm, the state treasurer shall reduce any future grants to
19 that city by the amount spent that was inconsistent with the requirements.

20 c. ~~If a city adopts an ordinance or policy that exceeds state statute, administrative~~
21 ~~rule, or policy or interferes, unreasonably restricts, or conflicts with an agriculture~~
22 ~~or energy infrastructure project that is required to be permitted or approved by a~~
23 ~~state agency, as reported under this subdivision, the city is not eligible to receive~~
24 ~~any grants from the fund beginning on the date on which the state treasurer is~~
25 ~~notified by the board of university and school lands of a determination of a~~
26 ~~violation under this subdivision.~~

27 (1) ~~For purposes of this subdivision, an agriculture or energy infrastructure~~
28 ~~project includes a project permitted or approved under chapter 4.1-25,~~
29 ~~23.1-06, 38-08, 38-22, 49-22, 49-22.1, or 61-28 or under administrative~~
30 ~~rules related to the implementation of those chapters but excludes wind and~~
31 ~~solar projects approved or permitted under chapter 49-22.~~

1 (2) A person may report a suspected violation under this subdivision to the
2 board of university and school lands in the form and manner prescribed by
3 the board. The report must include the name of the city, the city's ordinance
4 or policy suspected of violating state statute, administrative rule, or policy,
5 and the state statute, administrative rule, or policy which the person
6 suspects is violated by the city's ordinance or policy. Within thirty days after
7 receiving the report, the board shall investigate the suspected violation, in
8 consultation with a state agency having jurisdiction over the relevant state
9 statute, administrative rule, or policy, and shall provide a written
10 determination to the person who submitted the report and to the city named
11 in the report. The board shall notify the state treasurer if the determination
12 identifies a violation. Any person aggrieved by the determination may appeal
13 the determination using the procedure under chapter 28-32.

14 ~~2.4.~~ Within forty days after the fund balance is greater than or equal to the amount needed
15 for the grants under this subsection or by September thirtieth of each odd-numbered
16 year, whichever is earlier, the state treasurer shall distribute moneys in the fund as
17 grants to cities for essential infrastructure projects. The state treasurer shall distribute
18 the grants only if the fund balance is at least ten percent of the amount needed for
19 distributions under this subsection based on the following:

- 20 a. Two million five hundred thousand dollars to each city with a population of at
21 least five thousand;
- 22 b. Five hundred thousand dollars to each city with a population of at least two
23 thousand but less than five thousand; and
- 24 c. One hundred twenty-five thousand dollars to each city with a population of at
25 least one thousand but less than two thousand.
- 26 d. If, at the time of the distributions, the moneys in the fund are less than the
27 amount needed for the grants under this subsection, the state treasurer shall
28 distribute the grants under this subsection on a pro rata basis.
- 29 e. For the purposes of determining the city's population under this subsection, the
30 state treasurer shall use the most recent actual or estimated census data
31 published by the United States census bureau.

- 1 ~~3-5.~~ Within sixty days after the fund receives its statutory limit of oil and gas tax allocations
2 under section 57-51.1-07.5 or by September thirtieth of each odd-numbered year,
3 whichever is earlier, the state treasurer shall distribute the moneys in the fund as
4 grants to cities for essential infrastructure projects. The state treasurer shall distribute
5 the grants only if the fund balance is at least ten percent of the amount needed for
6 distributions under this subsection based on the following:
- 7 a. One hundred fifty dollars per person of the city's population.
- 8 b. In addition to the amounts in subdivision a, for a city with a positive average of
9 the annual percentage increase in population from three years prior, a dollar
10 amount equal to the product of the following:
- 11 (1) The amount calculated in subdivision a; and
- 12 (2) The average of the annual percentage increase in population from three
13 years prior, multiplied by ten.
- 14 c. In addition to the amounts in subdivisions a and b, for a city with a positive
15 average of the annual percentage increase in taxable property values from three
16 years prior, a dollar amount equal to the average of the annual property valuation
17 percentage increase for the three most recent years, multiplied by twenty-five
18 thousandths.
- 19 d. Grants may be distributed under this subdivision only if the grant distributions
20 under subsection 24 are completed. If the moneys in the fund are insufficient to
21 provide for the grants, the state treasurer shall distribute the grants under this
22 subsection on a pro rata basis. If any moneys remain in the fund after the
23 distribution of grants under this subsection, the state treasurer shall distribute any
24 remaining moneys in the fund in proportion to the combined total distributed to
25 each city under this section relative to the combined total distributed to all the
26 cities under this section.
- 27 e. For the purposes of determining the city's population under this subsection, the
28 state treasurer shall use the most recent actual or estimated census data
29 published by the United States census bureau.

1 f. For the purposes of determining taxable property values, the state treasurer shall
2 use the most recent data published by the tax commissioner in the tax levy
3 report.

4 4-6. For purposes of this section:

5 a. "Essential infrastructure projects" means capital construction projects to construct
6 new infrastructure or to replace existing infrastructure, which provide the fixed
7 installations necessary for the function of a city. Capital construction projects
8 exclude debt repayments and routine maintenance and repair projects, but
9 include the following:

- 10 (1) Water treatment plants;
11 (2) Wastewater treatment plants;
12 (3) Sewer lines and water lines, including lift stations and pumping systems;
13 (4) Water storage systems, including dams, water tanks, and water towers;
14 (5) Storm water infrastructure, including curb and gutter construction;
15 (6) Road and bridge infrastructure, including paved and unpaved roads and
16 bridges;
17 (7) Airport infrastructure;
18 (8) Electricity transmission infrastructure;
19 (9) Natural gas transmission infrastructure; and
20 (10) Communications infrastructure, excluding fiber optic infrastructure.

21 b. "Fiscal year" means the period beginning September first and ending August
22 thirty-first of the following calendar year.

23 c. "Non-oil-producing county" means a county that received no allocation of funding
24 or a total allocation of less than five million dollars under subsection 2 of section
25 57-51-15 in the most recently completed even-numbered fiscal year before the
26 start of each biennium.

27 **SECTION 3. AMENDMENT.** Section 57-51.1-07.8 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **57-51.1-07.8. County and township infrastructure fund - Continuing appropriation -**
2 **State treasurer - Reports.**

3 1. There is created in the state treasury the county and township infrastructure fund. The
4 fund consists of all moneys deposited in the fund under section 57-51.1-07.5. All
5 moneys in the fund are appropriated to the state treasurer on a continuing basis for
6 the purpose of providing grants to non-oil-producing counties and townships located in
7 non-oil-producing counties. The grant funding may be distributed only to
8 non-oil-producing counties and townships located in non-oil-producing counties and
9 may be used only for road and bridge infrastructure projects.

10 ~~4.2.~~ By November thirtieth of each even-numbered year, ~~starting in 2022~~, a county that
11 receives a grant from the fund shall provide a report to the state treasurer on the use
12 of the funding. The state treasurer shall notify counties of the reporting requirement by
13 November first of each even-numbered year, ~~starting in 2022~~. Upon request, the state
14 treasurer may provide an extension of up to fifteen days for a county to submit the
15 report. The state treasurer shall determine the format of the report. The report must
16 include the amount of grant funding received and spent by the county and a
17 description of the road and bridge infrastructure projects completed in part or in whole
18 with the grant funding. The state treasurer shall make the reports available to the
19 public on the state treasurer's website.

20 3. a. A county that does not provide the report in a timely manner or in the correct
21 format is not eligible to receive a grant from the fund for a period of two years
22 starting from the date the report was due.

23 b. If a county uses the funding in a manner inconsistent with the requirements of
24 this section as identified in any financial audits conducted by the state auditor or
25 an independent accounting firm, the state treasurer shall reduce any future
26 grants to that county by the amount spent that was inconsistent with the
27 requirements.

28 c. ~~If a county or township adopts an ordinance or policy that exceeds state statute,~~
29 ~~administrative rule, or policy or interferes, unreasonably restricts, or conflicts with~~
30 ~~an agriculture or energy infrastructure project that is required to be permitted or~~
31 ~~approved by a state agency, as reported under this subdivision, the county or~~

1 township is not eligible to receive any grants from the fund beginning on the date
2 on which the state treasurer is notified by the board of university and school
3 lands of a determination of a violation under this subdivision.

4 (1) For purposes of this subdivision, an agriculture or energy infrastructure
5 project includes a project permitted or approved under chapter 4.1-25,
6 23.1-06, 38-08, 38-22, 49-22, 49-22.1, or 61-28 or under administrative
7 rules related to the implementation of those chapters but excludes wind and
8 solar projects approved or permitted under chapter 49-22.

9 (2) A person may report a suspected violation under this subdivision to the
10 board of university and school lands in the form and manner prescribed by
11 the board. The report must include the name of the county or township, the
12 county's or township's ordinance or policy suspected of violating state
13 statute, administrative rule, or policy, and the state statute, administrative
14 rule, or policy which the person suspects is violated by the county's or
15 township's ordinance or policy. Within thirty days after receiving the report,
16 the board shall investigate the suspected violation, in consultation with any
17 state agency having jurisdiction over the relevant state statute,
18 administrative rule, or policy, and shall provide a written determination to the
19 person who submitted the report and to the county or township named in the
20 report. The board shall notify the state treasurer if the determination
21 identifies a violation. Any person aggrieved by the determination may appeal
22 the determination using the procedure under chapter 28-32.

23 ~~2.4.~~ Within sixty days after the fund receives its statutory limit of oil and gas tax allocations
24 under section 57-51.1-07.5 or by September thirtieth of each odd-numbered year,
25 whichever is earlier, the state treasurer shall distribute moneys in the fund as grants to
26 counties for road and bridge infrastructure projects. The state treasurer shall distribute
27 the grants only if the fund balance is at least ten percent of the amount needed for
28 distributions under this section.

29 ~~3.5.~~ The state treasurer shall distribute the lesser of thirteen percent of the balance of the
30 fund or sixteen million one hundred thousand dollars to non-oil-producing counties for
31 the benefit of the organized and unorganized townships within each non-oil-producing

1 county. The distribution to each non-oil-producing county must provide for an equal
2 allocation to each organized and unorganized township. The amount allocated to
3 organized townships under this section must be paid by the county treasurer to each
4 organized township. The amount allocated to unorganized townships under this
5 section must be credited by the county treasurer to a special fund for unorganized
6 township roads. A township is not eligible for an allocation of funds under this section if
7 the township does not maintain any township roads.

8 4.6. After the distributions in subsection 35, the state treasurer shall distribute the
9 remaining money in the fund to non-oil-producing counties based on the most recent
10 data compiled by the upper great plains transportation institute regarding North
11 Dakota's county, township, and tribal road and bridge infrastructure needs. The
12 distribution to each non-oil-producing county must be proportional to each
13 non-oil-producing county's total estimated road and bridge investment needs relative
14 to the combined total estimated road and bridge investment needs of all the
15 non-oil-producing counties. The total estimated road and bridge investment needs for
16 each county is the twenty-year estimate for unpaved and paved road and bridge
17 needs as identified by the upper great plains transportation institute. If the data
18 compiled by the upper great plains transportation institute includes more than one
19 twenty-year estimate for the total needs of each county, the state treasurer shall use
20 an average of the twenty-year estimates for each county.

21 5.7. If the moneys in the fund are insufficient to provide for the grants under this section,
22 the state treasurer shall distribute the grants on a pro rata basis.

23 6.8. For purposes of this section:

- 24 a. "Fiscal year" means the period beginning September first and ending August
25 thirty-first of the following calendar year.
- 26 b. "Non-oil-producing county" means a county that received no allocation of funding
27 or a total allocation of less than five million dollars under subsection 2 of section
28 57-51-15 in the most recently completed even-numbered fiscal year before the
29 start of each biennium.
- 30 c. "Road and bridge infrastructure projects" means the projects associated with the
31 construction of new unpaved and paved road and bridge infrastructure or

- 1 associated with the maintenance, repair, or replacement of existing unpaved and
- 2 paved road and bridge infrastructure.