2009 SENATE FINANCE AND TAXATION

SB 2229

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2229

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 01/20/09

Recorder Job Number: 7287

Committee Clerk Signature	Carie Winings

Minutes:

Chairman Cook: Opens hearing on SB 2229.

Lance Gabee, North Dakota Governor's Deputy Chief of Staff: Testifies to give endorsement by the Governor and explanation of the bill. The bill came about in recognition of the challenges that the political subdivisions in oil producing counties/towns to keep up roads and with the impacts of exploration and drilling activity. Dollars are reflected in the fiscal note. Five counties, Bowman, Dunn, McKenzie, Montrail, and Williams would benefit from raising this cap.

Chairman Cook: What is the number of the bill that has the appropriations in it?

Lance Gabee: The appropriations bill for the Land Department is 2013, and the appropriations bill for the Industrial Commission is 2014.

Vicky **Steiner, Executive Director for the North Dakota Association of Oil and Gas Producing Counties:** See Attachment #1 for testimony in support of the bill.

Karlene Fine, Executive Director and Secretary for the Industrial Commission of North Dakota: See Attachment #2 for testimony to provide information on Section 2 of the bill.

Senator Oehlke: Who matches the match money?

Karlene Fine: It is a combination; sometimes it is federal grants that they are able to get, and some from the industry.

Senator Triplett: Would you say that the dollar amount that we are spending in North Dakota right now through this fund is a drop in the bucket of what you could spend if you had more money?

Karlene Fine: That is correct.

Ron Ness, North Dakota Petroleum Council: Testified in support of bill. With adding the money to the oil impact fund, once the counties cap, to consider taking a percentage of that money, 30% of money after the cap that would come to the state and otherwise put into this fund. We have some continuing funds to address counties like Burke, Divide, Dunville, Mercer…potential counties in the path of the Bakken in moving forward. In looking at Section 2, we may urge you to consider stripping this section out of the bill and put it into its own bill. This adds a portion of a fiscal note to a bill that really is two separate issues that do not agree with each other and add to fiscal note of each. Back to Senator Triplett's question, a quarter percent of one percent of increase in productivity at the Bakken has a significant impact of the future.

Chairman Cook: We could also amend the other thing out of this bill except Section 2 I suppose, and put it into 2051.

Ron Ness: You can do whatever you want.

Robert Harms, President of Northern Alliance of Independent Producers: I have three quick comments. 1. The increase on the impact fund from $6 million to $20 million is a good idea. 2. With respect to increasing research dollars and the oil and gas research fund; when that fund was created in 2003 the concept behind it was to take money from the industry and help expand the industry, the proceed and productivity of the industry basically help the economy in North Dakota. That seems to be proving out well. We agree that additional funding is appropriate. We have plenty of applications beyond what funding we have at present. 3. Policy question, the impacts for the counties involved clearly are there, and there needs to be some mechanism by which they can address those impacts. Your decision is what the right policy is to do that with.

John Phillips, Beulah City Planner: I would like to share the importance of this bill. When you have many people moving into your area in a short period of time it is hard to deal with. There is a considerable time delay before you get any revenue for the projects that are bringing the people in. It takes time to start producing. We have to create a quality of life for those that come in for the oil and gas industries. They have to have community services. It is important to have some funding in place for the immediate impact on roads etc. There are highs and lows in the industry as well, and that affects the community directly.

Lywn Brackel, Bowman County: I just want to echo Vicky Steiner's testimony. We would support if the caps were taken off.

Chairman Cook: Any testimony opposed? (No) Neutral? (No) Closed hearing on SB 2229.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2229

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/03/2009

Recorder Job Number: 8465

Committee Clerk Signature	

Minutes:

Chairman Cook: Reopened discussion on SB 2229.

Senator Dotzenrod: Motioned to amend the bill and remove Section 2 from the bill.

Senator Oehlke: Seconded.

A voice vote was taken: 7 yeas, o nays.

Chairman Cook: Discussion?

Senator Oehlke: Moved a Do Pass as amended.

Vice Chairman Miller: Seconded.

Senator Triplett: Someone promised me the opportunity to discuss.

Senator Oehlke: Go ahead.

Chairman Cook: I think we will stop right here with the motions and hear some discussion.

Senator Triplett: I discussed this with a variety of people, and I just need to say that I served on the interim tax committee on SB 2051, and as it came out of the committee it removed the caps on both parts of the money that goes to counties; the oil impact fund and the other that gets divided between the counties and cities. That bill was put into the tax committee on my motion and passes out without any amendment because I think the committee was tired and knew that the legislature would look at it and put some caps on it of some kind. I am not hung up on having no caps at all because I think that is probably unrealistic and the fiscal note is too high. I do think that we owe it to ourselves to have a pretty broad discussion about what the right dollar amounts are. I think the dollar amounts in the Governor's budget are too low, maybe not on the oil impact fund, I am ok with the 20 million cap on that, but we need to look the other piece of the bill that just kind of slightly raises the caps is a little bit frugal. The demonstrated need that the counties have presented both to the interim committee and to this committee is probably not going to be met by that. I would just encourage you to review the legislative interim committee report and I would be happy to discuss it with you.

Chairman Cook: One of the things that happen when we remove the caps, there are really two counties that get a tremendous amount of money. The caps don't seem to work. You get a tremendous amount of money going to a few counties and the money doesn't come to the county that the impact is occurring. I really like the idea of the impact funds being used because that can get the money in there when they need it. The only real hang up that I have is that we have one person making the decisions, although this one person is probably making a better decision than if you introduce more politics of the game into it.

Senator Triplett: I am not advocating for the tax committee bill because I knew it was unrealistic from the beginning, but I would like the opportunity to bring in amendments to what we have now.

Senator Oehlke: I will withdraw my motion.

Vice Chairman Miller: Seconded.

Chairman Cook: Suspended discussion on SB 2229.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2229

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 02/04/2009

Recorder Job Number: 8670

Committee Clerk Signature	Carie Winings

Minutes:

Chairman Cook: Reopened discussion on SB 2229.

Senator Triplett: Presented and explained amendment 90808.0103 (See Attachment #1)

Discussion: A discussion occurred on the amendments to clarify and the fact that it really only affects two counties, Bowman and Montrail. It would just mean that it would take them longer to meet the caps if the price stays low.

Lance Gaebe, Governor's Office: See Attachment #2 for additional information.

Chairman Cook: Clarifies information on the chart. If we raise the cap another then it is safe to assume that Bowman County would go to 2 million dollars a year?

Lance Gaebe: Yes

Chairman Cook: Dunn would stay the same. McKenzie County would go to 2 million a year, Montrail County would go to 2 million a year, and Williams County would stay the same?

Lance Gaebe: That is what I would read it.

Chairman Cook: That shows the impact of what you are going to do Senator Triplett, the fiscal note would increase by about 6 million dollars.

Senator Triplett: I think that it is dependent on the price and production.

Lance Gaebe: This chart is based on the November forecasts.

Senator Dotzenrod: So Dunn County won't receive anything more?

Lance Gaebe: No

Senator Triplett: Maybe we should do a study resolution on this one?

Chairman Cook: It will get fixed.

Chairman Cook: We have the amendments before us.

A Roll Call vote was taken: 6 yeas, 0 nays, 1 absent.

Vice Chairman Miller: Moved an amendment to 18 million, Page 1, Line 11.

Senator Triplett: Seconded.

A Roll Call vote was taken: 2 yeas, 4 nays, 1 absent.

Vice Chairman Miller: Moved a Do Pass As Amended and Re-Refer to Appropriations.

Senator Triplett: Seconded.

A Roll Call vote was taken: Yea 6, Nay 0, 1 Absent (Senator Oehlke).

Senator Triplett will carry the bill.

FISCAL NOTE
Requested by Legislative Council
04/02/2009

Amendment to: Reengrossed SB 2229

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				($23,800,000)		
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$23,800,000	$3,000,000				

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2229 Thrd Engrossment with House Amendments increases the amount of oil and gas gross production tax that is transferred to the impact grant fund, and removes the limitations (caps) on the counties' share of gross production tax revenue distributions. It also provides special city allocations.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

SB 2229 Third Engrossment with House Amendments increases the amount of revenue transferred to the oil and gas impact grant fund by $2 million per biennium. This is a $2 million increase in impact grant fund revenues and a corresponding $2 million decrease in permanent oil tax trust fund revenues for the 2009-11 biennium. Both are "other funds" and cancel each other out, and therefore, are not contained in part 1A. above.

SB 2229 Third Engrossment with House Amendments also removes the county caps relative to the maximum amount of annual gross production tax revenue producing counties can receive. This provision is expected to increase county, city, and school revenues by an estimated $23.8 million during the 2009-11 biennium. This provision will reduce permanent oil tax trust fund revenue by $23.8 million in the 2009-11 biennium.

There are special allocations to large cities in the bill. These provisions allocate $500,000 annually to cities in oil-producing counties that have a population greater than 7,500. This allocation is doubled for cities with significant oil-related employment base. These city allocations are expected to provide $3 million per biennium - $1 million to Dickinson and $2 million to Williston.

Note: This estimate is based on the February 2009 Legislative Council revised forecast.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2229 Third Engrossment with House Amendments will reduce permanent oil tax trust fund revenues by an estimated $28.8 million in the 2009-11 biennium, and increase county, city, school district and impact grant fund revenues by a combined $28.8 million.

   B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	04/03/2009

FISCAL NOTE

Requested by Legislative Council
03/18/2009

Amendment to: Reengrossed SB 2229

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				($23,800,000)		
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$23,800,000					

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2229 Third Engrossment with House Amendments increases the amount of oil and gas gross production tax that is transferred to the impact grant fund, and removes the limitations (caps) on the counties' share of gross production tax revenue distributions.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

SB 2229 Third Engrossment with House Amendments increases the amount of revenue transferred to the oil and gas impact grant fund by $4 million per biennium. This is a $4 million increase in impact grant fund revenues and a corresponding $4 million decrease in permanent oil tax trust fund revenues for the 2009-11 biennium. Both are "other funds" and cancel each other out, and therefore, are not contained in part 1A. above.

SB 2229 Third Engrossment with House Amendments also removes the county caps relative to the maximum amount of annual gross production tax revenue producing counties can receive. This provision is expected to increase county, city, and school revenues by an estimated $23.8 million during the 2009-11 biennium. This provision will reduce permanent oil tax trust fund revenue by $23.8 million in the 2009-11 biennium.

Note: This estimate is based on the February 2009 Legislative Council revised forecast.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2229 Third Engrossment with House Amendments will reduce permanent oil tax trust fund revenues by an estimated $27.8 million in the 2009-11 biennium, and increase county, city, school district and impact grant fund revenues by a combined $27.8 million.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and* *appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	03/23/2009

FISCAL NOTE

Requested by Legislative Council
03/13/2009

Amendment to: Reengrossed SB 2229

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				($23,800,000)		
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$23,800,000					

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2229 Third Engrossment increases the amount of oil and gas gross production tax that is transferred to the impact grant fund, and removes the limitations (caps) on the counties' share of gross production tax revenue distributions.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

SB 2229 Third Engrossment increases the amount of revenue transferred to the oil and gas impact grant fund by $4 million per biennium. This is a $4 million increase in impact grant fund revenues and a corresponding $4 million decrease in permanent oil tax trust fund revenues for the 2009-11 biennium. Both are "other funds" and cancel each other out, and therefore, are not contained in part 1A. above.

SB 2229 Third Engrossment also removes the county caps relative to the maximum amount of annual gross production tax revenue producing counties can receive. This provision is expected to increase county, city, and school revenues by an estimated $23.8 million during the 2009-11 biennium. This provision will reduce permanent oil tax trust fund revenue by $23.8 million in the 2009-11 biennium.

Note: This estimate is based on the February 2009 Legislative Council revised forecast. The change in fiscal impact from the prior fiscal note reflects the forecast revisions and is not due to changes in the third engrossment.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2229 Third Engrossment will reduce permanent oil tax trust fund revenues by an estimated $27.8 million in the 2009-11 biennium, and increase county, city, school district and impact grant fund revenues by a combined $27.8 million.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and* *appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	03/13/2009

FISCAL NOTE
Requested by Legislative Council
02/20/2009

Amendment to: Engrossed SB 2229

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				($33,200,000)		
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$33,200,000					

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2229 Second Engrossment increases the amount of oil and gas gross production tax that is transferred to the impact grant fund, and removes the limitations (caps) on the counties' share of gross production tax revenue distributions.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

SB 2229 Second Engrossment increases the amount of revenue transferred to the oil and gas impact grant fund by $4 million per biennium. This is a $4 million increase in impact grant fund revenues and a corresponding $4 million decrease in permanent oil tax trust fund revenues for the 2009-11 biennium. Both are "other funds" and cancel each other out, and therefore, are not contained in part 1A. above.

SB 2229 Second Engrossment also removes the county caps relative to the maximum amount of annual gross production tax revenue producing counties can receive. This provision is expected to increase county, city, and school revenues by an estimated $33.2 million during the 2009-11 biennium. This provision will reduce permanent oil tax trust fund revenue by $33.2 million in the 2009-11 biennium. (Note this estimate is based on the Feb. 9, 2009 OMB forecast and may not be consistent with the assumptions in the revised forecast prepared by Legislative Council.)

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2229 Second Engrossment will reduce permanent oil tax trust fund revenues by an estimated $37.2 million in the 2009-11 biennium, and increase county and impact grant revenues by a combined $37.2 million as well.

A portion of this impact is included in the executive budget.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency* *and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	02/23/2009

FISCAL NOTE
Requested by Legislative Council
02/09/2009

Amendment to: SB 2229

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				($13,700,000)		
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$13,700,000					

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed SB 2229 increases the amount of oil and gas gross production tax that is transferred to the impact grant fund, and raises the county maximum distributions by $2 million each.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Engrossed SB 2229 increases the amount of revenue transferred to the oil and gas impact grant fund by $14 million per biennium. This is a $14 million increase in impact grant fund revenues and a corresponding $14 million decrease in permanent oil tax trust fund revenues for the 2009-11 biennium. Both are "other funds" and cancel each other out, and therefore, are not contained in part IA. above.

Engrossed SB 2229 also increases the county caps by $2 million relative to the maximum amount of annual gross production tax revenue producing counties can receive. This provision is expected to increase county, city, and school revenues by an estimated $13.7 million during the 2009-11 biennium. This provision will reduce permanent oil tax trust fund revenue by $13.7 million in the 2009-11 biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, Engrossed SB 2229 will reduce permanent oil tax trust fund revenues by an estimated $27.7 million in the 2009-11 biennium, and increase county and impact grant revenues by a combined $27.7 million as well.

A portion of this impact is included in the executive budget.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	02/14/2009

FISCAL NOTE

Requested by Legislative Council
01/15/2009

Bill/Resolution No.: SB 2229

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				($7,700,000)		
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			$7,700,000					

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2229 increases the amount of oil and gas gross production tax that gets transferred to the impact grant fund, and raises the county caps by $1 million each. The bill also increases the maximum amount of oil extraction and gross production tax revenue that goes to the oil and gas research fund.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of SB 2229 increases the amount of revenue transferred to the oil and gas impact grant fund by $14 million per biennium. This is a $14 million increase in impact grant fund revenues and a corresponding $14 million decrease in permanent oil tax trust fund revenues for the 2009-11 biennium. Both are "other funds" and cancel each other out, and therefore, are not contained in part IA. above.

Also in Section 1 of SB 2229 are provisions to increase the county caps by $1 million relative to the maximum amount of annual gross production tax revenue producing counties receive. This provision is expected to increase county, city, and school revenues by an estimated $7.7 million during the 2009-11 biennium. (The entire estimated impact is shown as county revenue above). This provision will reduce permanent oil tax trust fund revenue by $7.7 million in the 2009-11 biennium.

Section 2 of SB 2229 increases by $2 million per biennium the total amount of oil tax revenue transferred to the Oil and Gas Research Fund. This provision will increase research fund revenues and decrease permanent oil tax trust fund revenues by $2 million each. These are both "other funds" and cancel each other out, and therefore, are not shown in 1A above.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2229 is expected to reduce permanent oil tax trust fund revenues by an esimated $23.7 million in the 2009-11 biennium. Impact fund, research fund, and county revenues are expected to increase by a combined amount totaling $23.7 million. These calculations are based on the November 2008 executive budget forecast.

All of the provisions of SB 2229 are included in the executive budget.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line* *item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	01/19/2009

Date: 02/03/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.: SB 2229

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Amendment Remove Section 2 from bill

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Dotzenrod Seconded By Ohelke

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman			Sen. Arden Anderson		
Sen. Joe Miller – Vice Chairman			Sen. Jim Dotzenrod		
Sen. David Hogue			Sen. Constance Triplett		
Sen. Dave Oehlke					

All in favor

Total: Yes 7 No 0

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

90808.0103
Title.

Prepared by the Legislative Council staff for
Senator Triplett
February 4, 2009

PROPOSED AMENDMENTS TO SENATE BILL NO. 2229

Page 1, line 1, remove "and section"

Page 1, line 2, remove "57-51.1-07.3"

Page 1, line 3, replace "and oil and gas research fund deposits" with "; and to provide an effective date"

Page 1, line 11, replace "twenty" with "twenty-two"

Page 2, line 6, replace "four" with "five"

Page 2, line 7, replace "five" with "six"

Page 2, line 11, replace "four" with "five"

Page 2, line 16, replace "five" with "six"

Page 2, line 17, replace "six" with "seven"

Page 2, line 22, replace "five" with "six"

Page 2, line 26, replace "five" with "six"

Page 2, line 27, replace "six" with "seven"

Page 2, line 31, replace "five" with "six"

Page 3, replace lines 7 through 17 with:

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

Renumber accordingly

Date: 02/04/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 2229

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Amendments

Legislative Council Amendment Number 90808.0103

Delete Page 1 line 11 replacing "twenty with twenty-one"

Action Taken ☐Do Pass ☐Do Not Pass ☐Amended

Motion Made By Senator Triplett Seconded By Senator Oehlke

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller – Vice Chairman	✓		Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	—	—			

Total: Yes 6 No 0

Absent 1 Oehlke

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 02/04/09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. :

Senate Finance and Taxation Committee

☐ Check here for Conference Committee   Amendment to 18 million

Legislative Council Amendment Number   pg 1 line 11

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Senator Miller   Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson		✓
Sen. Joe Miller – Vice Chairman	✓		Sen. Jim Dotzenrod		✓
Sen. David Hogue		✓	Sen. Constance Triplett		✓
Sen. Dave Oehlke					

Fail

Total: Yes 2   No 4

Absent 1

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 02/04/09

Roll Call Vote #: 3

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 2229

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Re-Referred to Appropriations

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ As Amended

Motion Made By Senator Miller Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller – Vice Chairman	✓		Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	—				

Total: Yes 6 No 0

Absent 1

Floor Assignment Senator Triplett

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2229: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2229 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "and section"

Page 1, line 2, remove "57-51.1-07.3"

Page 1, line 3, replace "and oil and gas research fund deposits" with "; and to provide an effective date"

Page 2, line 6, replace "four" with "five"

Page 2, line 7, replace "five" with "six"

Page 2, line 11, replace "four" with "five"

Page 2, line 16, replace "five" with "six"

Page 2, line 17, replace "six" with "seven"

Page 2, line 22, replace "five" with "six"

Page 2, line 26, replace "five" with "six"

Page 2, line 27, replace "six" with "seven"

Page 2, line 31, replace "five" with "six"

Page 3, replace lines 7 through 17 with:

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

Renumber accordingly

2009 SENATE APPROPRIATIONS

SB 2229

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2229

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-16-09

Recorder Job Number: 9518

Committee Clerk Signature	Alice Delzer

Minutes:

Chairman Holmberg called the committee hearing to order at 8:00 am in reference to SB 2229 regarding the apportionment of oil and gas gross production taxes. Roll call was taken.

Lance Gavey, Governor Hoeven's Office explained the bill and the differences in the distribution of this bill indicating three counties, Bowman, Mountrail and McKenzie, qualify for the higher cap.

Vicky Stein, ND Oil and Gas Counties, indicated there was a hearing with testimony introduced which answered questions that were raised.

Senator Krauter indicated we support this bill as amended after the caps are off.

Vicky Stein indicated they don't support this bill if the caps aren't off.

Lynn Brackel, Bowman County Commissioner, testified in support of SB 2229 and presented written testimony # 1.

Senator Robinson asked if these are annual figures. The response was yes.

Senator Bowman District 39, Bowman, ND testified in support of SB 2229 and presented an amendment. He discussed the map he distributed as well as huge asset we have in the Baaken.

Vice Chairman Bowman moved approval of the amendment; Senator Fischer seconded. Discussion followed.

Becky explained the amount changes and stated we are removing a dollar amount for the grants from the governor's recommendation. She indicated there would most likely see the increase to the counties, depending on where the price of oil is . Dependent on the price of oil (22.36) the permanent oil revenue will be decreased.

Additional discussion followed.

Senator Christmann asked for comments from the association.

Vicky Steiner stated for the record the association does support removing the caps and we support the amendment.

Senator Christmann it subtracts from the grants.

Vicky stated they are willing to shift some funds to take care of the larger counties. (26.18) They couldn't address the formula in one session.

Chairman Holmberg discussed the grants line item.

Senator Mathern have you seen these amendments and agree with them

Vice. Chairman Bowman, Vicky and I had discussion about it and he agreed that he understood what our position was and that he would take care of it.

Chairman Holmberg closed the hearing on SB 2229.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2229

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02/16/09

Recorder Job Number: 9525

Committee Clerk Signature	Alice Delzer

Minutes:

Chairman Holmberg opened discussion on SB 2229 and the amendments.

Senator Krauter discussed Division A indicating he did not support the impact on all counties being real. We have yet to meet 10% of these requests. The rest of the amend he supports.

Discussion followed about the overall request, the monies that would be freed up, the damage done by the pipelines, where the grant money would be going,

Chairman Holmberg called for a roll call vote on Division (21.42) which resulted in Do Pass with 8 yes, 6 no, 0 absent.

Chairman Holmberg called for an oral vote on Division B which resulted in a do pass.

Chairman Holmberg called for an oral vote on the Amendment which unanimously passed.

Vice Chairman Bowman moved Do Pass as Amended on SB 2229; seconded by Senator Fischer. A roll call vote was taken resulting in a DO PASS AS AMENDED with 14 yes, 0 no; 0 absent. Senator Bowman will carry the bill.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2229

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-18-09

Recorder Job Number: 9663

Committee Clerk Signature	Alice Delzer

Minutes:

Chairman Holmberg called the committee back to order regarding SB 2229. We need a motion to reconsider our action by which we passed SB 2229 on 02-16-09.

V. Chair Bowman moved. Senator Christmann seconded.

V. Chair Bowman stated last night when I got home I took the amendments that they had drafted for 2229. The dollar figure was the right amount, the unlimited amount of money the counties can receive based upon production is the right amount, but they totally took out the mill levies and that was not requested and so I had John from Legislative Council redraft it so that the mills are exactly the same as they were in the former piece of legislation and the 10 mills now is on and the unlimited amount of money they can receive. I'll pass the amendments out. You can read them.

Chairman Holmberg asked for a voice vote on the reconsideration of the action on which we passed 2229. All in favor say yea. It carried. Now he asked V. Chair Bowman to move his amendment.

V. Chair Bowman moved the amendment 90808.0202. Seconded by Senator Christmann

V. Chair Bowman basically all three subsections are exactly the same except those are the original amounts that were in the old bill. If you read the first line and it is based on population and how much money they were getting under the old formula this says that the county may receive the full amount of it's allocation under this subsection for each fiscal year. If during that fiscal year the county's levy total at least 10 mills and that was the part that they had taken out by mistake. I never requested that but when I caught that I thought that would be kind of hard to get this bill through if we didn't put those back on because all the counties know that's the current language and law. So now we have a clean bill, we got the right figures in there, and we still have the mill levies in there that are required to get the maximum amount so that explains it. (3.48)

Chairman Holmberg what you are saying then that the way you thought the bill that we passed the other day was flawed in that it didn't do what you thought specifically it would do.

V. Chair Bowman stated it was flawed. They had taken language out of the bill that I did not request to have taken out. The language is back in the bill the way it should have been in the first amendment or we wouldn't be doing this right now.

Senator Krauter asked if a county only levies 9 mills they have a cap. They cannot receive more than this amount stated in each one of these. If they have 10 mills then they are unlimited.

V. Chair Bowman said that is exactly right. That is current language in the law they can receive the full amount if they still have the 10 mills.

Chairman Holmberg we have an amendment to 2229. He explained once again that the bill 2229, that we passed out the amendments were flawed and this brings the bill back into conformity with what was thought by the presenters of the bill. **All in favor of the amendment say AYE. It carried. Now can we have a motion on the bill 2229**

V. Chair Bowman moved Do Pass as Amended. Senator Wardner seconded. Roll call was taken 14 YEAS, 0 NAYS, 0 ABSENT. V. Chair Bowman will carry the bill. (6.16)

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2229 re-vote

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 12, 2009

Recorder Job Number: 10773

Committee Clerk Signature	Rose Laning

Minutes:

Chairman Holmberg opened discussion on SB 2229 which has to do with the apportionment of oil and gas gross production taxes because there was an error in an amendment. This is the bill that took the caps off.

V. Chair Bowman: These amendments amend the engrossed bill that was passed. I am passing out amendment 90808.0301.

Chairman Holmberg asked about the confusion on amendments .0202 and amendment .0301.

V. Chair Bowman: The .0202 amendment was the one that was introduced and passed in this committee. Then they put the original amendments back on the bill after it was voted on and whenever the mistake was made. The original amendments formed the engrossed version of the bill. The engrossed version of the bill was wrong, so these amendments amend the engrossed version of the bill.

V. Chair Bowman: I caught this mistake before crossover. I picked up a copy of SB 2229, the engrossed version of the bill and saw there was a mistake because they left the 10 mill requirement out of the engrossed bill. The $4 M dollar increase in the impact grants is in the engrossed bill, so you won't see any language dealing with that. The part that was wrong was the part that the counties, going through their regular formula, this takes the cap off the production and when you read the first sentence in A and go down to the underscore "the full amount of its allocation under this subsection for each year during that physical year the county levies at least 10 mills" and by levying those mills, the cap comes off. It says the county may receive the full amount. This is the way we passed it. This is the same amendments that we voted on when we voted it unanimously out of this committee. It was the same amendments that I spoke on the floor upstairs with, but there was a mistake made somewhere in this where they put the wrong amendments on after it was completed. These are the right amendments.

Senator Krauter: What does the reengrossed bill read then?

Chairman Holmberg: The engrossed bill that came back from the House after it was requested?

V. Chair Bowman: Well, all the language is taken out that's in these amendments. All that language was taken out of the engrossed version of the bill. I went up to legislative council and I showed them the amendments that we voted on and I showed them the bill. I asked them what happened and evidently there was a mistake made because they had drafted the amendments for the bill and we passed them, but they didn't get on the bill.

Chairman Holmberg: On the engrossed bill, the whole section A, B, and C, which most of it is current law, is overstruck in the engrossed bill.

Senator Mathern: As long as the bill is here, can we fix the oil and impact funds on this bill?

Chairman Holmberg: The first thing we will do is to entertain a motion to reconsider our action by which we passed SB 2229.

V. Chair Bowman moved to reconsider SB 2229.

Senator Wardner seconded. Voice vote passed.

Chairman Holmberg: We now have the bill before us.

Senator Krauter: What do we need to do if our motions were all previously documented and recorded? It's in the record.

V. Chair Bowman: You're thinking the same way I was thinking.

Chairman Holmberg: If an error is found, and we have been recorded as voting for X and Y is on the bill and the bill comes back, isn't it a clerical change to put the correct amendment on.

Becky Keller, Legislative Council: Our legal staff is aware of this problem. What had happened was the wrong amendments were sent to the floor and so the bill was passed with the wrong amendments. So rather than undo the Senate's action on passing the bill, we just have to attach the correct amendments.

Senator Krauter: Recorded in the journal are the wrong amendments?

Becky Keller: It would appear so.

Senator Krauter: Do you just want to go back and correct the journal like we do every day? Isn't that the purpose of corrections to provisions in the journal?

Senator Christmann: What the difference would be between what we wanted and what we got, you know, most of those corrections and revisions in the journal are not of this kind of significance. If we thought we were voting on this set of amendments, but before us were this set, and it's substantially different, that's beyond what corrections and revisions would do. Because of the significance of it, it probably needs more than just a correction or revision.

Chairman Holmberg: If we still had the bill and sent the bill upstairs with the wrong amendments, they would just send it back and it would be a clerical change because our minutes would indicate what you really wanted.

V. Chair Bowman: When the first amendments were drafted, you had taken out the 10 mill requirements and we had them redone. That was a mistake, an oversight, because we never even discussed it, but it was done and then we had to have them redone. We voted on the correct version which will be exactly the same bill we passed out of here as amended, but there was either a mistake drafted, the number of the amendment was wrong, or somebody else. I just want a clean bill when it gets sent to the House so we don't have to go through explaining a thousand different reasons why it was delayed or hung up. These amendments will make it very clear that it is exactly what we wanted when we voted on it.

Chairman Holmberg (to Becky): I'm looking at the roll call vote for the committee. It says the Senate Appropriations committee voice vote. We carried amendment 90808.0202, yet what is attached to the bill is .0201. And point .0202 is the correct one.

Becky Keller: They do appear to be the same and that is where the problem lies is that because you guys did actually approve .0202 and .0201 was sent to the floor and attached to the bill, and that's how we know the bill was passed with .0201 attached to it rather than .0202. You had to bring it back from the House so that you could add the right amendments.

Chairman Holmberg: The committee voted for .0202 and the Senate body attached .0201. So we have to send it back up so they will get to vote on the amendment that we had voted on.

Senator Mathern: Why don't we use the regular procedure? Get the House to amend the bill in the proper format. When a bill makes it through, we fix it. It's a general question, but if we start bringing bills back and forth to fix, I'm wondering what is the procedure?

Chairman Holmberg: It isn't often that we call bills back, although this is the 2nd or 3rd bill that we've called back and they've called back bills from us.

Senator Christmann: In this particular case, my understanding is what the Senate passed was with the wrong amendment, and was based on an incorrect recommendation. **V. Chair Bowman** carried the bill and he was explaining what we had passed. Most, if not all, of the corrections and revisions on the floor are from the previous day. By the time this was found, we had already passed and sent over to the House and they had a hearing assignment on it.

Senator Mathern: Why wasn't it fixed in the House? Why wasn't an amendment offered in the House?

V. Chair Bowman: When I had the bill amended and passed the way we wanted it passed in here, assuming that it was alright when it was voted on on the Senate floor. Then when I got ready to leave at crossover and picked up a copy of the bill, I realized that someone had put the wrong amendments on the bill. So I personally asked if I could bring this back and get it corrected in the right form so when we sent it over we don't have to go through this mess of explaining all the mistakes that were made. We'll have a clean bill that could be amended over there if they decide they want to do it, but it will at least be the bill that we passed on the Senate side with the correct amendments.

Senator Mathern: I understand that, but normally we would go to the House committee and say we messed up and need these amendments on here. Put these amendments on. That's what we normally do. I'm just wondering why we don't do that.

Chairman Holmberg: I'm not going to argue that point because you are right, that's what we normally do, but the facts are we have the bill, it was sent back from the House, therefore we have to react to that and do what we are going to do with the bill and then the House will get it in a few days.

Senator Krebsbach: We had initially passed this bill out of committee on 2-16-09 with the amendments .0201. We then reconsidered our action on the 18^{th} and we put on the amendments .0202. However, when I looked at .0301, there is a slight difference than what we did on .0202.

Becky Keller: That will be different because some of the amendments that were put in error were actually included in .0202 and so because we're working off the reengrossed version, we wouldn't make those changes again.

Senator Krebsbach: As far as I understand now, if we are going to put this bill in the fashion that we wanted it to go out of here, we have to revote on these amendments .0301 because there is a change from .0202 to .0301.

Senator Mathern: Let's assume that we've gone back. What do these amendments do in terms of changing current public policy?

V. Chair Bowman: As far as current public policy, it would be more fiscal policy because the only thing that was changed in the bill was the amount of dollars for the impact grant line item was increased by $4 M dollars. That was one change. The other change was to take the cap off of the production side. Everything else was the same. The counties requirements of the 10 mills were the same as they were before. All that changed is that there is no cap on production, and there is $4M dollars in for impact grant line item.

Allen Knutson, Legislative Council: It's not a do over. The bill got reengrossed with the erroneous amendments so now we are amending the reengrossed bill to get it to what it should have been.

V. Chair Bowman moved Do Pass on amendment .0301

Senator Krebsbach seconded.

Voice vote passed.

Senator Mathern: Is it possible that we should literally use this vehicle to increase the amount of money to the impact fund? Move it up, so Stanley or whoever, that needs this kind of resource, will go to the right place versus creating another vehicle to fund immediate needs. Might that make sense here?

Chairman Holmberg: Did they not testify though, that even if that were changed, they really would like the bill?

Senator Mathern: I'm sure they want the bill because that's a straight shot to cash around the process we have put in place to test these against all needs. Why don't we just increase that amount so that folks like that can get what they need through the regular process? I don't want all the bills we need to get killed.

V. Chair Bowman: If you have ever requested impact dollars from a county, like Bowman County requested millions of dollars when we were at the peak of our production and the impact to our county was as high as it's ever been. The devastation to our roads – we got very very little impact money. That money is spread all over all the counties. The extra $4 M that I put in there, if the land department decides they want to give it all to Stanley or up in Mountrail County – more power to them. At least they got some more money to work with than what they had before. When you run the numbers on what Mountrail County will get on the production side of it, that's going to increase, I think it's $60 barrel, it was $16 M more dollars which is a substantial amount of money over what they're currently getting. That will cover a lot of those needs once they get that because they have the production already to justify that kind of money. The offset to that is that they are also generating a tremendous amount of wealth to the state. It's a win-win deal for them and the state.

Senator Robinson: I know very little about this, but it appears to me that if we put some more dollars in the impact area, and the dollars are there from the activity, why would we wait like Bowman County did? We got to the caps, your roads are a mess and we're playing catch-up. If the funds are there, and they are there, why don't we put some more money in both? Why does it have to be one or the other? And then we'd have a win-win situation. The reality is that they need money now.

Senator Krauter: I always break this down to two approaches. There is the drilling and then there's the pumping or production. The drilling is the upfront infrastructure – all the semi loads of sand and water, the drilling rigs, the workers, the monumental costs that go into this. There is no oil produced there. That's all the upfront costs and that's where the impacts are found. Then once that rig is gone and they put the pumper on it and start pumping the oil, and that's when the oil comes out of the ground. That is when the tax is collected. At that point the dollars trickle into the state and it's given back to the cities and counties. I don't have any problem taking that cap off the maximum that those counties could receive. They're going to have some ongoing costs and further development. But when you get back to that first part, that's where the impact is. It's when the drilling and all that work takes place. When I look at the immediate needs, that's where the money is needed.

V. Chair Bowman: There is another aspect to getting a bill through and that's dollars. I'd rather have chance of getting this bill passed because it has tremendous affects upon those oil producing counties than to take a chance because of all the other dollars we spent and then end up getting this bill vetoed. The dollars that were generated in the governor's original proposal was $14 M plus one on the production side. That's $15 M total dollars. This bill has substantially more money going to oil producing counties than original bill did and I thought that it was a fair way to look at that. We increased the amount of money that they could give directly to the counties by $4 M dollars over what they currently get. This production is increased in these counties that check is going to grow substantially. My personal feeling is that I hope we have a lot more Mountrail Counties because the more money they have, the more money the state gets.

Senator Krauter: There are 16 counties out there, not just two counties, and the chances of those other fourteen counties reaching the cap isn't there today, but potentially, it could come. Those peripheral counties are never going to see this impact. Those other remaining 15 counties do not have the amount of federal land that received the federal money – the $9 M dollars. There are some other things that fall into this equation. We need to make sure that those impacted counties out there have the upfront dollars.

V. Chair Bowman: I'll bring this up on the House side if they want to increase it. More power to them, but I'd like to get the bill over there the way we passed it.

V. Chair Bowman moved Do Pass as Amended on engrossed SB 2229.

Senator Krebsbach seconded.

A Roll Call vote was taken. Yea: 14 Nay: 0 Absent: 0

V. Chair Bowman will carry the bill on the floor.

90808.0201
Title. 03..

Prepared by the Legislative Council staff for
Senator Bowman
February 12, 2009

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2229

Page 1, line 11, replace "twenty" with "ten"

Page 2, line 1, overstrike "However, the amount to which"

Page 2, overstrike lines 2 through 5

Page 2, line 6, overstrike "than", remove "five", and overstrike "million nine hundred thousand dollars for each fiscal year;"

Page 2, line 7, overstrike "however, a county may receive up to", remove "six", and overstrike "million nine hundred thousand"

Page 2, overstrike lines 8 through 10

Page 2, line 11, overstrike "Any amount received by a county exceeding", remove "five", and overstrike "million nine hundred"

Page 2, overstrike lines 12 through 15

Page 2, line 16, overstrike "thousand shall receive no more than", remove "six", and overstrike "million one hundred thousand"

Page 2, line 17, overstrike "dollars for each fiscal year; however, a county may receive up to" and remove "seven"

Page 2, overstrike lines 18 through 21

Page 2, line 22, overstrike "exceeding", remove "six" and overstrike "million one hundred thousand dollars under this"

Page 2, overstrike lines 23 through 25

Page 2, line 26, overstrike "than", remove "six", and overstrike "million six hundred thousand dollars for each fiscal year;"

Page 2, line 27, overstrike "however, a county may receive up to", remove "seven", and overstrike "million six hundred thousand"

Page 2, overstrike lines 28 through 30

Page 2, line 31, overstrike "Any amount received by a county exceeding", remove "six", and overstrike "million six hundred"

Page 3, overstrike lines 1 through 6

Renumber accordingly

Date: 2/16/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Senate ______________________________ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Amendment

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By ____________ Seconded By ____________

Representatives	Yes	No	Representatives	Yes	No
Senator Fischer	✓		Senator Warner		✓
Senator Christmann	✓		Senator Robinson		✓
Senator Krebsbach	✓		Senator Krauter		✓
Senator Bowman	✓		Senator Lindaas		✓
Senator Kilzer	✓		Senator Mathern		✓
Senator Grindberg	✓		Senator Seymour		✓
Senator Wardner	✓				
Chairman Holmberg	✓				

Total Yes 8 No 6

Absent ______________________________

Floor Assignment ______________________________

If the vote is on an amendment, briefly indicate intent:

To remove division A. of amendment.

yes vote to reduce down

Date: 2/16/09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Senate ______________________ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______________________

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By ______________________ Seconded By ______________________

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach			Senator Seymour		
Senator Fischer			Senator Lindaas		
Senator Wardner			Senator Robinson		
Senator Kilzer			Senator Warner		
V. Chair Bowman			Senator Krauter		
Senator Christmann			Senator Mathern		
V. Chair Grindberg					
Chairman Holmberg					

Total Yes Voice Vote No ______________________

Absent ______________________

Floor Assignment ______________________

If the vote is on an amendment, briefly indicate intent:

Division B passed amendment
Voice Vote

Date: 2/16/09
Roll Call Vote #: 3

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Senate ______________________ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number amend

Action Taken ☑ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By ______________ Seconded By ______________

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner			Senator Robinson		
Senator Fischer			Senator Lindaas		
V. Chair Bowman			Senator Warner		
Senator Krebsbach			Senator Krauter		
Senator Christmann			Senator Seymour		
Chairman Holmberg			Senator Mathern		
Senator Kilzer					
V. Chair Grindberg					

Total Yes ✓ No ______________

Absent Voice vote on Amendment

Floor Assignment ______________

If the vote is on an amendment, briefly indicate intent:

Date: 2/16/09
Roll Call Vote #: 4

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Senate ______________________________ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______________

Action Taken ☑ Do Pass ☐ Do Not Pass ☑ Amended

Motion Made By Bowman Seconded By Fischer

Representatives	Yes	No	Representatives	Yes	No
Senator Fischer	✓		Senator Warner	✓	
Senator Christmann	✓		Senator Robinson	✓	
Senator Krebsbach	✓		Senator Krauter	✓	
Senator Bowman	✓		Senator Lindaas	✓	
Senator Kilzer	✓		Senator Mathern	✓	
Senator Grindberg	✓		Senator Seymour	✓	
Senator Wardner	✓				
Chairman Holmberg	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Bowman

If the vote is on an amendment, briefly indicate intent:

90808.0202
Title.0300

Prepared by the Legislative Council staff for
Senator Bowman
February 18, 2009

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2229

Page 1, line 11, replace "twenty" with "ten"

Page 2, line 2, overstrike "must be limited based upon the"

Page 2, line 3, overstrike "population of the county according to the last official decennial federal census" and insert immediately thereafter "may be limited"

Page 2, replace lines 5 through 31 with:

"a. Counties having a population of three thousand or less shall receive no more than three million nine hundred thousand dollars for each fiscal year; however, a county may receive ~~up to four million nine hundred thousand dollars under this subdivision~~ the full amount of its allocation under this subsection for each fiscal year if during that fiscal year the county levies 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. ~~Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer to the county general fund.~~

b. Counties having a population of over three thousand but less than six thousand shall receive no more than four million one hundred thousand dollars for each fiscal year; however, a county may receive ~~up to five million one hundred thousand dollars under this subdivision~~ the full amount of its allocation under this subsection for each fiscal year if during that fiscal year the county levies 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. ~~Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer to the county general fund.~~

c. Counties having a population of six thousand or more shall receive no more than four million six hundred thousand dollars for each fiscal year; however, a county may receive ~~up to five million six hundred thousand dollars under this subdivision~~ the full amount of its allocation under this subsection for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. ~~Any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer to the county general fund.~~"

Page 3, remove lines 1 through 3

page(s) missing

Date: 2/18/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Senate **Senate Appropriations** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Amendment (the new one, 90808.0202)

Action Taken ☑ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Bowman Seconded By Christmann

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner			Senator Robinson		
Senator Fischer			Senator Lindaas		
V. Chair Bowman			Senator Warner		
Senator Krebsbach			Senator Krauter		
Senator Christmann			Senator Seymour		
Chairman Holmberg			Senator Mathern		
Senator Kilzer					
V. Chair Grindberg					

Total Yes Voice Vote carried No

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 2/18/09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Senate **Senate Appropriations** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☑ Do Pass ☐ Do Not Pass ☑ Amended

Motion Made By Bowman Seconded By Wardner

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach	✓		Senator Seymour	✓	
Senator Fischer	✓		Senator Lindaas	✓	
Senator Wardner	✓		Senator Robinson	✓	
Senator Kilzer	✓		Senator Warner	✓	
V. Chair Bowman	✓		Senator Krauter	✓	
Senator Christmann	✓		Senator Mathern	✓	
V. Chair Grindberg	✓				
Chairman Holmberg	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Same Carrier Bowman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2229, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2229 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "twenty" with "ten"

Page 2, line 1, overstrike "However, the amount to which"

Page 2, overstrike lines 2 through 5

Page 2, line 6, overstrike "than", remove "five", and overstrike "million nine hundred thousand dollars for each fiscal year;"

Page 2, line 7, overstrike "however, a county may receive up to", remove "six", and overstrike "million nine hundred thousand"

Page 2, overstrike lines 8 through 10

Page 2, line 11, overstrike "Any amount received by a county exceeding", remove "five", and overstrike "million nine hundred"

Page 2, overstrike lines 12 through 15

Page 2, line 16, overstrike "thousand shall receive no more than", remove "six", and overstrike "million one hundred thousand"

Page 2, line 17, overstrike "dollars for each fiscal year; however, a county may receive up to" and remove "seven"

Page 2, overstrike lines 18 through 21

Page 2, line 22, overstrike "exceeding", remove "six" and overstrike "million one hundred thousand dollars under this"

Page 2, overstrike lines 23 through 25

Page 2, line 26, overstrike "than", remove "six", and overstrike "million six hundred thousand dollars for each fiscal year;"

Page 2, line 27, overstrike "however, a county may receive up to", remove "seven", and overstrike "million six hundred thousand"

Page 2, overstrike lines 28 through 30

Page 2, line 31, overstrike "Any amount received by a county exceeding", remove "six", and overstrike "million six hundred"

Page 3, overstrike lines 1 through 6

Renumber accordingly

Date: 3-12-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Senate **Senate Appropriations** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number reconsider SB 2229

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

voice vote passed

Motion Made By Sen Krebsbach Seconded By Sen Wardner

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach			Senator Seymour		
Senator Fischer			Senator Lindaas		
Senator Wardner			Senator Robinson		
Senator Kilzer			Senator Warner		
V. Chair Bowman			Senator Krauter		
Senator Christmann			Senator Mathern		
V. Chair Grindberg					
Chairman Holmberg					

Total Yes __________ No __________

Absent __________

Floor Assignment __________

If the vote is on an amendment, briefly indicate intent:

Prepared by the Legislative Council staff for Senator Bowman
March 2, 2009

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2229

Page 2, line 1, remove the overstrike over "~~However, the amount to which~~"

Page 2, line 2, remove the overstrike over "~~each county is entitled pursuant to this subsection~~"

Page 2, line 3, after "~~census~~" insert "may be limited" and remove the overstrike over "~~as~~"

Page 2, line 4, remove the overstrike over "~~follows:~~"

Page 2, replace lines 5 through 31 with:

"a. Counties having a population of three thousand or less shall receive no more than three million nine hundred thousand dollars for each fiscal year; however, a county may receive ~~up to four million nine hundred thousand dollars under this subdivision~~ the full amount of its allocation under this subsection for each fiscal year if during that fiscal year the county levies 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. ~~Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer to the county general fund.~~

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Page 3, remove lines 1 and 2

Page 3, remove the overstrike over lines 3 through 5

Renumber accordingly

Date: 3-12-09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Senate **Senate Appropriations** Committee

☐ Check here for Conference Committee 90808.0301

Legislative Council Amendment Number .0301 amendment

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended Voice passed

Motion Made By Sen Bowman Seconded By Sen Krebsbach

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner			Senator Robinson		
Senator Fischer			Senator Lindaas		
V. Chair Bowman			Senator Warner		
Senator Krebsbach			Senator Krauter		
Senator Christmann			Senator Seymour		
Chairman Holmberg			Senator Mathern		
Senator Kilzer					
V. Chair Grindberg					

Total Yes ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

90808.0301
Title .0300

Date: March 12, 2009
Roll Call Vote #: ~~2~~ 3

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Senate **Senate Appropriations** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number engrossed Bill 2229 with .0301 amendment

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Sen Bowman Seconded By Sen. Krebsbach

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach	✓		Senator Seymour		
Senator Fischer	✓		Senator Lindaas	✓	
Senator Wardner	✓		Senator Robinson	✓	
Senator Kilzer	✓		Senator Warner	✓	
V. Chair Bowman	✓		Senator Krauter	✓	
Senator Christmann	✓		Senator Mathern	✓	
V. Chair Grindberg	✓				
Chairman Holmberg	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment back to Senate floor - Bowman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2229, as reengrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed SB 2229 was placed on the Sixth order on the calendar.

Page 2, line 1, remove the overstrike over "~~However, the amount to which~~"

Page 2, line 2, remove the overstrike over "~~each county is entitled pursuant to this subsection~~"

Page 2, line 3, after "~~census~~" insert "may be limited" and remove the overstrike over "~~as~~"

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Page 3, remove lines 1 and 2

Page 3, remove the overstrike over lines 3 through 5

Renumber accordingly

2009 HOUSE FINANCE AND TAXATION

SB 2229

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2229**

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: March 11, 2009

Recorder Job Number: 10701

Committee Clerk Signature

Minutes:

Chairman Belter: SB 2229, I want to inform the committee that we will be taking testimony, but this is not the official hearing on this bill. We had this bill in the House; we sent it back to the Senate and the Senate has not been able to get it back to us. I understand that there are some people that came in for this hearing to beat the weather so I am going to take testimony today and then I will be rescheduling this bill, I think, for 9:00 a.m. on Monday for the official hearing. I am not sure if any of the leadership is coming down to testify on this or not. It looks like not. I will open the hearing on SB 2229. Representative Drovdal will introduce the legislation.

Representative Drovdal: District 39. I am not on this particular bill, but there a number of people from my area and my district that are here for a hearing the other day. In order not to have to drive all the way home and come back in, they wish to have some comments on 2229. You have all listened to testimony previously on HB 1225 and HB 1304, which deal with the oil impact grants. Also, what this particular piece of legislation does, this is the Governor's recommendation. His recommendation was to put more money into the impact grant fund, to raise it up to $20 million from the current $6 million. It puts in an additional $2 million per year for the impact to the oil and gas counties. The oil and gas counties are here and you will hear some testimony from them as to how the formula works for them, what the long-term solution is, as they see it, and so I will ask them to come forward and give their testimony. We understand that this hearing will be recessed and will be reopened on Monday morning for additional testimony from those that have come for that particular day. With that, Mr. Chairman, I know that you will listen patiently and that you are well aware of the situation and that you have been very favorable to the counties in the past so I will allow them to testify.

Representative Weiler: In the first half of the session, we passed HB 1225. How do those compare with what this one is? How do they work together? Is this one needed?

Representative Drovdal: My feeling is that we did a real good two pieces of legislation earlier in the session. I think they address the long-terms needs of counties and also the niche that the oil impact grant money services, but I will certainly ask each of you as individuals that exact same question so that we can get the feeling from the people out there serving the constituents who have to put up with the impact of the oil development. By the way, we like oil and gas development. We are not criticizing them in any way whatsoever, but there is an impact that has to be paid for.

Kenneth Steiner, Bowman County Commission: (Testimony 1) We had NDSU do a study for us to determine the difference between what it costs to keep up the roads and infrastructure in the county compared to the oil impact area for the part of the county that doesn't have any oil. If you look, you will see a steel hull that has all been drawn down. The eastern part of the county has no oil activity whatsoever; it is all in the western part of the county. It is about ten times as much money. When I first became county commissioner in 2003, the first thing I voted on was a road project about 20 miles and it was $1,100,000. I about fell out of my chair. How can you spend that kind of money on a project like this? That same project now would get about four miles of road done. The difference is just unbelievable.

We need to get the cap removed so we can get things fixed up. A lot of these roads just can't take this heavy traffic. Another thing Bowman County has run into now is we don't have a real high grade of crude; they haul a lot of the crude in out of the Bakken now, haul it into Bowman County, mix it with our crude and then turn around and haul it out. Now we don't have the roads shot on one side; we have them shot on both sides. Just something we are starting to live with and it just seems like it is increasing. There are about 450 wells in Bowman County that are pumping now. They are drilling with four or five rigs in the county now, but there are still that many wells there. Eventually, there is enough well activity over the next 20 years, I guess, when they get to the eastern part of the state, they will run clear into Adams County. They say it will take 20 years so I guess I will miss out on that deal too. Last year Bowman County and their dependencies got $130,000 out of the impact fund. That was nice. Bowman County got that much; Bowman City got that much; the townships got $73,000 (four different townships). $73,000 won't even build one mile of road. The impact money is fun, it is good, but it doesn't even get close to meeting our needs. I will close with saying we sent $200 million in the last biennium to the state budget and they sent back $4.5 million. I think it is kind of an injustice to the county to expect that much money going out for 20 years sending this much money to the state and we can't get nothing back to fix our roads. We do a lot of work with the townships now; we are starting to do; and we have got one road project where we are going to do three miles of road for $650,000. The township that we are dealing with is going to put in $20,000 and that came from impact money. They are going to put in $5,000 of their own so we are going to get $25,000 for a $620,000 project. There are probably 300 pickups and 100 trucks go on that road every day. Something has to be fixed. (Inaudible)

Les Schnagler, Commissioner of the City of Bowman: I rise to address SB 2229. You have heard from Bowman County; you have heard about the needs of Bowman County; you have heard from Bowman city and the needs in Bowman City and all of those needs are still there. I am not going to repeat them. The needs continue; the needs in the city and the county are always there. The demand for services continues so we support SB 2229 as it will be presented. Our main interest is to hope that this legislation will allow additional funding, additional energy dollars to come back to the Bowman area and back to the Bowman City as well as our neighbors in the oil producing counties. The question that might be asked is why we are supporting this one when there are several bills that are very similar? The City of Bowman is supporting all of them because we don't know which one is going to be the end one. The needs are there and we really, really hope that you can help us out in the oilfields with some additional funding especially in the gross oil and gas production tax area. Thank you.

Representative Drovdal: I don't know, Les, if you want to answer this or if you want Vicky to answer it, but somebody needs to answer this. This committee worked on two bills earlier, 1225, which you are familiar with which raised the impact grant dollars from $6 to $8 million and also for that $10 million in one-time grant money. We also worked on HB 1304, which took the cap off as this one is supposed to be doing, but it also adjusted inside the formula for some cities and the bigger towns like Williston so it would help Tioga and Ray, where this one just sends the money out either in the old formula or it sends it out to the county; we are not sure of that exactly. What is the preference from the Bowman area between the two bills? Do you have a preference? Somebody needs to answer that before you leave.

Les Schnagler: Can I defer to the Mayor of Bowman? Is that allowable?

Lyn James, Mayor of Bowman: We have visited extensively about this because it seems that we are here talking about we support this, we need your help and all of those good comments. The question arises, how can you support all of them? Do we need direction?

We are concerned with what if none of them passes? It is a scary thought so we visited with Vicky and we visited with other members of our oil and gas producing counties. Our thought is that HB 1304 suits the smaller communities, as well as the larger communities, the counties and townships better than 2229. HB 2225 would address the impact fund so that would probably be a better fit, especially for those small communities. We can testify for Bowman, but we are also testifying for our neighbors on the western side of the state. It is important we get a positive result from this. We are not here just to (inaudible). We see the after effects on the production side. Right now the people to the north outside McKenzie County, the other counties are going to see the same issues that we have seen over the past years. We want it to be the best for everyone. We do appreciate your time.

Chairman Belter: Are there any other questions? Are there any questions of committee members? Further testimony in support of SB 2229?

Lynn Brackel: I wasn't planning on testifying here; I testified on HB 1304 yesterday on behalf of the townships. I live outside of Bowman; the road past my place is a township road, the township that Ken talked about that $620,000 worth of road repair. Right now most of the townships receive $6-7,000 from mill levies. Bowman Township receives $15,000 because they have a larger population; they did receive $20,000 from the oil impact fund. The townships need the help too. Star Township, which is building two miles of road, did not receive any oil impact money so the county loaned them $5,000 for their portion to pay for $300,000 worth of road. We gave them a loan for $5,000 for five years and the idea was that they would return $1,000 a year to pay for this two miles of road. This two miles of road does not even have tree tracks in it, like when you drive down these country road and there are two tracks and there are two hills on this. Would you want to be sending your school bus or your four wheel drive tractor down there? The truck with the pipe comes across there and you are supposed to pass so the townships too need the money as well as the counties. The counties have been doing a good job of helping them out, but that puts extra expenses on the county. This time around, if you take the formula, the cities and the schools; Bowman Township received $2.84 million; that is what our portion actually is. That $5.1 million sounds like a lot, but once you divvy it down with the different formulas, it leaves us $2.84 million. Thank you.

Representative Schmidt: Has your township levied the max?

Lynn Brackel: Yes, we are above the max or at the max. Half of the county is not organized into townships and the other half is so we made all of the townships go up to that max level.

Chairman Belter: Any other questions?

Lynn Brackel: Thank you very much. This is the first time we have been able to make our whole plea for help. In the other committees, we have let the other counties go ahead because Bowman has been here before and so everybody covers it beforehand. We just get up there and give our little bites and walk out the door. Thank you very much.

Chairman Belter: Further testimony in support of SB 2229? If not, is there any opposition to 2229? If not then, we will unofficially close the hearing for today and resume again on Monday morning.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2229**

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: March 16, 2009

Recorder Job Number: 11005

Committee Clerk Signature

Minutes:

Chairman Belter: We will open the hearing on SB 2229. Senator Bowman.

Senator Bill Bowman: District 39. I was going to introduce a bill to do a few things for the oil producing counties because I have been involved in it for many years. But the language to the bill that I was going to amend was in the Land Department's bill. Then that language was pulled out and put into SB 2229 so it has been kind of a race horse to try to follow where it is going. I basically amended the bill on the Senate side that increased the amount of money to the grant line item for impacts of $4 million. The other amendment took the cap off the production side, but the one thing that was left out and I didn't have the research to back it up until Friday when I went home, was that the townships themselves were totally left out of getting any money. I had amendments drafted **(Attachment 1)** that would include townships and school items that are not ongoing expenses. You might say, what would that be? Well, a school bus; you don't buy them every year. If they have been torn up by these roads, you might have to purchase one. They would come to the county and make a request for a grant to buy a school bus. Another item you might want to look at would be a roof for the school buildings or energy efficient windows, a geo-thermal heating unit; those are not ongoing expenses to the school, but it is something the schools need if they are going to keep up and be competitive and keep their costs of operation down. The way that would work would be very simple. As the money goes into the school, this would be diverted to the Tax Department of your county. It would b e put into the road budget; they would have a record; it is very easy to do with the dollars in there. Townships would come in and request grants and you subtract that from the total dollars so you always know what your running balance is. Your school superintendents would come in and make a request. If they funded a certain project, you just subtract that from the running balance. Why did I do that? Because it takes all the pressure off the school board to misuse that money. There is none of that grey area left if the county commissioners do it versus the school board. I am not saying school boards would do it, but this would eliminate that possibility. The amendments, I believe, are fairly similar to Representative Skarpohl's amendments and I haven't seen his bill so I can't speak for it, but I do know that one critical element of all of this oil money that we are talking about is our townships—to get some money out there to help them. Our county has been funding township road projects for the last four to five years because they absolutely cannot come up with enough money to keep their roads up. What is really important to understand about the townships is most township roads were never built for heavy traffic. No one ever thought we were going to have this kind of an explosion of these great big tankers so they are narrower, they usually have steeper ditches. If you are going to build a township road, you want to build it to the specs of the county road. If you are concerned about safety of those kids on the school bus meeting one of those big trucks, that is what you have to do. They are expensive; but if you do it right the first time, in the long run it cuts the overall costs down because those roads last longer. By putting this money in there, there are going to be grants available for townships, there are going to be grants available for one-time funding bills for schools; you are going to have $4 million in additional money for your impact grant line item that is distributed to all of the counties that are impacted and the cap is off production. We talked a little bit about production tax just a little while ago. The one thing you have to remember about the production is as production increases, everybody is the beneficiary. The state benefits, the county benefits; everybody benefits, but when you get in to the bottom line of all this, the loser is really the township. They don't get any direct money and they have just as much impact as your county roads; in a lot of cases, even more. We are at the mercy of them. I hope you will consider these amendments; if you do, the bill will be a lot better bill. It will address a lot of issues dealing with oil and gas and I think it will take care of a lot of our long-term needs out there because we have addressed them in this bill. I know there are some other good bills in the House that have been heard and I am really appreciative of that so we can get a good bill out of this session that is going to address a lot of the needs we have. Are there any questions?

Arlo Borud, Mountrail County Commissioner: (Testimony 2) (8:08-1134)

Vice Chairman Drovdal: We appreciate your comments on 1304. This committee spent a lot of time earlier in the session working on that bill. Are there any questions for Mr. Borud? Thank you. The reason we don't have a lot of questions is this is the fourth or fifth time we have heard this. We did have some testimony, as the committee remembers, on 2229 last week; that is in the record also. Any other testimony in favor of SB 2229?

Vicky Steiner, ND Association of Oil and Gas Producing Counties: (Testimony 3) (12:23-14:58)

Representative Pinkerton: Now the state wells, there is no tax paid on those. Is that correct?

Vicky Steiner: Mr. Engelson is here and he can answer that. He takes care of those trust funds. I believe that they are not going to pay themselves for tax so it is on the royalty that comes in, they would not be paying a gross production tax.

Representative Pinkerton: That would just be on the royalty payments so 5/6 of it has tax paid on it and 1/6 would not.

Vicky Steiner: Correct. The non-state interest would pay tax.

Vice Chairman Drovdal: Any other questions for Ms. Steiner? Seeing none, we thank you for your testimony.

Jeff Engleson, Director of Energy Development Impact Office: (Testimony 4). (18:45)

Representative Brandenburg: I am the township supervisor in a township and I know how hard it is so if you can explain to me, how is this amendment that Senator Bowman has going to help townships so that the money gets back to those townships? Everybody wants a cut of this. From what I have heard from people, townships are getting left out. How are we going to insure with Senator Bowman's amendments that the townships are going to get their share?

Jeff Engleson: I haven't seen the amendments. If it is something like he said that is 1304, I think that is a better formula because it does get some money to the townships; right now they get zero other than what the counties are willing to share with them and they do. I think you are right; some counties do more and some do less. It will get some money directly to them; if that is the case, I think that is a good thing because they are heavily impacted and that is why about half the funds went there last year.

Vice Chairman Drovdal: Representative Brandenburg, if you look on page 3 at the very bottom of the page, Senator Bowman's amendments directs 35% of all revenue allocated to townships or schools, pretty much the same as 1304 did.

Sandy Clark, ND Farm Bureau: It is the first time that Farm Bureau has had an opportunity to testify before you. At every hearing you have had, the room has been so full we couldn't get in and that is a good thing. We, too, want to stand today in support of SB 2229. Our members have seen the need and understand the issue in the oil producing counties; we have a lot of members in the oil producing counties. They came with resolutions to our state annual meeting. You are familiar with how our process works. The resolutions had unanimous support from our members clear across the state. I think that demonstrates that people across the state understand the dilemma so I am just going to read the two policies we have. We have one on the oil impact grant fund and one on the gross production tax. The first one says, "We believe the cap for the oil impact grant fund monies for the 17 oil and gas producing counties should be raised." The second policy says, "We support increased funding from the oil and gas gross production tax for impacted counties, cities and schools. We support including townships in the formula." We support including townships as well. That would conclude our testimony. We just wanted to stand in support of the bill.

Ken Yantas, ND Township Officers Association: I have come up here very briefly because I know the important testimony is in these chairs right now. I have come up to say we have a similar policy to the Farm Bureau's and we appreciate the amendments. I would think they do what they want us to do.

Representative Headland: A lot of the townships in western ND, I believe, are unorganized. Who makes the decisions in most cases? Is it the county commission?

Ken Yantas: You are right. The county commissioners do make the decisions in the unorganized townships. In ND, when we set it up, we had 1800 congressional townships when we surveyed it originally, 1342 are organized townships or civil townships now. The balance of the business is done by the county commissioners in their area.

Vice Chairman Drovdal:

John Phillips, Coal Conversion Counties: I am from Beulah. I am basically here to speak to the fact that we are veterans of impact and energy development. As you all know, in the mid 80's, there was an extreme amount of opportunity for the state provided when we started mining coal and electrical generation and whatever. Going through that time period and recognizing the importance of the in lieu tax is severance and conversion dollars. Now moving into the oil industry and the greater oil impact, we have oil production taxes and again we are dealing with impact which we also had the opportunity to work with at that time. I don't think that anybody realizes what things occur on a day to day basis in those counties and areas unless you have actually been there and lived with that. There are just some opportunities; those opportunities don't end; they continue. At any one time, out of many plants in our area right now, there can be 300-500 workers on a site. That will continue all summer, into the spring and into the fall. That creates impact. That is a tremendous amount of travel; that is the use of facilities and other things in that area. We have to assist those areas in financing that impact to those areas. We are now the "new guys on the block" as we have oil moving into Mercer County as we have a well that is producing right now, several wells being drilled right now. Most recently just six miles west of Beulah, we are going to be doing a oil truck to rail facility, a trans load facility that we think is going to provide a tremendous opportunity, as the company tells us, of assisting the oil industry of moving oil from the area as well as bringing in products that are going to enhance the opportunity for drilling and companies to get cheaper suppliers or whatever. They are going to be railing in diesel fuel in that area. We are the last empire for rail in western ND with that. I think if you look at the BNSF rail mess, you probably don't find (?) the rail line until you get to Williston. It is a critical need. In fact, rail is becoming even more critical as we move on in the economy right now because of a lack of trucking opportunities and the cost of trucking operations with that. I am just here to support; I think it is very critical right now that we support these bills with that, not only for impact but for the oil production tax because these communities and areas certainly need help. (26:28)

Vice Chairman Drovdal: Any further testimony in support of 2229? If not, is there any opposition to SB 2229? Any neutral testimony on SB 2229?

Representative Froseth: Could someone from the Tax Department explain this latest fiscal note on Senator Bowman's amendment? There is a reduction of $10 million. Is that due to the price of oil?

Cory Fong, Tax Commissioner: I have not seen the latest fiscal note. As I understand it, Senator Bowman's amendments just requires the 10 mill requirement for levying the roads. Is that correct? I don't think it changes the fiscal note.

Representative Froseth: This fiscal note on February 20 shows a loss of $33,200,000 to the general fund. The fiscal note on March 13 shows a loss of $23,800,000 so it is a $10 million decline in the loss of general funds. Is that basically because the price of oil is different in that month's time?

Cory Fong: I am looking at the fiscal note that showed $33,200,000; the drop may be because we are looking at the new legislative forecast. Yes, the revision is based on, if you take a look at the fiscal note, under the fiscal impact section, this section is based on the February, 2009 legislative revised forecast; change in fiscal impact from prior fiscal notes reflects forecast revisions and is not due to changes in a third engrossment. We can get more information on this.

Representative Pinkerton: Vicky, I am from Ward County and this oil is moving our direction or the exploration is. As I thought about it this weekend, the taxes and impact monies are based really on the price of the oil that is being extracted and it is also based on success on the wells in pumping. It is a production tax. Is this the right way for us to look at this because the impact is going to occur—it is the same impact in Mountrail County whether that well is producing oil worth $3 a barrel or $100 a barrel; it is still the same number of trucks going over the road; it is the same damage; it is the same number of increased firemen, increased policemen you need in the county. We spend a great deal of time on these bills and I wonder if this is the correct way we should be going. Should we be taxing on a, even if we lower the production tax, should we be taxing on the number of operating rigs or your state money not being paid taxes on—all of those things together—is this the correct direction we should be going?

Vicky Steiner: There are actually two elements of the gross production tax; one is Ward County gets production tax and then also there is an impact fund. Those are two separate things and so there are different bills. That may be what is confusing at times.

Representative Pinkerton: Maybe I am not being clear. The money that is being received is based on the production and the price that you receive for that production, but the damages that are being done to the roads and the impact on the towns and townships and schools are based on the number of operating rigs. Is there some sort incongruity there between basing the amount of money that Mountrail County or Ward County or Dunn County is going to need based on the money that comes in for the production when really the impact comes from the number of rigs that are operating? The state pays no money on their share of the royalties; I don't want to change the direction of this at this point, but there does seem to be some sort of disunity there.

Vicky Steiner: You are exactly right. We can show Mountrail County has impact and they have better wells. Then you have Dunn County and their wells didn't turn out quite so well, but they still have a lot of trucks running. You are right ; a road is a road so if you don't get as much production tax out of that well, then you are going to need some impact funds because your production is not going to be quite there. But if you are a huge county like Mountrail County, then you are going to go over that production cap; you are going to be able to take those funds and take care of your roads without asking for impact dollars. That is why I say there are two things going on. You are right although I guess you could also look at if you have 96 rigs running and now you have 51 rigs running, you are going to have less impact but you don't get the same amount of oil of every single well; you are correct but I think we are going to see impact go down slightly because you are going to have less rig counts. But you are still going to have that mix of if your wells don't come in and you had impact, you are going to get impact funds from this arm. If you have terrific production and you have impact, you can take care of it with the tax dollars. That is what I am saying; there are two things. You are correct. You are going to have some impact and if the wells don't come in, your roads still are damaged.

Representative Pinkerton: The amendments get more and more complicated and I am thinking are we really on the right track here? We have been fortunate that the Bakken has been very productive so every well that came in that was drilled almost became productive—at least in Mountrail County. That doesn't mean as we go into different formations that we are going to have that same success rate. A dry hole still has a thousand semis that run over the top of it and yet we get virtually zero revenue to repair the roads.

Vicky Steiner: I think from your perspective for Ward County, you would like to know if in the future your county would be more protected. Every amendment is actually making it better and better, I think from my perspective, because it is directing the money more and more to where it will really help. For Ward County's protection, if you become a Mountrail County overnight and the legislature doesn't meet for two years, you can always get 25% on the bottom of your formula to help with that as those wells come in. If the wells don't come in, right now the impact formula is being increased so if your wells didn't come in and you had impact, you would be able to go for those funds. What we are doing is actually getting things set up so if your county does get in that situation, it is going to be better than it was for Mountrail County.

Representative Pinkerton: There is nothing to address the royalties that the state is receiving, there are no taxes paid on that. Does this bill address that anywhere?

Vicky Steiner: No and we are not asking that, but I wanted to make you aware that there are assets that are being developed for the state portfolio in this mix. I just wanted to make you aware of that.

Representative Pinkerton: Has there been any thought to decrease the taxes on the production of oil and increase the taxes or charge some higher fee for permeating so that there is an assurance of income even if the well is dry or is poor producing?

Vicky Steiner: I guess I would hesitate at getting into tax policy at this point because that is a different bill, but what we are trying to do here is insure that there is a little bit better flow of dollars for impact and also for the large producing counties. That is what this is trying to address; this isn't actually addressing tax policy at all.

Vice Chairman Drovdal: Any other testimony? I will close the hearing on SB 2229.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2229**

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: March 16, 2009

Recorder Job Number: 11008

Committee Clerk Signature

Minutes:

Chairman Belter: What bill did we have this morning? SB 2229.

Representative Drovdal: I move the Senator Bowman .0402 amendments.

Chairman Belter: We have a motion to approve the Bowman amendments and a second from Representative Grande. Any discussion? **(The motion to approve the Bowman .0402 amendments passed by a voice vote.)** We have a motion for a "do pass as amended and refer to appropriations" from Representative Drovdal and a second from Representative Froseth. Any discussion?

Representative Drovdal: Mr. Chairman, if I could, we have heard this bill many times before. The testimony told us that they like what we did the first half of the session. The request was made to me that we need to keep this alive. Putting Senator Bowman's amendments on it made it a lot closer to what 1304 was and 1225. The request was that we send it into appropriations and they are going to sit on it to see what the Senate does with 1225 and 1304. There are amendments available to make it exactly the same as those two but they requested not to put them on until they get to appropriations. The request was to send it down to appropriations and then let them sit on it because we have to get it out of our committee today. With that, I ask the committee to support the bill and we will send it down and let them sit on it.

Chairman Belter: Any other discussion? If not, will the clerk read the roll for a **"do pass as amended and rerefer to appropriations". A roll call vote resulted in 10 ayes, 2 nays and 1 absent/not voting. Representative Drovdal will carry the bill.**

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Title.0500

Prepared by the Legislative Council staff for Senator Bowman
March 16, 2009

VR
3/16/09
1 of 4

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2229

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-51-15 of the North Dakota Century Code, relating to apportionment of oil and gas gross production taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-51-15. Apportionment and use of proceeds of tax. The gross production tax provided for in this chapter must be apportioned 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 credit thirty-three and one-third percent of the revenues to the oil and gas impact grant fund, but not in an amount exceeding ~~six~~ ten million dollars per biennium, including any amounts otherwise appropriated for oil and gas impact grants for the biennium by the legislative assembly, and who shall credit the remaining revenues to the state general fund.

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 one million dollars ~~of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated to ~~that~~ the county.

   b. The ~~second~~ next one million dollars ~~of annual revenue after the deduction for the amount provided for in subsection 1 from oil and gas produced in any county~~ must be allocated seventy-five percent to ~~that~~ the county and twenty-five percent to the state general fund.

   c. The ~~third~~ next one million dollars ~~of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated fifty percent to ~~that~~ the county and fifty percent to the state general fund.

   d. All annual revenue ~~after the deduction of the amount provided for in subsection 1 above three million dollars from oil or gas produced in any county~~ remaining after the allocation in subdivision c must be allocated twenty-five percent to ~~that~~ the county and seventy-five percent to the state general fund. ~~However, the~~

3. The amount to which each county is entitled ~~pursuant to this~~ under subsection 2 must be ~~limited based upon the population of~~ allocated within the county ~~according to the last official decennial federal census~~ as follows:

   a. Counties having a population of three thousand or less shall receive ~~no more than~~ three million nine hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county~~

~~may receive up to four million nine hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies 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. Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the ~~county~~ state treasurer to the infrastructure fund for the county ~~general fund~~.

b. Counties having a population of over three thousand but less than six thousand shall receive ~~no more than~~ four million one hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million one hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies 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. Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the ~~county~~ state treasurer to the infrastructure fund for the county ~~general fund~~.

c. Counties having a population of six thousand or more shall receive ~~no more than~~ four million six hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million six hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the ~~county~~ state treasurer to the infrastructure fund for the county ~~general fund~~.

Any allocations for any county pursuant to this subsection which exceed the applicable limitation for that county as provided in subdivisions a through c must be deposited instead in the state's general fund.

~~3.~~ 4. a. Forty-five percent of all revenues ~~as may by the legislative assembly be~~ allocated to any county ~~hereunder~~ for allocation under this subsection must be credited by the county treasurer to the county general fund.

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, is fewer than

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four hundred, the county is entitled to one hundred twenty percent of the county average per student cost 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. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

c. Twenty percent of all revenues allocated to any county ~~hereunder~~ for allocation under this subsection must be ~~paid~~ apportioned no less than quarterly by the state treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official decennial federal census. ~~Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in~~ 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 ~~determining the per capita limitation in~~ this ~~section~~ subdivision must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

~~a.~~ (1) Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~b.~~ (2) Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~c.~~ (3) The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:

~~(1)~~ (a) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or

~~(2)~~ (b) Four hundred twenty.

5\. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsection 3 must be allocated by the state treasurer to the county for deposit in the county general fund.

b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsection 3 must be allocated by the board of county commissioners to or for the benefit of townships or school districts in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or applications by school districts for school district infrastructure needs that are not ongoing costs of the school district. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads in those townships. The state treasurer annually shall make payments to townships and school districts, and to the county on behalf of unorganized townships, within the county upon receipt of a schedule of recipients and allocation amounts submitted by the board of county commissioners in a format prescribed by the state treasurer. The amount deposited during each calendar year in the infrastructure fund for the county which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the state treasurer to the county for deposit in the county road and bridge fund for use on county road and bridge projects.

c. Twenty percent of all revenues allocated to the infrastructure fund for the county under subsection 3 must be allocated by the state treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census.

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

Renumber accordingly

Date: March 16, 2009

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

House **FINANCE AND TAXATION** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Bowman

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Drovdal Seconded By Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovdal			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent: Motion Carries

Date: March 16, 2009

Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

House **FINANCE AND TAXATION** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Drovdal Seconded By Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Representative Froelich		✓
Vice Chairman David Drovdal	✓		Representative Kelsh	✓	
Representative Brandenburg	✓		Representative Pinkerton	✓	
Representative Froseth	✓		Representative Schmidt		
Representative Grande	✓		Representative Winrich	✓	
Representative Headland	✓				
Representative Weiler		✓			
Representative Wrangham	✓				

Total (Yes) 10 No 2

Absent 1 (Schmidt)

Floor Assignment Representative Drovdal

If the vote is on an amendment, briefly indicate intent: Rerefer to Appropriations

REPORT OF STANDING COMMITTEE

SB 2229, as reengrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2229 was placed on the Sixth order on the calendar.

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c. Twenty percent of all revenues allocated to any county ~~hereunder~~ for allocation under this subsection must be ~~paid~~ apportioned no less than quarterly by the state treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official decennial federal census. ~~Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in~~ 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 ~~determining the per capita limitation in~~ this ~~section~~ subdivision must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

~~a.~~ (1) Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~b.~~ (2) Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~c.~~ (3) The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:

~~(1)~~ (a) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or

~~(2)~~ (b) Four hundred twenty.

5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsection 3 must be allocated by the state treasurer to the county for deposit in the county general fund.

b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsection 3 must be allocated by the board of county commissioners to or for the benefit of townships or school districts in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or applications by school districts for school district infrastructure needs that are not ongoing costs of the school district. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads in those townships. The state treasurer annually shall make payments to townships and school districts, and to the county on behalf of unorganized townships, within the county upon receipt of a schedule of recipients and allocation amounts submitted by the board of county commissioners in a format prescribed by the state treasurer. The amount deposited during each calendar year in the infrastructure fund for the county which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the state treasurer to the county for deposit in the county road and bridge fund for use on county road and bridge projects.

c. Twenty percent of all revenues allocated to the infrastructure fund for the county under subsection 3 must be allocated by the state treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census.

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

Renumber accordingly

2009 HOUSE APPROPRIATIONS

SB 2229

2009 HOUSE STANDING COMMITTEE MINUTES

SB 2229

House Appropriations Committee

☐ **Check here for Conference Committee**

Hearing Date: March 25, 2009

Recorder Job Number: 11523

Committee Clerk Signature	RoMae Kuch

Minutes:

Chm. Svedjan: This is a bill that came from Finance & Tax. Amendment .0303 (Attachment A) was distributed.

Rep. Drovdal: The engrossed version of SB 2229 addresses both oil impact grant money. The first is currently at six million dollars. It raises that cap to ten million. That is the money that goes out to ambulances, fire department, townships that don't receive any other type of grant money and goes out to counties that don't have production but do have impact. Previously this committee had a bill 1225 that also addressed this issue and I will get back to that later. The rest of the bill goes into the impact grant dollars that goes to the county, city and school districts. Currently is takes up to six million dollars. SB 2229 removes the cap and inside the bill, the original five million dollars cap we had for so many years, the dollar amount goes out exactly like it did before, 45% to counties, 35% to schools and 20% to the cities. The additional dollars put into this bill, 45% to counties, 20% to cities, 35% townships and schools based on a grant application that apply for because of oil impact. This money is reimbursed out by the state treasurer. Any 35% that is left at the end of the year goes out to county's general fund.

Chm. Svedjan: Any questions so far?

Rep Onstad: At what point does the dollar level at the county level, when a township that feels impacted, would go through this process?

Rep Drovdal: It's not a black and white answer. The old cap under the $5 million cap depended on the population of the county, not everyone was at the five million dollar cap. Being at the original cap that they had a number of years ago, when they got that amount of money, they would still do a permit, once they go above that amount of money, it would go under the new formula.

Rep Onstad: The township control would apply to the state land department for energy impact grants. You say it goes to the treasure?

Rep Drovdal: You are correct stating that the townships previously under the old formula, the only money they got would go to the land department grant fund, which was a six million dollar cap. Under this bill, once they get over that old cap, the townships can go right to the county or the state treasurer under this bill and apply for this money. It's not on a competing grant, unless the money runs out, as they spend the money they go in and ask for the funds for reimbursement.

Rep Onstad: What knowledge does the state treasurer have if it is a true impact or not?

Rep Drovdal: That is a good question and when I go through the amendments, you will understand why we have the amendments there.

Chm. Svedjan: Further questions so far? Would you go into the amendments?

Rep Drovdal: The reason that the amendments are here and not put into committee was because the committee was we were waiting for the Senate action on HB 1304. When we had testimony on SB 2229 and the committee itself, we asked the testifiers which would solve the problems the best. All of them said HB 1304 would address the needs better than SB 2229.

It's the same amount of money. The reason is this, the first part of the bill on the amendment and it does change the money that goes to the land department. HB 1225 as we passed it, had raised the cap from six to eight million dollars and a onetime infusion of five million dollars that would go out as soon as possible. What this other amendment does is it puts in 1304 in its entirety, into this bill. What 1304 did that this bill doesn't do is it puts in a city formula so that those two big counties that have smaller towns, those small towns will be able to get some oil impact dollars back. They are getting very little money back even though they have the impact. The economic is all going to the bigger towns. Another thing this does is instead of the state treasurer handling the grants to the townships and schools, it the county treasurer handle it.

Rep. Meyer: What entity allocates the impact grants? Is it state lands department?

Rep. Drovdal: It won't change the impact grant other than the amount of money. It will still go back to the state land department as it has previously.

Rep. Meyer: Our treasurer has gone to monthly allocation and that has worked better for us. Your amendment does it quarterly. Did your committee talk about going to monthly so we don't have that 13th payment?

Rep. Drovdal: We did not discuss it, we thought we were doing it the current way.

Rep. Meyer: The State Treasurer did that and her idea is working well. I would like to keep her ideas.

Rep. Drovdal: I don't have a problem with that and she didn't testify that she would be changing that.

Chm. Svedjan: I guess if it says quarterly, does it restrict her from doing that. If we need to further amend we can do that.

Rep. Skarphol: These amendments incorporate the aspects of both HB 1304 and 1225 into one bill. It's an effort to make this all encompassing. I cannot find a reference to the quarterly payments.

Rep. Meyer: Page 3, subsection b, it's through subsection c. The Treasurer has started making monthly distributions.

Rep. Skarphol: This says no less than quarterly. The Treasurer would have the flexibility to do them monthly. She would have the discretion.

Rep. Skarphol: (13:16) Moved amendment .0303 to SB 2229

Rep. Wald: Seconded

Rep. Svedjan: To me "no less than quarterly" means you can't go less than quarterly.

Rep. Meyer: That was indicated to us previously. She did that and it was a great idea for our counties. I am in agreement with these amendments but I would like to see this done on a monthly basis.

Rep. Wald: (14:07) Through the bill we change from the County General Fund to the infrastructure fund. Does that make it more restrictive on how the county can spend the funds?

Rep. Skarphol: It differentiates between the monies that the counties, schools, and cities are to receive up to the existing cap dollar from what the counties, other political subdivisions, and the cities are going to receive. There is a differentiation between the dollars that the schools are going to get a portion of and those that the schools will not get a portion of other than by application.

Rep. Wald: We are not tying the hands on the county level?

Rep. Skarhpol: Not in any way. They will have a process that requires reimbursements from the townships.

Rep. Berg: Explain how this amendment changes current law.

Rep. Drovdal: Financially –on the Oil Land Department's Grant Money would go from $6 to $8 million biennually. Plus $5 million on a one-time grant. So there would be $7 million additional. The main formula would be $26.6 million additional dollars going out to 16 or 17 counties. I did figure what the return is. If oil is at $80, for every dollar that the counties get back, the state gets $8.2. The Tax Department thinks that no less than quarterly means they have to at least do it once a quarter. They believe there is another bill in that the Treasurer can do it on a monthly basis.

Rep. Berg: (16:49) 1304 is on the Senate Calendar with a unanimous Do Not Pass.

Rep. Drovdal: It is in the Senate Finance & Tax committee. It was sent to appropriations, was reconsidered, sent back to the Finance & Tax and reconsidered. Right now it has not been voted on.

Rep. Berg: What is the status on HB 1225?

Rep. Drovdal: It came out of Natural Resources with a 6-0 Do Pass. They did amend an additional $3 million into it and sent it to appropriation. There has been no action that I know of.

Rep. Wald: Page 1 of your amendments, section 1, subsection 1b you make reference to covered private employment as compiled by Job Service. I understand there is a difference between how they count energy related employment between WSI's definition and Job Service. I understand there is a trucking firm that is exclusively oil field related. Would those people who are employed in the trucking industry be counted in this scenario?

Rep. Drovdal: I believe so.

Rep. Skarphol: In putting this together, when we tried to use jobs directly related to the oil industry, no segment really counted that in a quantifiable way. Job Services used the term "mining" that incorporates both coal and oil. Transportation entities are not included since trucking is trucking. When we tried to incorporate trucking into the formula coming out of Job Service, it showed larger favoritism to Williams County than Stark. You can use WSI statistics if you want. I'm more comfortable with Job Services which has a well-defined categorization.

Rep. Berg: (19:53) When you have 2 percent, 500,000 goes if their employment is 2% then it's doubled if it's over 7 ½%. Was there any thought to a sliding scale? What cities are over 7,500?

Rep. Skarphol: The cities are Dickinson (4 percent jobs directly related to mining), Williston (22 percent jobs directly related to mining), and Minot. The devastation to Williston's economy when oil collapsed previously, the lack of the same level of devastation is to Dickinson's economy. My effort was to be as equitable as possible to the counties most affected and to the extent that they are affected. Minot would be included if their employment numbers crawled up over that and their production was sufficient for them to get there in Ward County.

Chm. Svedjan: The amendment .0303 is a hog house amendment.

Rep. Meyer: I move a substitute motion indicating the treasurer pays these funds monthly wherever that applies in this section.

Rep. Berg: Let's be silent rather than say they have to pay it monthly. I'm assuming that may not always be the case.

Rep. Skarphol: If a county has $4 coming, is it logical to pay it monthly. Does it make sense to send insignificant amounts monthly?

Chm. Svedjan: I'm still hung up on no less than quarterly. To me that means you have to pay quarterly or beyond. If we were to change "no less than" to "at least", that would accomplish it and provide the flexibility.

Rep. Berg: I think there is an understanding by the State Treasurer that they want to get the money out. My recommendation would be to take out "no less than quarterly." Then it just says the treasurer shall pay. That would keep the code clean.

Chm. Svedjan: I think we're all headed toward the same target.

Rep. Skarphol: (24:14) I don't want to have them require it.

Rep. Meyer: Do you have an amount in mind? I really feel that she had a case and I know we have a bill somewhere where she said that change in the code needed to be changed to a monthly distribution. It certainly helped in Mountrail County.

Chm. Svedjan: If we changed "no less than" to "at least", that would still allow the flexibility.

Rep. Delzer: I believe if that other bill passes, Legislative council will incorporate these if they are in the same section. I know the last one takes effect, but when they are alike and they are not competing that would take care of the problem.

Chm. Svedjan: I don't know what the existing law says. This says "no less than quarterly."

Rep. Drovdal: This is current language.

Rep. Kempenich: I move to amend Section C to "at least quarterly."

Rep. Meyer: Seconded it.

Chm. Svedjan: If there's not enough money to apportion it out, then do it when there is.

Rep. Skarphol: If you are going to pay it less than quarterly, rather than pay it every 3 months you would pay it every 5 months or 10 months. That is "less than." I think the language in there does that.

Chm. Svedjan: That is a good point. Do you want to withdraw your motion?

Motion withdrawn.

Rep. Skarphol: I ask that the record reflects that it is the hope of this committee that these payments be made monthly to these counties at the very least.

Voice vote taken on motion to adopt amendment .0303. (Vote 1)

Motion carries.

Rep. Wald: Moved Do Pass as amended.

Rep. Meyer: Seconded.

A Roll Call vote was taken. **Yes:** 19, **No:** 1, **Absent:** 5, (Representatives Berg, Dosch, Kroeber, Kaldor, Ekstrom).

Motion carries.

Representative Skarphol will carry the bill.

Attachment A
3/25/09

90808.0303
Title.

Prepared by the Legislative Council staff for Representative Drovdal
March 24, 2009

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2229

In lieu of the amendments adopted by the House as printed on pages 962-965 of the House Journal, Reengrossed Senate Bill No. 2229 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-51-15 and 57-62-06 of the North Dakota Century Code, relating to allocation of oil and gas gross production taxes; to provide an appropriation; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-51-15. Apportionment and use of proceeds of tax. The gross production tax provided for in this chapter must be apportioned 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 ~~credit~~:

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

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

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

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 one million dollars ~~of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated to ~~that~~ the county.

   b. The ~~second~~ next one million dollars ~~of annual revenue after the deduction for the amount provided for in subsection 1 from oil and gas produced in any county~~ must be allocated seventy-five percent to ~~that~~ the county and twenty-five percent to the state general fund.

c. The ~~third~~ next one million dollars ~~of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated fifty percent to ~~that~~ the county and fifty percent to the state general fund.

d. All annual revenue ~~after the deduction of the amount provided for in subsection 1 above three million dollars from oil or gas produced in any county~~ remaining after the allocation in subdivision c must be allocated twenty-five percent to ~~that~~ the county and seventy-five percent to the state general fund. ~~However, the~~

3. The amount to which each county is entitled ~~pursuant to this~~ under subsection 2 must be ~~limited based upon the population of~~ allocated within the county ~~according to the last official decennial federal census~~ as follows:

a. Counties having a population of three thousand or less shall receive ~~no more than~~ three million nine hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to four million nine hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies 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. Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

b. Counties having a population of over three thousand but less than six thousand shall receive ~~no more than~~ four million one hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million one hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies 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. Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

c. Counties having a population of six thousand or more shall receive ~~no more than~~ four million six hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million six hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

Any allocations for any county pursuant to this subsection which exceed the applicable limitation for that county as provided in subdivisions a through c must be deposited instead in the state's general fund.

~~3.~~ <u>4.</u> <u>a.</u> Forty-five percent of all revenues ~~as may by the legislative assembly be~~ allocated to any county ~~hereunder~~ <u>for allocation under this subsection</u> must be credited by the county treasurer to the county general fund.

<u>b.</u> Thirty-five percent of all revenues allocated to any county <u>for allocation under this subsection</u> 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, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost 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. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

<u>c.</u> Twenty percent of all revenues allocated to any county ~~hereunder~~ <u>for allocation under this subsection</u> must be ~~paid~~ <u>apportioned</u> no less than quarterly by the state treasurer to the incorporated cities of the county<u>. Apportionment among cities under this subsection must be</u> based upon the population of each incorporated city according to the last official decennial federal census. ~~Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in~~ <u>In determining the population of any city that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent. In</u> 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 ~~determining the per capita limitation in~~ this ~~section~~ <u>subdivision</u> must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

~~a.~~ <u>(1)</u> Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~b.~~ <u>(2)</u> Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~c.~~ (3) The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:

~~(1)~~ (a) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or

~~(2)~~ (b) Four hundred twenty.

5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsection 3 must be credited by the county treasurer to the county general fund.

b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsection 3 must be allocated by the board of county commissioners to or for the benefit of townships or school districts in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads in those townships. Allocations to organized townships or to school districts under this subdivision may be made only for reimbursement of qualifying expenditures previously made by the applicant township or school district. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.

c. Twenty percent of all revenues allocated to any county infrastructure fund under subsection 3 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. 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 that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent.

SECTION 2. AMENDMENT. Section 57-62-06 of the North Dakota Century Code is amended and reenacted as follows:

57-62-06. Legislative intent and guidelines on impact grants. The legislative assembly intends that the moneys appropriated to, and distributed by, the energy development impact office for grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development and oil and gas development impact. However, the energy development impact office shall give priority to projects funded from the proceeds of the oil and gas gross production tax to transportation infrastructure projects. As used in this section, "basic governmental services" do not include activities relating to marriage or guidance counseling, services or programs to alleviate other sociological impacts, or services or facilities to meet secondary impacts. All grant applications and presentations to the energy development impact office must be made by an appointed or elected government official.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of $5,000,000, or so much of the sum as may be necessary, to the energy development impact office for the purpose of allocation of oil and gas impact grants among political subdivisions in addition to the amounts to be allocated as provided by law, for the period beginning with the effective date of this Act and ending June 30, 2011. The funds provided in this section must be allocated to provide additional grant funds of $5,000,000 in the grant round awarded in 2009.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act is effective for taxable events occurring after June 30, 2009.

SECTION 5. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

90808.0403 *replaces .0303*
Title. *Could not attach .0303 version to .0400 of bill.*

Prepared by the Legislative Council staff for Representative Drovdal
March 24, 2009

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2229

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57-51-15. Apportionment and use of proceeds of tax. The gross production tax provided for in this chapter must be apportioned 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 ~~credit~~:

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

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

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

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 one million dollars ~~of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated to ~~that~~ the county.

   b. The ~~second~~ next one million dollars ~~of annual revenue after the deduction for the amount provided for in subsection 1 from oil and gas produced in any county~~ must be allocated seventy-five percent to ~~that~~ the county and twenty-five percent to the state general fund.

c. The ~~third~~ next one million dollars ~~of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated fifty percent to ~~that~~ the county and fifty percent to the state general fund.

d. All annual revenue ~~after the deduction of the amount provided for in subsection 1 above three million dollars from oil or gas produced in any county~~ remaining after the allocation in subdivision c must be allocated twenty-five percent to ~~that~~ the county and seventy-five percent to the state general fund. ~~However, the~~

3. The amount to which each county is entitled ~~pursuant to this~~ under subsection 2 must be ~~limited based upon the population of~~ allocated within the county ~~according to the last official decennial federal census~~ as follows:

a. Counties having a population of three thousand or less shall receive ~~no more than~~ three million nine hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to four million nine hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies 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. Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

b. Counties having a population of over three thousand but less than six thousand shall receive ~~no more than~~ four million one hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million one hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies 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. Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

c. Counties having a population of six thousand or more shall receive ~~no more than~~ four million six hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million six hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

Any allocations for any county pursuant to this subsection which exceed the applicable limitation for that county as provided in subdivisions a through c must be deposited instead in the state's general fund.

~~3.~~ 4. a. Forty-five percent of all revenues ~~as may by the legislative assembly be~~ allocated to any county ~~hereunder~~ for allocation under this subsection must be credited by the county treasurer to the county general fund.

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, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost 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. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

c. Twenty percent of all revenues allocated to any county ~~hereunder~~ for allocation under this subsection must be ~~paid~~ apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. ~~Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in~~ In determining the population of any city that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent. 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 ~~determining the per capita limitation in~~ this ~~section~~ subdivision must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

~~a.~~ (1) Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~b.~~ (2) Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~e.~~ (3) The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:

~~(1)~~ (a) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or

~~(2)~~ (b) Four hundred twenty.

5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsection 3 must be credited by the county treasurer to the county general fund.

b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsection 3 must be allocated by the board of county commissioners to or for the benefit of townships or school districts in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads in those townships. Allocations to organized townships or to school districts under this subdivision may be made only for reimbursement of qualifying expenditures previously made by the applicant township or school district. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.

c. Twenty percent of all revenues allocated to any county infrastructure fund under subsection 3 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. 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 that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent.

SECTION 2. AMENDMENT. Section 57-62-06 of the North Dakota Century Code is amended and reenacted as follows:

57-62-06. Legislative intent and guidelines on impact grants. The legislative assembly intends that the moneys appropriated to, and distributed by, the energy development impact office for grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development and oil and gas development impact. However, the energy development impact office shall give priority to projects funded from the proceeds of the oil and gas gross production tax to transportation infrastructure projects. As used in this section, "basic governmental services" do not include activities relating to marriage or guidance counseling, services or programs to alleviate other sociological impacts, or services or facilities to meet secondary impacts. All grant applications and presentations to the energy development impact office must be made by an appointed or elected government official.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of $5,000,000, or so much of the sum as may be necessary, to the energy development impact office for the purpose of allocation of oil and gas impact grants among political subdivisions in addition to the amounts to be allocated as provided by law, for the period beginning with the effective date of this Act and ending June 30, 2011. The funds provided in this section must be allocated to provide additional grant funds of $5,000,000 in the grant round awarded in 2009.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act is effective for taxable events occurring after June 30, 2009.

SECTION 5. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

90808.0403
Title.0600

Prepared by the Legislative Council staff for Representative Drovdal
March 24, 2009

VR
3/31/09
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PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2229

In lieu of the amendments adopted by the House as printed on pages 962-965 of the House Journal, Reengrossed Senate Bill No. 2229 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-51-15 and 57-62-06 of the North Dakota Century Code, relating to allocation of oil and gas gross production taxes; to provide an appropriation; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-51-15. Apportionment and use of proceeds of tax. The gross production tax provided for in this chapter must be apportioned 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 ~~credit~~:

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

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

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

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 one million dollars ~~of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated to ~~that~~ the county.

   b. The ~~second~~ next one million dollars ~~of annual revenue after the deduction for the amount provided for in subsection 1 from oil and gas produced in any county~~ must be allocated seventy-five percent to ~~that~~ the county and twenty-five percent to the state general fund.

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c. The ~~third~~ next one million dollars ~~of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated fifty percent to ~~that~~ the county and fifty percent to the state general fund.

d. All annual revenue ~~after the deduction of the amount provided for in subsection 1 above three million dollars from oil or gas produced in any county~~ remaining after the allocation in subdivision c must be allocated twenty-five percent to ~~that~~ the county and seventy-five percent to the state general fund. ~~However, the~~

3. The amount to which each county is entitled ~~pursuant to this~~ under subsection 2 must be ~~limited based upon the population of~~ allocated within the county ~~according to the last official decennial federal census~~ as follows:

a. Counties having a population of three thousand or less shall receive ~~no more than~~ three million nine hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to four million nine hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies 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. Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

b. Counties having a population of over three thousand but less than six thousand shall receive ~~no more than~~ four million one hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million one hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies 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. Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

c. Counties having a population of six thousand or more shall receive ~~no more than~~ four million six hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million six hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

Any allocations for any county pursuant to this subsection which exceed the applicable limitation for that county as provided in subdivisions a through c must be deposited instead in the state's general fund.

~~3.~~ 4. a. Forty-five percent of all revenues ~~as may by the legislative assembly be~~ allocated to any county ~~hereunder~~ for allocation under this subsection must be credited by the county treasurer to the county general fund.

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, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost 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. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

c. Twenty percent of all revenues allocated to any county ~~hereunder~~ for allocation under this subsection must be ~~paid~~ apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. ~~Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in~~ In determining the population of any city that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent. 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 ~~determining the per capita limitation in~~ this ~~section~~ subdivision must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

~~a.~~ (1) Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~b.~~ (2) Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~c.~~ <u>(3)</u> The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:

~~(1)~~ <u>(a)</u> The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or

~~(2)~~ <u>(b)</u> Four hundred twenty.

<u>5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsection 3 must be credited by the county treasurer to the county general fund.</u>

<u>b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsection 3 must be allocated by the board of county commissioners to or for the benefit of townships or school districts in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads in those townships. Allocations to organized townships or to school districts under this subdivision may be made only for reimbursement of qualifying expenditures previously made by the applicant township or school district. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.</u>

<u>c. Twenty percent of all revenues allocated to any county infrastructure fund under subsection 3 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. 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 that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent.</u>

SECTION 2. AMENDMENT. Section 57-62-06 of the North Dakota Century Code is amended and reenacted as follows:

57-62-06. Legislative intent and guidelines on impact grants. The legislative assembly intends that the moneys appropriated to, and distributed by, the energy development impact office for grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development and oil and gas development impact. <u>However, the energy development impact office shall give priority to projects funded from the proceeds of the oil and gas gross production tax to transportation infrastructure projects.</u> As used in this section, "basic governmental services" do not include activities relating to marriage or guidance counseling, services or programs to alleviate other sociological impacts, or services or facilities to meet secondary impacts. All grant applications and presentations to the energy development impact office must be made by an appointed or elected government official.

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SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of $5,000,000, or so much of the sum as may be necessary, to the energy development impact office for the purpose of allocation of oil and gas impact grants among political subdivisions in addition to the amounts to be allocated as provided by law, for the period beginning with the effective date of this Act and ending June 30, 2011. The funds provided in this section must be allocated to provide additional grant funds of $5,000,000 in the grant round awarded in 2009.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act is effective for taxable events occurring after June 30, 2009.

SECTION 5. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

Date: 3/25/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 90808.0303

Action Taken adopt amendment .0303

Motion Made By Skarphol Seconded By Wald

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) ______ No ______

Absent ______

Floor Assignment Voice Vote - Carries

If the vote is on an amendment, briefly indicate intent:

Date: 3/25/09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Subst.

Action Taken treasurer to pay monthly

Motion Made By Meyer Seconded By ______

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

Date: 3/25/09
Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2229

Full House Appropriations Committee

withdrawn
Subst.

☐ Check here for Conference Committee

Legislative Council Amendment Number: 7 BD

Action Taken: "at least"

Motion Made By: Kempenich   Seconded By: Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) ____________ No ____________

Absent ____________

Floor Assignment ____________

If the vote is on an amendment, briefly indicate intent:

Date: 3/25/09
Roll Call Vote #: 4

Dwy 54

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2029

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ~~Am~~ .0303

Action Taken Do Pass as Amended

Motion Made By Wald Seconded By Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	—	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	—	
Rep. Berg	—		Rep. Meyer	✓	
Rep. Dosch	—				
Rep. Pollert	✓		Rep. Ekstrom	—	
Rep. Bellew		✓	Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 19 No 1

Absent 5

Floor Assignment Rep. Skarphol

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2229, as reengrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 1 NAY, 5 ABSENT AND NOT VOTING). Reengrossed SB 2229 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on pages 962-965 of the House Journal, Reengrossed Senate Bill No. 2229 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-51-15 and 57-62-06 of the North Dakota Century Code, relating to allocation of oil and gas gross production taxes; to provide an appropriation; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-51-15. Apportionment and use of proceeds of tax. The gross production tax provided for in this chapter must be apportioned 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 ~~credit~~:

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

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

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

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 one million dollars ~~of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated to ~~that~~ the county.

   b. The ~~second~~ next one million dollars ~~of annual revenue after the deduction for the amount provided for in subsection 1 from oil and gas produced in any county~~ must be allocated seventy-five percent to ~~that~~ the county and twenty-five percent to the state general fund.

c. The ~~third~~ next one million dollars ~~of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated fifty percent to ~~that~~ the county and fifty percent to the state general fund.

d. All annual revenue ~~after the deduction of the amount provided for in subsection 1 above three million dollars from oil or gas produced in any county~~ remaining after the allocation in subdivision c must be allocated twenty-five percent to ~~that~~ the county and seventy-five percent to the state general fund. ~~However, the~~

3. The amount to which each county is entitled ~~pursuant to this~~ under subsection 2 must be ~~limited based upon the population of~~ allocated within the county ~~according to the last official decennial federal census~~ as follows:

a. Counties having a population of three thousand or less shall receive ~~no more than~~ three million nine hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to four million nine hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies 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. Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

b. Counties having a population of over three thousand but less than six thousand shall receive ~~no more than~~ four million one hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million one hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies 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. Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

c. Counties having a population of six thousand or more shall receive ~~no more than~~ four million six hundred thousand dollars for allocation under subsection 4 for each fiscal year~~; however, a county may receive up to five million six hundred thousand dollars under this subdivision~~. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection ~~3~~ 4 but must be credited by the county treasurer to the county ~~general~~ infrastructure fund.

Any allocations for any county pursuant to this subsection which exceed the applicable limitation for that county as provided in subdivisions a through c must be deposited instead in the state's general fund.

~~3.~~ 4. a. Forty-five percent of all revenues ~~as may by the legislative assembly be~~ allocated to any county ~~hereunder~~ for allocation under this subsection must be credited by the county treasurer to the county general fund.

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, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost 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. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

c. Twenty percent of all revenues allocated to any county ~~hereunder~~ for allocation under this subsection must be ~~paid~~ apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. ~~Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in~~ In determining the population of any city that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent. 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 ~~determining the per capita limitation in~~ this ~~section~~ subdivision must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

~~a.~~ (1) Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~b.~~ (2) Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.

~~c.~~ (3) The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:

~~(1)~~ (a) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or

~~(2)~~ (b) Four hundred twenty.

5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsection 3 must be credited by the county treasurer to the county general fund.

b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsection 3 must be allocated by the board of county commissioners to or for the benefit of townships or school districts in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads in those townships. Allocations to organized townships or to school districts under this subdivision may be made only for reimbursement of qualifying expenditures previously made by the applicant township or school district. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.

c. Twenty percent of all revenues allocated to any county infrastructure fund under subsection 3 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. 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 that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent.

SECTION 2. AMENDMENT. Section 57-62-06 of the North Dakota Century Code is amended and reenacted as follows:

57-62-06. Legislative intent and guidelines on impact grants. The legislative assembly intends that the moneys appropriated to, and distributed by, the energy development impact office for grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development and oil and gas development impact. However, the energy development impact office shall give priority to projects funded from the proceeds of the oil and gas gross production tax to transportation infrastructure projects. As used in this section, "basic governmental services" do not include activities relating to marriage or guidance counseling, services or programs to alleviate other sociological impacts, or services or facilities to meet secondary impacts. All grant applications and presentations to the energy development impact office must be made by an appointed or elected government official.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of $5,000,000, or so much of the sum as may be necessary, to the energy development impact office for the purpose of allocation of oil and gas impact grants among political subdivisions in addition to the amounts to be allocated as provided by law, for the period beginning with the effective date of this Act and ending June 30, 2011. The funds provided in this section must be allocated to provide additional grant funds of $5,000,000 in the grant round awarded in 2009.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act is effective for taxable events occurring after June 30, 2009.

SECTION 5. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

2009 TESTIMONY

SB 2229

#V

Gaebe, Lance

From: Strombeck, Kathy L.
Sent: Thursday, November 20, 2008 2:04 PM
To: Morrissette, Joe R.; Gaebe, Lance
Cc: Sharp, Pamela K.
Subject: oil scenarios

Based on the November 13, 2008 oil price and production forecast, here are the impacts of the county cap scenarios:

Affected Counties	Addl $1 Million	Cap Removal
Bowman	$1,000,000	$6,800,000
Dunn	750,000	750,000
McKenzie	1,000,000	2,200,000
Mountrail	1,000,000	8,500,000
Williams	100,000	100,000
Total **Annual** Impact	$3,850,000	$18,350,000

If structured like existing law, these would be increases in county revenue and corresponding decreases in permanent oil tax trust fund revenue.

Kathy

North Dakota Association of Oil & Gas Producing Counties

Senate Bill 2229

January 20, 2009

Senate Finance and Taxation Committee

TESTIMONY

Good morning, Mr. Chairman Cook and members of the Senate Finance and Taxation Committee. My name is Vicky Steiner. I am the Executive Director for the North Dakota Association of Oil and Gas Producing Counties. This bill contains both impact funding and county dollars. The Governor's plan added $24 million new dollars to the system. We support this bill if it is amended to take off the county caps.

The 5% oil and gas gross production tax is a complicated formula. I have a picture of it that Senator Wardner drew to help explain it. The tax is unusual because it's "in lieu of" of property tax for the county. The state collects the tax and in 2008, 80% of the tax revenue stayed with the state. The counties may not tax the oil wells, the pads, the millions of dollars of oil production equipment on the pads. Of the $1.2 billion in tax revenues generated this last biennium, $1.2 billion,

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E-mail: vsteiner@ndsupernet.com - Web: www.ndoilgas.govoffice.com

Linda Svihovec - Permit Operator
P.O. Box 504 ~ Watford City, ND 58854 ~ Phone: 701-444-3457 (work) ~ Phone: 701-444-4061 (home) ~ Fax: 701-444-4113 ~ Email: lsvihovec@co.mckenzie.nd.us

about $800 million is from the oil activity in 17 counties. Some of those counties are hitting cap levels that were set in 1983. It might have made sense in 1981 to establish a cap. However, from 1953-1980, there were no caps on the formula. But even by 1983, it wasn't working because the '83 legislature adjusted the caps upward from the 81 session. Bowman County bumped it and this issue was discussed last session and during the interim.

You recognized the issue of capping counties last session and we thank you for the $1 million a year increase that was given to the capped counties. You may remember there was a 10 mill road levy requirement attached. You also addressed the internal part of the 5% gross production tax formula with a 25% increase to 13 smaller counties. That meant another $250,000 for the smaller counties and they had not seen an adjustment in that formula since 1981. This committee in March of last session asked that the oil counties wait for the second year of the biennium for that funding to begin. And we did. We started the new adjustment on the second year. SB 2013 contains another million a year for 5 capped counties or $2 million for the biennium per county. The boom counties won't be able to take care of their long term infrastructure with $2 million dollars.

We have recently produced a short video on oil impact and community concerns- it's about 5 minutes long. We mailed a copy to your home this month but we also put it up on YouTube on the Internet. You may find it by searching ND Oil Impact or you can go to this address www.youtube.com/watch?v=RR5QP3F9Zyc.

The counties have a documented $45 million a year in damage and cost. NDSU did a study for us for our interim committee hearings and this study I'm providing to you is part of the Interim Taxation committee record from the July 2 hearing. That committee eventually passed a bill to remove the caps which you may also see later this session. The study shows that in January 2008, the 16 oil and gas producing counties documented a range of increased costs from $36.9 million to $45.2 million a year or $90.4 million a biennium. Taking both caps off today yields about $65 million. We're still short even if we take the caps off.

Where are the caps? They sit at the bottom of the formula. The caps are numbers last set in 1983 and they were based on population. The 5% oil tax was designed so that the county impacts would be addressed by these larger percentages. By taking 100% at the bottom, and seeing that the oil counties can demonstrate $90 million in needs, the intent of the 5% tax as passed in 1953 has not been met in at least the last two legislative sessions. You have counties strapped to fix the damages and some of them are going backward at a time when the state has record surplus.

Basically, small counties are capped at $3.9 million with 0-3,000 people. A medium sized county, like Dunn County, in the range of 3,000 to 6,000, is capped at $4.1 million. The larger county, like Mountrail County, is capped at $4.6 million. If you left the caps in place and just adjusted for inflation from 1983 dollars to present day, the new caps would be $7.8, $8.2 and $9.2 million. We find this unreasonable for the state to set a cap and then continue taking 100% from a county when it's obvious that a county that hits a cap must have significant oil activity. Even after exploration, you have production and work over rigs. Oil activity in the Mountrail Bakken oil fields will last 30 years.

The state needs to make sure that the infrastructure is adequately maintained for those investments. We support removal of the caps. The fiscal note is a reasonable state investment. With the cap removal, the state continues to receive 75% at that funding level.

#2

INDUSTRIAL COMMISSION OF NORTH DAKOTA

OIL AND GAS RESEARCH COUNCIL

Governor
John Hoeven
Attorney General
Wayne Stenehjem
Agriculture Commissioner
Roger Johnson

Testimony on Senate Bill 2229
Senate Finance and Tax Committee
Karlene Fine, Executive Director and Secretary for the
Industrial Commission of North Dakota

For the record, my name is Karlene Fine and I serve as Executive Director and Secretary for the North Dakota Industrial Commission. I am here today to provide information on Section 2 of Senate Bill 2229.

The Oil and Gas Research Program was established in 2003 as a state/industry partnership. The Program is currently funded by two percent of the State's share of the oil and gas production tax and oil extraction tax, up to $3 million a biennium. The mission of the Program is to promote the oil and gas industry through research and education.

The law states that the Oil and Gas Research Program shall:

- Promote efficient, economic and environmentally sound exploration, development and use of North Dakota's oil and gas resources.
- Preserve and create jobs involved in the exploration, production and utilization of North Dakota's oil and gas resources.
- Ensure economic stability, growth and opportunity in the oil and gas industry.
- Encourage and promote the use of new technologies and ideas that will have a positive economic and environmental impact on oil and gas exploration, development and production in North Dakota.
- Promote public awareness of the benefits and opportunities provided by the North Dakota oil and gas industry.

Since the Program was implemented the Commission has approved funding of 33 projects totaling $3,267,607. The Oil and Gas Research Program is structured similar to the Lignite Research, Development and Marketing Program. There is a ten person advisory council made up of six representatives from the oil industry, a representative of the Oil and Gas Producing Counties, a county commissioner, the State Geologist and the Director of the Oil and Gas Division. There is a multi-tiered review and approval process before a project is funded. Here is how it works.

- Applications are received by the application deadlines (generally there are two grant rounds each year) and the initial review process is conducted at the staff level. A determination is made as to whether or not the application meets the Program criteria.

Oil and Gas Research Council (OGRC)
State Capitol, 14th Floor - 600 E Boulevard Ave Dept 405 - Bismarck, ND 58505-0840
E-Mail: kfine@nd.gov PHONE: 701-328-3722 FAX: 701-328-2820

- If the application meets the criteria then it is forwarded to independent technical reviewers with expertise in the area of the application. For example if the application deals with research for a technology to enhance drilling operations, the application would be reviewed by individuals that are actively working in the industry and with expertise in the mechanics of drilling. If the application dealt more in the area of geology, then we would seek expertise in that field. The technical reviewer comments are then given to the applicant so the applicant has an opportunity to respond to the comments. The reviews and responses are then forwarded to the Oil and Gas Research Council along with the application and the Technical Advisor's recommendation and an opportunity is given to the applicant to make a presentation to the Council.
- If the application is approved by the Council it is then forwarded to the Industrial Commission for consideration.

The Oil and Gas Research Program has been set up to direct 77% of its funds for research and 10% for education with the remaining funds used for the Pipeline Authority (10%) and for administration (3%) of the program.

Examples of work that has been done through this Program in the Research area are:
- Surface Tiltmeter Study of a Bakken Fracture Stimulation
- Hydraulic Fracturing & Microseismic Monitoring Project
- Plains CO2 Reduction Partnership
- Preliminary Engineering Feasibility Study for a Refinery
- Purpose Fit Portable Multi-Phase Production Measurement

Examples in the Education area include:
- Petroleum Safety and Technology Center
- Teacher Seminars
- Education for Oilfield Fire Safety
- Contribution of Petroleum Industry to the State's Economy (developing a baseline of information)
- Oil and Gas Education Program in the Schools

Information on all the projects funded by the Program is available on the Industrial Commission website. http://www.nd.gov/ndic/ogrp-infopage.htm The dollars invested by the State in these projects is also matched so that every dollar provided by the Program is leveraged. As with the other Industrial Commission administered research programs the Commission believes having a partner in the project leads to projects being conducted that have a value to the industry and State and is not just research for research sake.

The Oil and Gas Research Council is scheduled to meet the first week of February and we have five applications for consideration. These five applications represent projects that total over $11 million with requested funding from the Oil and Gas Research Fund of over $2.7 million in just this one grant round. These projects include one education project and four research projects that include the recovery and reuse of water that is used in the oil field; development of drilling tools used in horizontal drilling, and determination of reserves between the Middle Bakken and Three Forks formations. These are examples of the type of research that has been funded in the past and we hope will continue to be presented to the Council/Commission in the future.

The EmPower North Dakota Commission did not include a specific dollar amount in their 2008-2025 Comprehensive State Energy Policy. However, they did state the following two provisions regarding the Oil and Gas Research Fund:

"Support research of horizontal drilling, completion and production techniques through the Oil and Gas Research Fund.

"Consider raising the biennial cap on the oll and Gas Research Fund. Additional funds could be used to develop a public education program to increase understanding of oil and as exploration and refining; how oil and gas gets to markets' and the barriers involved in the process. Additional funds could also be used to create an Oil and Gas program similar to the Lignite Vision 21 program to advance economically feasible projects."

Thank you for your consideration of Section 2 of Senate Bill 2229.

Lynn Brackel

1

BOWMAN CO. SUMMARY OF TESTIMONY

- Drilling to Production difficulties
- Production adds additional Training and Equipment
- Social Services Case Activity increased 8-10% in the last 10 yr.
- Sheriff's Deputies increased 400% in the last 10 yr.
- Civil Case Load increased 65% in the last 10 yr.
- Execution of Judgments increased 183% in the last 10 yr.
- Housing of Prisoners increased 900% per mo. in the last 10 yr.
- Resurface roads that were new 5 to 6 years ago
- Non-impacted Roads to Impacted Oil and Gas Roads increase will be 900% in next 3 yr.

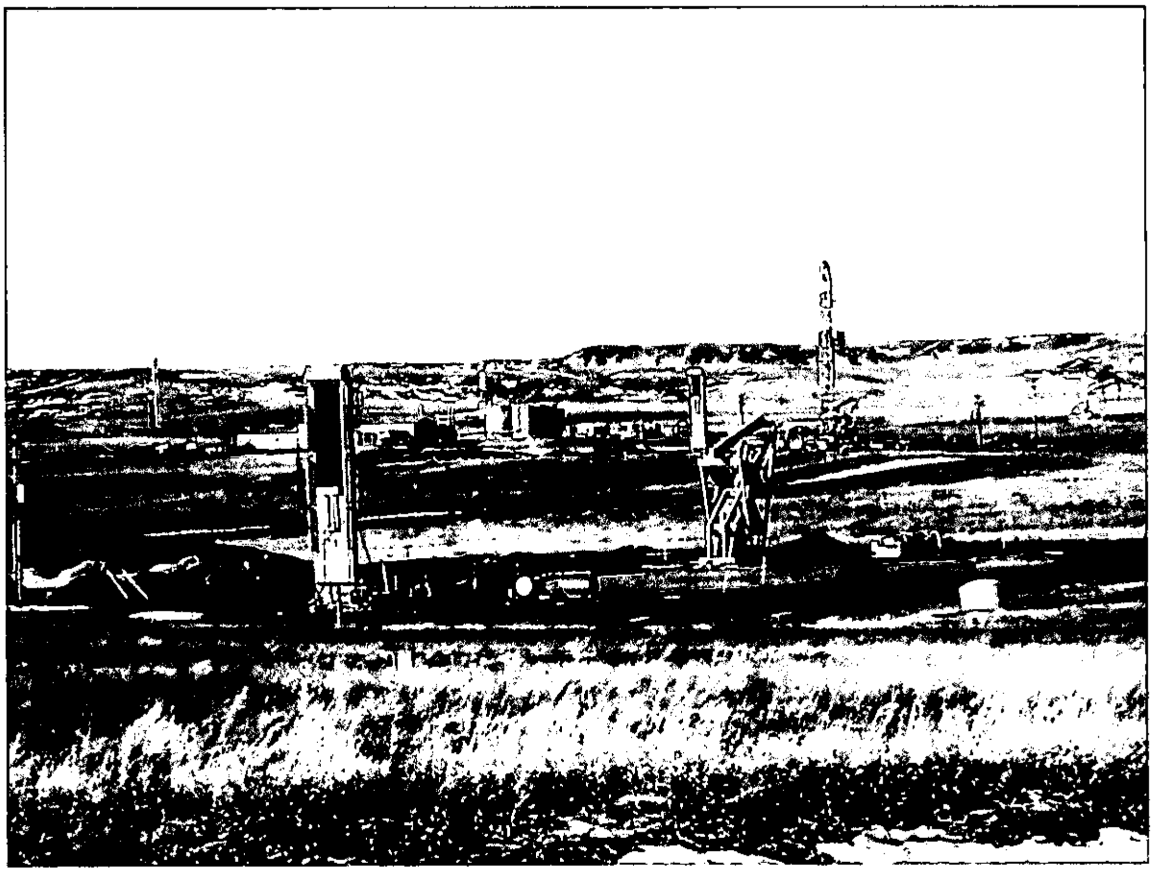
TESTIMONY FOR SENATE BILL 2229

AMEND SUBSECTIONS 1 & 2 of SECTION 57-51-15

PREPARED FOR:

SENATE APPROPRIATIONS COMMITTEE

SENATOR RAY HOLMBERG, CHAIRMAN



PREPARED BY:

BOWMAN COUNTY COMMISSIONERS

COUNTY OF BOWMAN
BOARD OF COUNTY COMMISSIONERS

104 First Street NW
Suite One

Bowman, ND 58623
Phone: 701-523-3130

Senate Appropriations Committee
Senator Ray Holmberg, Chairman

The Bowman County Commission would like to thank you for this opportunity to provide some information as to the importance of oil and gas production taxes to Bowman County. Tax revenues that come to the County have been of great assistance to the citizens of Bowman County, especially the past few years.

The demands on Bowman County have remained the same from drilling to production. The difficulties are still with Bowman County

The demands at the Auditor's Office have increased with the invoice processing with accounts payable system from the Social Services Dept., Sheriff's Dept. and Road Dept.

With the production of oil and gas comes transportation and storage of the products. The hazard that comes with production requires additional training and equipment for our local emergency responders.

The Bowman County Social Services has seen an increase of 8-10% in the last 10 years and remains steady. With the initial oil activity most workers did not bring their families to Bowman County. Now that we are in a production phase more families have moved to the area to make Bowman County their home, causing an increase use of their programs.

The court system for the county has stayed the same with their case loads, averaging 120 to 140 cases filed with the Clerk of Courts. The number of recordings in the records office has remained steady. In 1995 was a high of 4,419 to an average of 1,500 yearly from 1999 to 2008.

The number of deputies has risen from 1987-1994 with a sheriff and one part-time deputy to the present sheriff, two full-time deputies and on part-time deputy. The criminal and civil case load has gone from 156 cases in 1995 to 258 cases in 2008. The number of execution of judgments prior to 1995 was approximately 6 to a high of 24 in 2004 and present at 17 executions of judgments. Bowman County has seen a large increase in the housing of prisoners at the Southwest Multi-Correction Center. In the past housing expenses averaged 300-400 dollars an month to a present cost of 3,000-4,000 dollars a month to house prisoners. The sheriff's office has not slowed down from drilling to production phase. Number of civil process, criminal process, crime and the need for additional patrolling has steadily increases.

As for roads in Bowman County, we are seeing the need to resurface roads that were new 5 to 6 years ago. The county is running out of local gravel to continue to rebuild roads heavy enough to handle the heavy loads that are traveling on the roads. This shortage of gravel increases the cost of repairing and building of roads. The overload permits have remained steady with an average of 150 permits issued a month. Which does not include oil. water, gravel and scoria loads. The oil companies are now blending the oil from the Bakken formation with the oil in Bowman County. With this phase of production we are seeing trucks come into Bowman County loaded and leaving the county loaded.

As a result of the needs of permanent employees who work at or on these facilities or sites continue to impact the communities. The needs for housing, daycare, healthcare, schools recreation, culture, and roads are still placing demands on the county and communities of Bowman County.

Bowman County supports Senate Bill 2229 with the removal of the caps. The legislation is needed to maintain and provide additional needs for the residents of Bowman County. Your support is urgently needed.

Thank you for your time and favorable consideration.

Lynn Brackel, Commissioner
Bowman County Commission
lbrackel@ndsupernet.com

Same given to House.

OIL AND GAS IMPACTED COUNTY R[illegible]D COST SURVEY

COUNTY
BOWMAN

COUNTY ROAD INVENTORY

Item No.		TOTAL MILES ASPHALT	TOTAL MILES GRAVEL
1	COUNTY COLLECTORS (Federal Aid and others that serve as major collectors)	68	21
2	MINOR COUNTY COLLECTORS (Most roads leading to the County and State Collectors)	0	51
3	OTHER COUNTY ROADS (Secondary roads that are like township roads)	0	6

MAINTENANCE COSTS and FREQUENCY

Item No.		COST		FREQUENCY			MILES OF NEED NEXT 3 YEARS
5	ASPHALT OVERLAY (1-1/2" or less will be considered maintenance)	N/A	per mile	every		years	
6	ASPHALT CHIP SEAL (Include oil, chips, equipment and labor to complete)	$20,000	per mile	every	3	years	68
7	ASPHALT REPAIR (include cold mix, patching and crack sealing)	$1,300	per mile	every	1	years	204
8	BLADING GRAVEL ROADS (Include equipment, labor, fuel and repairs)	$75	per mile		2	per month	2808
9	GRAVEL SURFACING REPAIRS (spot graveling, 2" lift or less for maintenance)	$600	per mile	every	3	years	68
10	GRAVEL CRUSHING (Include equipment, fuel, labor, testing and royalty)	$3.25	per ton/CY	<-Circle ton or CY			
11	GRAVEL HAULING AND LAYING (Based on average haul miles in County) (Include loading, hauling, laying and all other costs)	$5.75	per ton/CY	<-Circle ton or CY			

RECONSTRUCTION COSTS and FREQUENCY

Item No.		COST		FREQUENCY			MILES OF NEED NEXT 3 YEARS
12	MINE AND BLEND REHAB. (Includes Milling, 0" to 2" Graveling, and Chip Seal)	$72,500	per mile	every	15	years	15
13	ASPHALT SURFACE TREATMENT (Includes 3"or Thicker Graveling and Chip Seal)	$103,500	per mile	every	N/A	years	29
14	ASPHALT OVERLAY (Includes milling and 2" to 3" overlay)	N/A	per mile	every	N/A	years	
15	NEW HOT BIT. PAVING (Includes 3" to 5" for new pavement)(Specify thickness in notes)	N/A	per mile	every	N/A	years	
16	GRAVEL RESURFACING (3" to 4")(Based on average haul miles in County) (Include loading, hauling, laying and all other costs)	$24,000	per mile	every	5	years	35
17	NEW GRAVEL SURFACING (4" to 6" -Specify)(Based on average haul miles in County)	$58,500	per mile	every	5	years	12
18	ROAD RECONSTRUCTION(Needed to improve safety/widening to accommodate surfacing) (Cost for Dirt Work, Culverts, Erosion Control, etc., do not include surfacing)	$105,000	per mile				29

	NOTES (Enter item no. and comments below)
6	31 wide = 18,100 sy @ $1.10 = $20,000
7	30 days patching @ $1800/day = $54,000 (includes flagging) and 500 ton cold mix @ $80/ton = $40,000 Total $94,000/68 miles = $1,300/mile
8	Blade cost of $750/day - blade 10 miles/day = $75/mile Note: Total miles in three years is 78 mile x 12 per year x 3 years
9	50 ton per mile @ $9.00 =$450 - 2 Hr. blade @ $75/Hr = $150 for Total of $600/mile
10	Ave. price for 2007
11	Average haul in Bowman County is 10 miles
12	Recyle surface @ $7,500/ mile - 2" gravel is 2200 ton @ $9.00 = $20,000 - Double Chip Seal = $45,000/ mile - Total $72,500
13	6500 ton gravel @ $9.00 = $58,500 - double chip seal @ $45,000/ mile Total $103,500
16	57 Miles of minor and secondary (3" compacted) 2700 ton/ mile @ $9.00 = $24,000/ mile
17	21 miles of collector (8" compacted) 6500 ton/ mile @ $9.00 = $58,500/ mile
18	Average per mile cost 2007

Same given to House.

NON-IMPACTED COUNTY ROAD C[illegible] SURVEY

Item No.	COUNTY ROAD INVENTORY	TOTAL MILES ASPHALT	TOTAL MILES GRAVEL				
					COUNTY	BOWMAN	
1	COUNTY COLLECTORS (Federal Aid and others that serve as major collectors)	34	0				
2	MINOR COUNTY COLLECTORS (Most roads leading to the County and State Collectors)	31	50				
3	OTHER COUNTY ROADS (Secondary roads that are like township roads)	0	5				
	MAINTENANCE COSTS and FREQUENCY	**COST**		**FREQUENCY**			**MILES OF NEED NEXT 3 YEARS**
5	ASPHALT OVERLAY (1-1/2" or less will be considered maintenance)	N/A	per mile	every		years	
6	ASPHALT CHIP SEAL (Include oil, chips, equipment and labor to complete)	$14,000	per mile	every	7	years	25
7	ASPHALT REPAIR (include cold mix, patching and crack sealing)	$500	per mile	every	1	years	195
8	BLADING GRAVEL ROADS (Include equipment, labor, fuel and repairs)	$65	per mile		1	per month	990
9	GRAVEL SURFACING REPAIRS (spot graveling, 2" lift or less for maintenance)	$600	per mile	every	7	years	25
10	GRAVEL CRUSHING (Include equipment, fuel, labor, testing and royalty)	$3.25	per ton/CY	<-Circle ton or CY			
11	GRAVEL HAULING AND LAYING (Based on average haul miles in County) (Include loading, hauling, laying and all other costs)	$5.75	per ton/CY	<-Circle ton or CY			
	RECONSTRUCTION COSTS and FREQUENCY	**COST**		**FREQUENCY**			**MILES OF NEED NEXT 3 YEARS**
12	MINE AND BLEND REHAB. (Includes Milling, 0" to 2" Graveling, and Chip Seal)	$72,500	per mile	every	25	years	8
13	ASPHALT SURFACE TREATMENT (Includes 3"or Thicker Graveling and Chip Seal)	$103,500	per mile	every	N/A	years	
14	ASPHALT OVERLAY (Includes milling and 2" to 3" overlay)	N/A	per mile	every	N/A	years	
15	NEW HOT BIT. PAVING (Includes 3" to 5" for new pavement)(Specify thickness in notes)	N/A	per mile	every	N/A	years	
16	GRAVEL RESURFACING (3" to 4")(Based on average haul miles in County) (Include loading, hauling, laying and all other costs)	$24,000	per mile	every	15	years	12
17	NEW GRAVEL SURFACING (4" to 6" -Specify)(Based on average haul miles in County) (Include loading, hauling, laying and all other costs)	$58,500	per mile	every	N/A	years	
18	ROAD RECONSTRUCTION(Needed to improve safety/widening to accommodate surfacing) (Cost for Dirt Work, Culverts, Erosion Control, etc., do not include surfacing)	$90,000	per mile				
	NOTES (Enter item no. and comments below)						
6	22 wide = 12,900 sy @ $1.10 = $14,000						
7	15 days patching @ $1600/day = $24,000 and 100 ton cold mix @ $80/ton = $8,000 Total $32,000/65 miles = $500/mile						
8	Blade cost of $750/day - blade 12 miles/day = $65/mile						
9	50 ton per mile @ $9.00 =$450 - 2 Hr. blade @ $75/Hr.= $150 for Total of $600/mile						
10	Ave. price for 2007						
11	Average haul in Bowman County is 10 miles						
12	Recyle surface @ $7,500/ mile - 2" gravel is 2200 ton @ $9.00 = $20,000 - Double Chip Seal = $45,000/ mile - Total $72,500						
13	6500 ton gravel @ $9.00 = $58,500 - double chip seal @ $45,000/ mile Total $103,500						
16	(3" compacted) 2700 ton/ mile @ $9.00 = $24,000/ mile						
17	(8" compacted) 6500 ton/ mile @ $9.00 = $58,500/ mile						
18	Average per mile cost 2007						

Bowman County
Non-impacted verses Oil and Gas Impacted

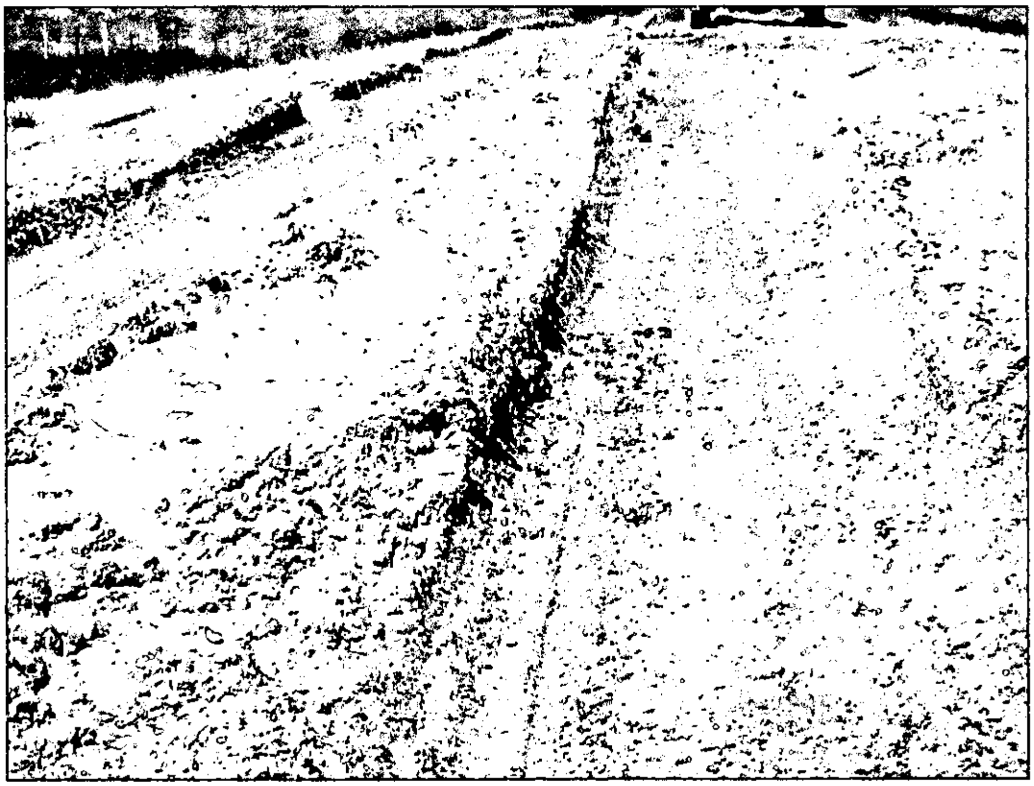
Same given to House.

Non-impacted Roads

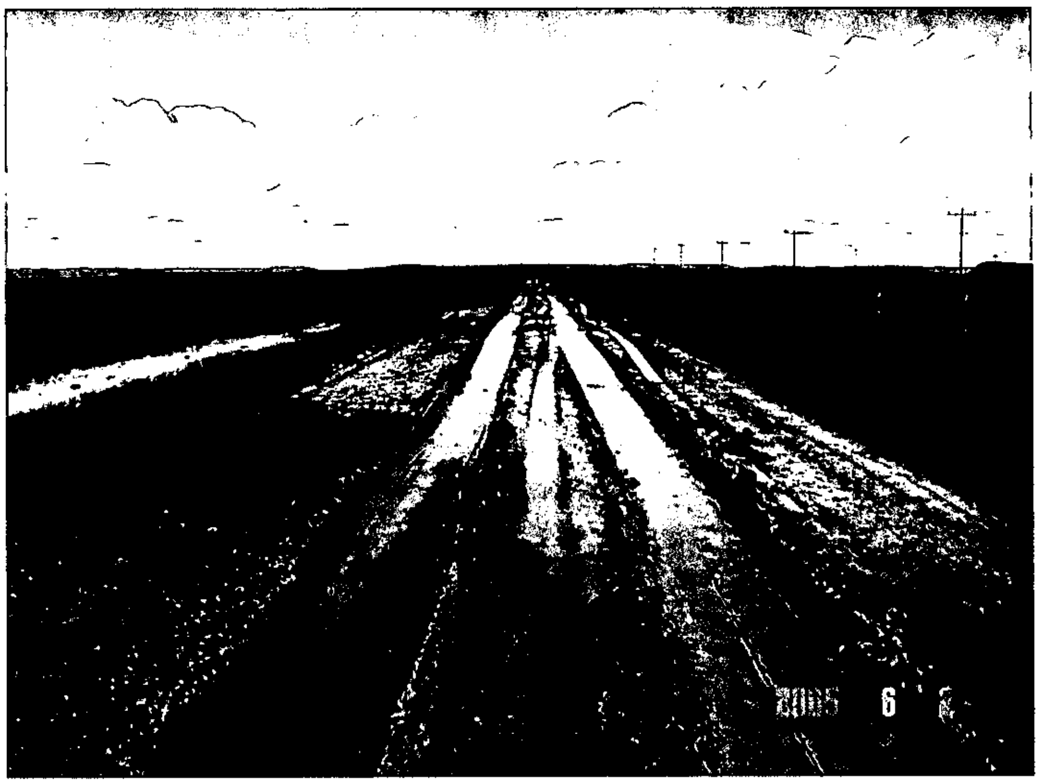
Item No.	Cost/mile	miles	Total
6	$14,000	25	$350,000
7	$500	195	$97,500
8	$65	990	$64,350
9	$600	25	$15,000
12	$72,500	8	$580,000
16	$24,000	12	$288,000
TOTAL			$1,394,850

Oil and Gas Impacted Roads

Item No.	Cost/mile	miles	Total
6	$20,000	68	$1,360,000
7	$1,300	204	$265,200
8	$75	2808	$210,600
9	$600	68	$40,800
12	$72,500	15	$1,087,500
13	$103,500	29	$3,001,500
16	$24,000	35	$840,000
17	$58,500	12	$702,000
18	$105,000	29	$3,045,000
TOTAL			$10,552,600



LOOP ROAD – SPRING

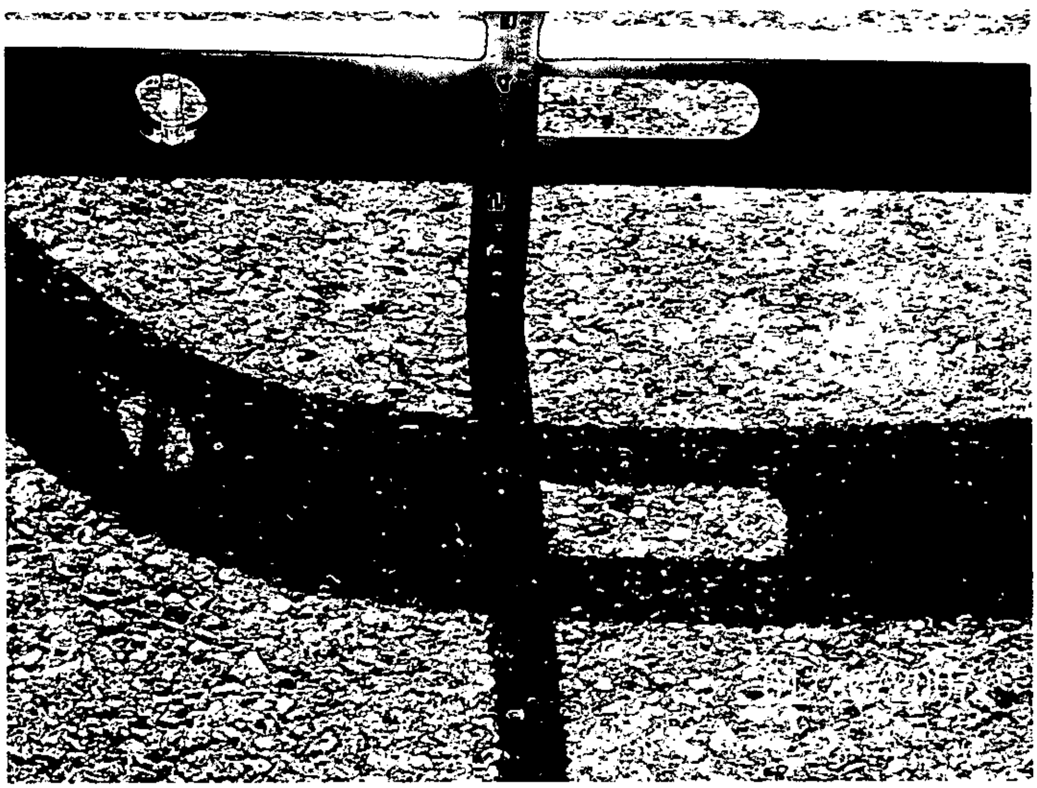


LOOP ROAD – SPRING

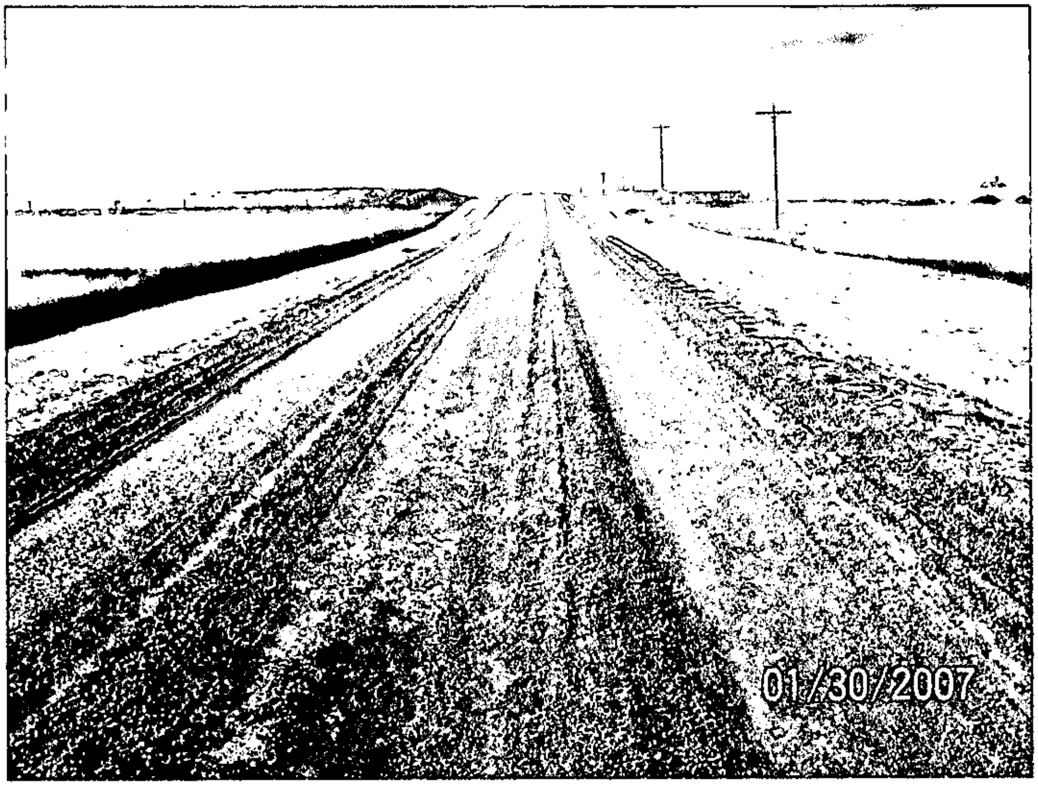
TOWNSHIP ROAD

TOWNSHIP ROAD

RHAME ROAD



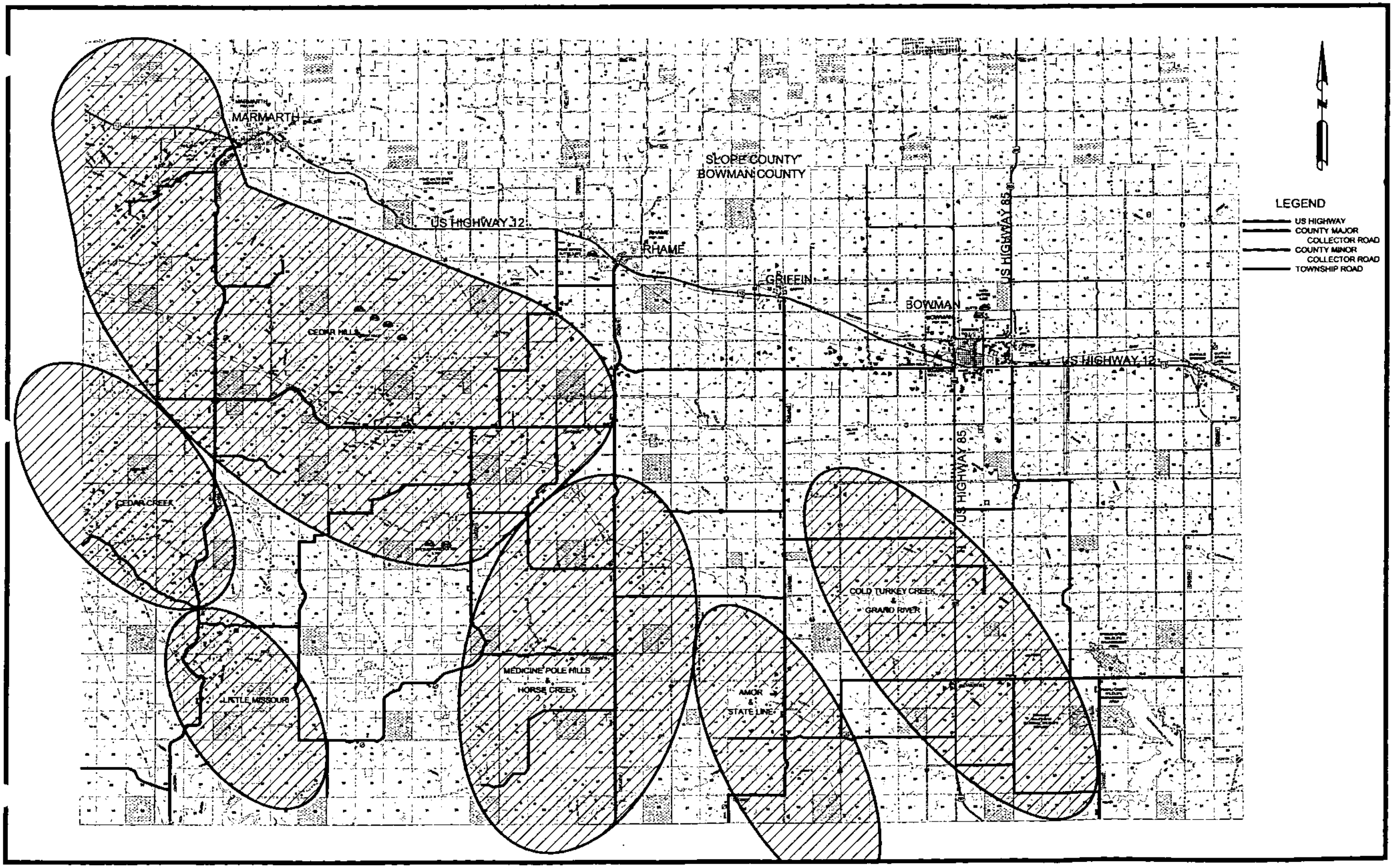
RHAME ROAD



GRIFFIN-RHAME CUT ACROSS

GRIFFIN-RHAME CUT ACROSS

Same given to House



Bowman County Development Corporation

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February 16, 2009

Mr. Chairman and Committee Members:

My name is Ashley Alderson and I'm the Director of the Bowman County Development Corporation and I am in support of SB 2229.

You have probably seen Bowman County and other oil producing county's testimony explaining their needs for the oil and gas gross production tax cap increase and removal, as the oil clearly impacts their roads, bridges and other infrastructure. I also ask you to remember that the impact extends to our towns and cities, and impacts economic development as well.

As you may know, the struggle to cope with oil impact extends from the exploration phase far into the production phase of oil development. Even without many drilling rigs, constant oil traffic still pounds our roads and puts demands on services.

Bowman has maintained a stable population, thanks to the oil production phase. With that in mind, there has been an increased burden on our police department, ambulance services and fire department. There is a need for additional equipment, space to store the equipment and specialized training for employees.

Funded by the cities and county, the Bowman County Development Corporation strives to enhance "quality of place" issues in order to encourage those oil-related businesses and families to make their home in Bowman County. This is difficult to do with little to no housing available for those thinking of moving in. The number of available housing units in Bowman, Rhame and Scranton can be counted on one hand, and there are even fewer lots available with water and sewer. Our cities can not afford, and are hesitant to take the risk of developing any lots with water and sewer as some communities did in the 1980's boom.

One major obstacle I see in Economic Development is that our local businesses struggle to keep workforce. They simply cannot afford to pay the wages the oil field can pay. While we are fortunate to have jobs available in a difficult economic time, many businesses are fighting to keep there doors open due to the cost to keep workforce from leaving or from lack of workforce at all.

Bowman • Gascoyne • Rhame • Scranton

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The City of Bowman receives the maximum portion of the gross production tax available for our population; however they still struggle to provide essential services without placing an extra burden on taxpayers.

As demands have risen over the years, the formula for the distribution of the oil and gas gross production tax has not. Consequently, Bowman's City Commission has taken the unpopular step to greatly increase the general fund mill levy for 2009, sparking an uproar of property owners. Our City Commission has taken lots of heat over this decision. Since the decision, many people wonder the effects this will have on economic development, and getting people to move to our city.

Oil producing counties, cities and schools need help addressing the impact oil production has on our area. Oil development is a God-send to our community, and we are thankful to have it, we just want the formula to be fair and to help us address our needs.

I support SB 2229, and support removing the caps completely from the legislation. We all hope that this legislation will help us better serve the people and businesses of the Bowman area.

Thank you for your time.

Respectfully submitted,

Ashley Alderson, Director
Bowman County Development Corporation

The City of
Bowman

February 16, 2009

Mr. Chairman and Committee Members:

My name is Lyn James, President of the Bowman City Commission. I am submitting this written testimony in support of SB 2229.

You have heard Bowman County, and the other oil producing counties, present effective and informative testimonies clearly explaining their needs for the oil and gas gross production tax cap removal, as the oil industry impacts their roads, bridges and other infrastructure.

I ask you to remember that the impact extends into our towns and cities as well.

The City of Bowman receives a portion of the oil and gas gross production taxes, to the maximum available for our population. Those funds are a God-send as we struggle to provide essential services. The City needs to assist in all areas of services, and also maintain infrastructure put in place during the exploration phase, as well as the production phase. For example, the City has to replace one major street that is being pounded by oil trucks. The 6-7 block construction costs will be at least $1,000,000. We have also needed additional road enhancement on the outer limits of our city.

Each year since 2005, the City of Bowman has reached the maximum funding allowed by the formula put in place in 1983. Because of continued demands over the years, funding is tight. Our tax base is limited, and consequently, the City Commission has taken the unpopular step to increase our general fund mill levy for 2009 by, and I'll tell you that the Commission has taken a lot of heat over this decision. (Total tax increase to residential properties is 37.4%)

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Bowman has maintained a stable population, thanks in most part, to the oil industry. With that in mind, we have seen a burden on our police department. The additional staffing and equipment equates to approximately $98,000.00 annually. There is need for additional and more specialized fire equipment, as well the space and related expenses to house this equipment. Enhanced ambulance services and equipment has been essential. Training requirements in each of the areas I have spoken of has been an issue as well. In order to keep quality employees in place, the City has also seen the need to be competitive with the oil industry in the area of salaries and benefits. This equates to $100,000.00 annually.

The City strives to enhance "quality of place" issues, in order to encourage families who are drawing oil-related salaries to select Bowman as their home community. Some of those essential services are public safety, transportation enhancement and healthcare, as well as cultural and recreational facilities and services.

These "quality of place" issues are very difficult to quantify from a dollar and cent perspective, but have continued to be a significant public need. I am sure that many of the towns and cities in the Bakken play are beginning to experience these needs, and they will continue to do so, just as we have over the years in Bowman.

We support Senate Bill 2229. Such legislation would allow additional energy dollars to come back to the Bowman area, as well as our neighbors in the North Dakota oil and gas producing counties..

Thank you for your time.

Respectfully submitted,

Lyn James

Lyn James
President of the Bowman City Commission

Testimony 1

BOWMAN CO. SUMMARY OF TESTIMONY
Senate Bill 2229

- Bowman Co. share of Oil and Gas Production Tax
  $2.845 Million

- Less than 2% of taxes returned to Bowman Co.

- Impacted Oil and Gas Roads cost 10 times that of non-impacted Roads in Bowman County.

- Steiner Personal Testimonial

COUNTY OF BOWMAN
BOARD OF COUNTY COMMISSIONERS

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House Finance and Taxation Committee
Rep. Wesley R. Belter

The Bowman County Commission would like to thank you for this opportunity to provide some information as to the importance of oil and gas production to Bowman County, especially the past few years.

We would like to provide some numbers and figures as to how much financial assistance the $5.1 million oil and gas production contributes to Bowman County, not including the schools and cities in the county. After the formula divides up the $5.1 million with the schools and cities, $2.845 million remains for the county to provide safe roads, sheriff's protection and other services expected by the citizens of the county.

In fiscal year 2008, less than two percent of the production and extraction taxes taken out of Bowman County were returned to Bowman County to provide a safe and productive oil business.

Members of the Finance and Taxation Committee as you all know, roads are one of the highest priorities of a County. Thus we expend a large amount of our resources to building and maintaining a safe and efficient road system. This is especially true in the oil field. <u>If the road system is inadequate, oil production maybe reduced at times, which reduces revenue to all.</u> Maintenance of the system, once it is built, is also a factor that needs consideration. Our experience is that roads in the oil field need much more maintenance than in areas outside the production area. We have tracked costs associated with the exploration and production of oil and gas in our county since 1995. The results of that show that the cost of roads in the oil production areas of our County are 10 times higher. The attached information completed for the NDSU study verifies this information.

At my first County Commission meeting in January of 2003, I was asked to approve bids for a road repair project in the heart of the oil field at a cost of $1.1 million. I though that was an outlandish amount of money. Since that time we have spent about $250,000 and will need to invest another $200,000 this spring to repair damages to that same road. This is just a small portion of the road system in the oil field. We budget about 4.5 million dollars each year for roads in Bowman County. We have needs for much more than that but have no more funds.

Bowman County supports Senate Bill 2229 with the caps removed. The legislation is needed to maintain and provide additional needs for the residents of Bowman County. Your support is urgently needed.

Kenneth Steiner, Chairman of Bowman County Commission

Testimony 2

Testimony

SB 2229

House Finance and Taxation Committee

Arlo Borud, Mountrail County Commissioner

Monday, March 16, 2009 10:30 AM

Good morning, Chairman Belter and Members of the Finance and Tax committee. My name is Arlo Borud. I am one of three Mountrail County Commissioners. I have been a commissioner since 2006 and I have seen a drastic change in revenue and expenditures for the county.

You have heard testimony before on the added expenditures of 12 additional employees to the increase of $4.5 million dollars for the county road and bridge dept. budget.

My testimony will pertain to added funds needed to rebuild, resurface and maintain our 1600 miles of county and township roads within Mountrail County. As you can see on the map of Mountrail County, oil production occurs all over the county.

We reached our cap on the 5% gross production tax in November 2008. We will not receive any additional revenues until September of 2009.

What a wonderful situation North Dakota is in. We have a lot of problems with possible flooding in Fargo and Devils Lake. State highways in need of repair all over the state. And, we have the money to do it.

A big share of that future money will come from the oil and gas producing counties. We in Mountrail, the top oil producing county, are delighted to help fund the state needs.

In fact, the oil and gas production revenues including taxes, royalties and leases from Mountrail County will generate nearly ~~$500~~ 100's of million dollars per year for the state of ND.

All of this revenue is made possible because there are township and county roads in place for oil companies to use. If these roads don't exist or can't be used, production will drop and so will the revenues to the state. We need to receive more money from the 5% production tax to keep the road and bridge infrastructure safe and useable.

We appreciate the increase of impact funds from $6 million to $10 million. We strongly believe that removing the county production cap will keep the revenue stream flowing to the state. In fact, if our caps could be removed today, we would be able to start solving our problems today.

This Senate bill, 2229, distributes the additional revenues to counties, cities and school districts. House bill 1304 distributes the additional revenues to counties, townships and cities in a new distribution and we prefer that distribution over this one in 2229. Thank you very much for your time today.

Arlo Borud

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Testimony 3

North Dakota Association of Oil & Gas Producing Counties

Testimony

In Support of removing the county caps

and increasing impact funding

SB 2229

Mr. Chairman Belter and Members of the House Finance and Taxation committee.

My name is Vicky Steiner and I represent the North Dakota Association of Oil and Gas Producing Counties. We thank you for your unanimous support of removing the county caps at Crossover in HB 1304 and increasing impact fund dollars in HB 1225. This bill, SB 2229, distributes the additional revenues over the cap levels exactly as it is distributed in current law; 45% to counties, 35% to schools and 20% to cities. In HB 1304, it's 45% to counties, 35% to townships/school transportation and 20% to cities.

As you may remember, the 5% oil and gas gross production tax is "in lieu of" property tax in the counties.

We've given testimony on this issue so I won't repeat it. I'll finish with some new information on the state's vested interest in seeing that the Bakken and other formations are successfully developed in the coming years.

Oil tax revenues today make their way to all corners of our state. The 5% is a shared tax between the producing county but the extraction taxes are paid to state funds. The State Land Department staff reported this session in House Appropriations committee work that for every 10 oil wells in the

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state, the state owns one of them. That's one in ten. Over 400 wells belong to the State Land Department.

The royalties on that state interest are exempt from taxation. The road to the state well must be maintained by someone somehow. During the last two years, the state land department reported that the state was adding about 6 new state oil wells every month to its portfolio. It's slowed down but the state says they are still adding wells, even at today's pace.

The wealth from the state oil wells is invested and interest is paid to 15 trust funds. Some of the trust funds are paid to well-known institutions like University of North Dakota, North Dakota State University, School for the Deaf, School for the Blind. Some not so familiar like the state buildings fund and the Land and Minerals trust fund. The lands and minerals trust fund is used to deposit money from the trust fund into the general fund at the end of this June for general fund use.

There was a question last week about which bill is the better bill between 2229 and 1304- both bills remove the county caps. We think the distribution method will work better in the House version of 1304. I say that because there was some debate in the House when 1304 was passed that the school equity formula might be impacted by leaving the distribution formula as it is. So, we've discussed this and in the new and improved 1304, school bus transportation is allowed but on-going, operational funds are not in the mix to protect the equity formula as passed last session.

Thank you for accommodating Bowman county officials last week for an early hearing. This concludes my testimony.

Biennial report on the state website
http://www.land.nd.gov/main/biennial/report.pdf

State Land Department

1/10 oil wells- royalties owned by state, over 400 state oil wells

No taxes paid, counties provide infrastructure

6 wells were added per month over the past two years to state portfolio

Lands and Minerals Trust fund

Other trust funds:

1) Common Schools trust fund
2) North Dakota State University
3) School for the Blind
4) School of the Deaf
5) State Hospital
6) Ellendale State College*
7) Valley City State University
8) Mayville State University
9) Industrial School
10) State College of Science
11) Schools of Mines
12) Veterans Home
13) University of North Dakota
14) Capitol Building

** The beneficiaries of this trust are now Dickinson State University, Minot State University, MSU-Bottineau, Veterans Home, School of the Blind, State Hospital, and the State College of Science.*

J

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www.nd.gov

Testimony 4

ND STATE LAND DEPARTMENT
Helping to Fund Education

Gary D. Preszler, Commissioner

TESTIMONY OF JEFF ENGLESON
Director, Energy Development Impact Office
North Dakota State Land Department

IN SUPPORT OF REENGROSSED SENATE BILL NO. 2229

House Finance and Taxation Committee
March 16, 2009

The mission of the Energy Development Impact Office (EDIO) is to provide financial assistance to local units of government that are affected by energy activity in the state. Over the years, the EDIO has helped counties, cities, schools districts and other local units of government (organized townships, fire and ambulance districts, etc.) deal with both the booms and the busts associated with energy development in North Dakota. For the 2007-09 biennium, the amount available to the EDIO oil impact grant program is capped at $6.0 million; prior to the current biennium, the cap was $5.0 million per biennium.

Each year, the EDIO Director travels for about a month in western North Dakota, meeting with representatives of counties, cities, schools, organized townships, fire and ambulance districts and other entities that have applied for grants under this program. In 2008, 376 grant requests were received from 278 different political subdivisions. The total amount of grants requested in 2008 was $29.1 million. In addition to the grant rounds, the Director has also participated in the ND Petroleum Council's "Oil Can!" program, the Williston Basin Expo and other events in an effort to educate the public about this program and learn more about the problems associated with oil development.

One of the great things about this program is that the EDIO Director has always had flexibility in administering the oil and gas impact grant program. This has allowed the program to adapt to changing needs as drilling activity has moved from one area of the state to another, and as oil and gas development has gone through both boom and bust cycles.

The EDIO is only one of the ways that funding gets back to western North Dakota to help deal with the impacts of oil and gas development. Under current state law, a portion of the gross production taxes collected by the state flow back to counties, cities and school districts. It is important to note that organized townships, fire and ambulance districts, and many other political subdivisions do not share in any of the gross production taxes collected by the state even though these entities can be greatly impacted by oil and gas development in a given area.

The EDIO believes there is a tremendous need for additional funding to flow back to western North Dakota to help deal with the impacts of oil and gas development. Not only is there is a need for additional funding for the oil impact grant program, but there is also a need for additional funding directly to counties, cities and schools via the gross production tax distribution formula. SB 2229 addresses both of those needs.

I would like to take a minute to make a few of comments about SB 2229 and how the proposed changes could impact the way that the EDIO oil impact grant program is administered.

- The amount of funding needed for the EDIO oil impact grant program is directly related to the amount of gross production taxes that flow to counties, cities and schools under NDCC 57-51-15(2). If the Legislature provides more funding directly to the most impacted political subdivisions under NDCC 57-51-15(2), as this bill currently does, then there would be less need for grants for those entities from the oil impact grant fund.

- The EDIO has historically focused on "filling in the gaps" for those entities that receive either no funding (organized townships, fire and ambulance districts) or inadequate funding under the gross production tax distribution formula. Increasing the funding for the EDIO oil impact program to $10.0 million per biennium will allow the program to do a much better job of filling in those funding gaps without changing the entire nature of the program.

- The current budget for the EDIO is $6.0 million per biennium, of which $111,900 is used to administer the program. At the present time, the Land Department dedicates about 25% of one FTE to perform the functions of the EDIO, although the actual time involved in administering the program is somewhat more than currently allocated. The Land Department's budget bill (SB 2013) currently includes $10 million for the EDIO, with a $222,241 appropriation and a new FTE to administer the program. The appropriation and new FTE were based on the governor's original recommendation to increase funding to this program to $20 million per biennium.

- If the funds dedicated to this program increase to $10.0 million per biennium, there would be additional costs and time involved in administering the program, however not the amounts currently included in the Land Department's budget bill. In my opinion, dedicating a total of one-half of an FTE to the EDIO would be adequate, with some additional funding to pay for the added salary and travel expenses involved in administering an expanded program.

With those comments and explanations, I will gladly answer any questions you may have.