2011 HOUSE APPROPRIATIONS

HB 1013

2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division
Medora Room, State Capitol

HB1013
January 12, 2011
Recording Job# 12798

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the Commissioner of the University of School Lands and relating to the powers of the Board of University and School Lands, the duties of the Commissioner of the University of School Lands, the apportionment of oil and gas gross production tax proceeds, and the duties of the Energy Development Impact director; and to declare an emergency.

Minutes:

Chairman Thoreson opened the hearing on HB1013.

Lance Gaebe, Commissioner, North Dakota State Land Department: See attached testimony 1013.1.12.11A, 1013.1.12.11D.

Chairman Thoreson: How many vacancies do you have right now?

Lance Gaebe: We have 3 vacancies right now.

Chairman Thoreson: And which positions are those, please?

Lance Gaebe: One is a mineral's manager position; actually, a person is starting next week. Another one is the revenue compliance one I just mentioned; the other one is a minerals title specialist.

Chairman Thoreson: They went to the private sector?

Lance Gaebe: One went to the private sector; one didn't work out.

Representative Kempenich: You have 3 open positions now. You're asking for a couple more on top of what you have open now?

Lance Gaebe: The budget in front of you has 3 additional FTE's besides the 3 I just mentioned.

Representative Kempenich: Have you considered having a couple of these positions as unclassified?

Lance Gaebe: I think I have authority for one FTE that would be unclassified; historically it would have been a deputy type position. I'm the only unclassified position in the department. I think we would have the option of doing would be some contract type work. Where it may not be an employee as a classified employee; but, would be a title company type relationship. Where we could do some of those projects on a contract basis; as opposed to an employee.

Testimony continued.

Representative Klein: I'm looking on the sheet where 231 rights-of-way were processed. How do you get involved in that on land that you control?

Lance Gaebe: That's correct. The 707,000 acres of surface that we manage; a large majority of it's in the West; so when there's places where there's pipelines, roads, well sites that involves the surface, then our surface division is responsible for doing that inspection; and identifying the best location for those routes. They figure out if there's any archaeological, historical, or other environment impacts; then working on putting it to the best spot.

Testimony continued.

Representative Klein: I'm looking at that last one; unclaimed property postings. To what do you attribute that increase in that area?

Lance Gaebe: I'm not entirely sure why it's gone up as much; I believe part of it is technology. The postings of the names for unclaimed property involve banks that have accounts people are responding to or it's insurance claims, security deposits on apartment buildings, even prepayment on dental plans you may not use. I suspect that a large part of it is education and awareness of the people who are supposed to remit; and the technology they may be using.

Testimony continued.

Chairman Thoreson: Are you getting contacted a lot about disputes?

Lance Gaebe: Everyday something comes up. It's about disputes from ordinary high water mark and who owns the minerals on the rivers or the lake; and where's the edge of the water. In some cases, some of it's historic; when lands' been reacquired, if they've been foreclosed on, there's often questions from descendants of those owners about who owns the minerals. If it was a direct family lineage, then, they are entitled to those minerals.

Chairman Thoreson: So when those lands were sold, say back in the '30's, what percentage did the state keep at that point?

Lance Gaebe: The answer is it depends. It changed over time; initially, it was none. Then in '31 it changed to 5%.

Chairman Thoreson: If you have any information that, just for historical purposes to give to the committee, I'd appreciate it.

Lance Gaebe: It changed from 50% currently it's 100% is retained.

Speaker Drovdal: I believe it's you department is doing a study on that issue of land ownership and high water mark for mineral ownership. I know you completed a study from the Montana border to the bridge at Williston. When is the rest of that study from the bridge to the dam going to be completed?

Lance Gaebe: The study is complete, it was released. What the Speaker is referring to is a delineation that the Land Board authorized to have an engineering firm do a delineation of the ordinary high water mark. We know we are responsible for managing the minerals under the navigable waters; but, the challenge is where is the edge of the water. This delineation was done by an engineering firm to identify that; and it is mostly done West of the Williston bridge on both the Yellowstone and Missouri rivers. There are a couple of areas that are being further reviewed; because, they were unique circumstances or dikes, oxbows, things like that. Those were being conducted as recently as October on site, by boat, and on the ground. So, engineering firm still has those; I expect to get those yet this winter. East of the bridge and to the border of the Three Affiliated Tribes, is phase 2 and that's being done on basis of historical documents and maps; because, it's under the lake. It's studies of photos and maps from US Geological Survey and Corp of Engineers. We've got that preliminary data; but, we're going through to make sure it's right.

Testimony continued.

Representative Kempenich: Did you get what the trust fund totals are?

Lance Gaebe: By just balance of the trust or by county?

Representative Kempenich: No, just a run down.

Lance Gaebe: Sure.

Ryan Bernstein, Governor's Deputy Chief of Staff and legal Counsel: See attached testimony 1013.1.12.11B, 1013.1.12.11C

Representative Brandenburg: The question I have is in HB1013, you're just setting up the committee; and over in the Senate and SB2045, is that the funding mechanism? Because, that talks about the $100 million.

Ryan Bernstein: The funding mechanism is in section 7. It's in 1 sub A where we strike credit; and you strike 33 1/3%. It had a former cap of $8 million dollars. We strike the 33 1/3% and we increase the cap to $8 million dollars in section 7. This bill will stand alone and do that.

Representative Brandenburg: There is also a bill over in the Senate, too, doing the same thing.

Ryan Bernstein: There another bill in there that's slightly different; but, I know there's $100 million in that bill. But this is a stand alone bill.

Representative Brandenburg: Then they're 2 separate bills?

Ryan Bernstein: That's right.

Representative Kempenich: Is this going to be split out over the next 2 years? There's 8 quarters so there would be $12 million each quarter?

Ryan Bernstein: That's a good question. That's one of the things that the committee will work on in setting up; as far as the time tables, it might be limited kind of practically too; because this is formula driven. It's 1% of the gross production tax; so, as that money rolls in through the formula, we're looking at approximately $8 million per month on that. So, about $8 million per month will be available for this kind of grant.

Representative Vicky Steiner: Yesterday afternoon, I had a call from a gentleman in Alaska and his company, his boss has a company, that heats oil rigs in Fairbanks on the North slope. He asked me, he said we're very interested in coming to North Dakota. So, I spent an hour on the phone with him, talking about North Dakota and he said they're very confident the price of oil will be strong. He's not worried about the price of oil and he's very interested in coming here; but, he did ask about the cities. He said I'm not familiar with North Dakota. What are the cities; and where is the oil play and how can we get involved. So, of course, I did say I'm from Dickinson; but, I did mention Williston is in the heart of it and then Minot is there also. They have an airport and Bismarck's on the fringe of it. So, he's not familiar with our cities. I'm not going to go into too much about it; I know that the number is big. I think you should prepare yourself that this is actually trying to get us over that oil hump as these companies are trying to locate; and there is significant infrastructure, as you know, it has to be invested. But it's also coming next session. This is plan 1 and plan 2 is coming; so, it is a tremendous infrastructure investment that I don't think has ever been done in our state. What I'm excited about, is they are trying to bring us to a level where we can run major roads; without frost laws, 24/7 and have significant highway and county road infrastructure. Then, also, have water and sewer investments in the hub cities; Minot, Williston, Dickinson, so , you can have these workers coming and going. Not all of them will stay, as you know; but what the oil industry is telling me, is if we don't have housing for these people, the more we can build infrastructure to hold these people the better our economic future is everybody in the state. I looked at September 2010, 38% of the wells were state owned. You probably heard some of those statistics in earlier testimony, what I appreciate though, is this number was not lightly gathered. This has really been a collaborative effort and we've worked very hard on this. It's very important that the state takes a serious look at that; and I know they're really big dollars, but, it's something that's going to benefit everybody in the state.

Representative Kempenich: How much up front do you expect? Are you looking for ½ of this in the next six months? What I'm trying to figure out is what's you thought process and how you're going to try to roll this out.

Representative Vicky Steiner: My understanding is they wanted to let these communities know that these funds were available so that they could just get going on them. So, I think the communities are here; and if that's a concern, we can work on that.
Representative Kempenich: I'm trying to figure out if you want a bigger allowance up front?

Representative Vicky Steiner: I know the thought is, if we give enough money up front, and we can start to get ahead of it a little bit; and come back next session and finish it off, that the gross production tax formula should work with the maintenance of what we've put in place. That's the theory, now, some of the counties have some concerns that maybe the gross production tax will have to be looked at two sessions from now. But, we'll take that battle when it comes.

Representative Glassheim: Are you looking at this $100 million, from this fund, going again next time? Is this perpetual or at least for 1 or 2 or 3 bienniums? What is your understanding?

Representative Vicky Steiner: My understanding is it's going to be again as significant next session. I don't know if it will be $100 million, it may be even a little more; but, it's one time. You may remember last legislative session, the Governor's office came in with a brand new $14 million for energy impact; and the Association of Oil counties had come in and asked to change the formula. So, there's a different way that they both wanted to get additional funding; and the formula was addressed last legislative session. This goes back to one time funding the $100 million; and then, next session, let's see where we're at. If we need to do it again or some additional funds. The next session, is the formula still working? They believe if they get enough and get everybody set up, will the formula do it's job? We felt let's give it a try and see if we can't do this.

Representative Glassheim: In the planning that you did and the gathering of information, is there some amount that you think is going to be needed in the next 5 years or do we have to see each biennium?

Representative Vicky Steiner: I've only dealt with this legislative session appropriation. But, I've been told, they're coming again and the Governor's office could speak to how they've estimated their numbers. But I know you will see this again.

Ward Koeser, Mayor of Williston: See attached testimony 1013.1.12.11E, 1013.1.12.11F.

Chairman Thoreson: This list show different dollar amounts. Are these prioritized by what you would do if you had the money right now, in hand? What would be the first or one or two projects, that you as mayor, would say we need to get done right now?

Ward Koeser: Probably, the first one that's going to be at the top of our list is under waste water treatment. Of that $26,150,000.00 there's $15 million used to expand our waste water treatment facility. That would be our first priority.

Chairman Thoreson: Have you developed a list that you have? Would that be something which would be available to the committee?

Ward Koeser: Yes.

Representative Dahl: Do you have a road map, basically, with the contingencies? If you receive some state grant money, what will the city share?

Ward Koeser: We have a roadmap, but, it's very incomplete. It shows where we are today, where we start, and where we need to be. A lot of what happens depends on the state's involvement in this. We have a plan, but, there are a lot of gray areas in it.

Representative Glassheim: Let's say you got the $20 million out of this fund. What other funds are likely to help you with this $111 million?

Ward Koeser: I might add that we really don't address the water issues in here. There's a separate bill that's talking about a regional supply. For these dollars, it really comes from the transportation department and from the Oil Impact Grants. There's been some speculation if the formulas get changed. But a lot of it is going to have to be borne by our citizens.

Representative Glassheim: Do you have any sense of the magnitude of what you might be getting out of the DOT money?

Ward Koeser: We've had numerous conversations with the DOT and they're very understanding and supportive of what we're trying to accomplish. The problem you have when you work on these types of projects; is they give us timeframe which does not work for us. They would say we will make improvements to your bypass in 2018 or 2019. I'm saying, somehow, we have to do business differently. We need to make plans this year and develop in the following. I'm more concerned about the timing. I don't know that we have as much as they feel we need.

Representative Brandenburg: I'm just trying to get a my hands around this; the problems that you have. I'm wondering where your at?

Ward Koeser: There's a certain degree of that, but the cities; and I apologize for not having all the information, do not receive as much money back as the counties. We, in the last year, from the city's portion of our oil tax are going to get somewhere about $1.5 million. Although we get some money, it's usually not a lot.

Representative Brandenburg: If we may get some run downs or something further on. That's kind of what I'm wondering, where the cities and the townships how they squeeze out with this thing with the county.

Ward Koeser: I apologize for not having that answer.

Chairman Thoreson: If we can get additional information, we'd appreciate it.

Brent Sandford, Mayor of Watford City: See testimony 1013.1.12.11G, 1013.1.12.11H, 1013.1.12.11I.

Chairman Thoreson: When I was there, not too long ago, there were some of the areas where housing for the employees; they were trucking waste out to other cities. Is that correct? Is that still going on where they're collecting it?

Brent Sandford: Correct. We have an interesting situation where the county is unzoned; the city is zoned. The one you're talking about is immediately over the line, so they didn't have to go to planning and zoning; they set them all up, had their sewage in their trucks ready to pump into the lagoon and the city engineer said no, that it's not going there. They've been trucking it to Minot. The rumor is, this winter, they've been using a farmer out by Charleston's field. They couldn't get very far in the field anymore; so now it's kind of in the ditch. But that's the kind of thing going on.

Representative Kempenich: Right up front, you said that you're going to need $9 million in the next year. Is that what you're saying?

Brent Sandford: Actually, yes, if you look at where all the cities are at in the West, we've undertaken a study. We've spent $100,000 of local money to get this study done; we know our numbers. We're ready to start with grant applications, projects, getting bids, etc. So we're ready to go. These are going to be similar impacts for all the other town the size of Watford City; and there is a need for people to live within 10, 20, 30 minutes of their job; once the oilfield gets up to production phase.

Representative Glassheim: What are you seeing from long time residents, in terms of their housing costs? Are some of the longtime residents being pushed out by the increased costs of rental property?

Brent Sandford: It's not as bad as you've seen in some of the newspaper articles, but in Watford City, we had a case where the senior citizens complex, with 60 units, the owners were in their 70's and thinking about what should we do. We cautioned them to not put a for sale sign up. They didn't, the county bought it; it's transitioned, so it's still for elderly and lower income. There are a lot of smaller apartment buildings in the area that have been purchased by oilfield companies; everyone's kicked out and they've got their own employees in there. The rents on the existing properties are going up. The landlords are trying to be reasonable in keeping the rents; so we're not seeing the little old lady getting the $1,000.00 rent yet. The availability to get another apartment is zero.

Shawn Kessel, City Administrator for the City of Dickinson: See attached testimony 1013.1.12.11J.

Chairman Thoreson: How much housing development is going on there right now? Is it multi-unit or is it individual family homes?

Shawn Kessel: Our building permits in our single family homes have doubled from last year. We issued 141 permits for just single family homes; last year we issued around 70. The real increase, though, is in our multi family structures. We issue about 2 or 3 a year prior to this; this year we issued 67. We expect that there's going to be about 200 dwelling units available from those building permits issuance. We're also permitted 3 new hotels in town; we'll have capacity of our 250 additional hotel rooms. That should come online next year.

Chairman Thoreson: With those hotel rooms and those apartments, are they already spoken for pretty much the minute they're opened?

Shawn Kessel: That's exactly correct. Hopefully, we'll be able to announce, within the month, the attraction of 2 very large corporations to our community. They'll bring about 700 to 850 jobs. They are coming in with the knowledge that housing market is very very tight. They're proposing 100 unit apartment complex just to house their employees. Another is proposing 24 duplexes that they would build and operate; meaning an additional 48 units. Those numbers are not currently permitted so they're not included in the numbers I mentioned to you earlier.

Chairman Thoreson: And that housing they would build would be exclusively for the use of their employees? Is that correct?

Shawn Kessel: That's exactly correct; at least initially.

Testimony continued.

Representative Kempenich: We had Housing Finance in the other day. How much of multi unit housing is lower income?

Shawn Kessel: If you recall, back to the summer of 2009, the city of Dickinson had a tornado rip through our community. When that occurred, we lost over 30 units of section 8 housing; and that housing is now being replaced. It's not built yet, but, we expect that it will be operational come July or August. We have a proposal from another company, Metro Planes, they would like to erect another 3 to 4 story structure for section 8 housing in the city of Dickinson. They just secured land about a week ago; so, that project is not coming to fruition yet. So the vast majority of our dwelling units are in the hands of private individuals or private companies.

Harry Bergstad: I am from McHenry County, I am the McHenry County Commisioner, my name is Harry Bergstad. I am here in support of HB1013. After listen to the previous speakers, we have no problems yet; and I hope we don't encounter too many. We're not an oil producing county right now; and we don't expect to be in the near future. We do have Bottineau County to North of us, and all the oil production to the West of us. It's coming down through Bottineau, going to Minot, going on West when they carry the oil out; so our roads are getting impacted. We're getting people coming from Minot East looking for cheaper housing. My daughter, for example, her rent went up $100.00 in a little shell of an apartment; she's paying $900.00 a month for rent. So, you go look for some place, if you can, that's a little cheaper to live. So we're feeling that impact. The other thing I want to mention our law enforcement is seeing some increased activities, too, with all these people coming in.

Ron Ness, North Dakota Petroleum Council: We stand in support of this bill; and specifically, the comments by the Governor's office. I'd like to make just a few comments. I think, really what we're talking about here, is all of the studies that we've all participated in the past. Really, we're talking about the opportunity for population growth and economic growth. These communities have a tremendous opportunity, as does our state, to bring people in, to retain those people and grow our economic base in the state; which we've looked for 3+ decades. You can't do it if you don't have the sewer system and the water system; as the city officials will contend. From the industry's standpoint, we need people and we need places for them live; and they will only stay if they have good housing and places for their families. It is essential. The other element that we are seeing that, frankly, is the reason I'm here, is that community services; fire departments, police departments, ambulance services, volunteer services are maxed. We have to have those services in those communities. Industry is contributing large amounts of money to keep these things moving forward. For instance, I just helped raise money for the Stanley Fire Department. They had 2 new trucks funded the energy impact office; they did not have the equipment; the helmets, radios, those things. We can't have those people out fighting fires, oil related fires, without the type of equipment and training. We are seeing that happen throughout the areas in Western North Dakota. They're coming to industry, industry's responding. In my estimation, that's what we're paying the tax for; and this is a great opportunity to utilize the energy and tax office; to get those funds back. In addition to what you've seen in other bills. So with that, I think this is a critical component of the whole package.

Chairman Thoreson: How much addition fire suppression equipment do you think we're going to be needing with the growth explosive in the industry?

Ron Ness: I believe that funding was provided for two foam trucks; one in Mountrail County assisted with, the other one the energy impact office assisted with. So, if you put yourself in the standpoint of those volunteer firefighters and ambulance services, their call numbers have gone up. They've come to our office a number of times. I believe industry has funded everything from police cars to training for fire fighters to everything. It's frankly, where do we stop? We need to help and we are; but, I think this is the vehicle to which to get those funds directly back to those community services.

Mike Hynek, Mayor City of Stanley, County Seat of Mountrail County: I'll just try to be as brief as I can; so, we can move on to your other business. I'm here in support of this bill. If you recall, you probably saw me 2 years ago; I know I remember seeing you folks. At that point and time, I tried to be conservative on how things were; and believe me, I could have exaggerated as much as I could imagine. City of Stanley, last population just under 1,300; I have no idea where we're at today. We provide services for roughly 700 workers in worker's camps also that this point in time. Stanley's the home of EOG Resources; the largest production company in North Dakota for crude oil. They have a 300 to 400 person worker's camp that we provide services. Target Logistics is in town; there's 100 workers there; and PGI Industries also has a work camp from 100 to 200. So those are the types of impacts we feel. I think this bill will certainly help. If you recall, I think, one of the comments I made 2 years ago was that this fund needed to be increased; because this is a moving target. Other communities, now, are getting hit just as hard as we are getting hit 2 years ago; and it's going to carry on. Who knows where the next town may be where they've discovered; and move in and start drilling it up. Currently, at this time, we've had a plan put together by Ameritech; and this is our plan for 2011. It consists of the needs of the city and it's just under $9 million. Last year we did about $6 million worth of work. If you recall, last time, we were in the same position as Watford City; talking about the amount of money you can bond and borrow. It's starting to evolve in Stanley; geographically, we've doubled the size of our city. A lot of the buildings that have been built are starting to fall on the tax rolls. There's a tremendous need for housing. We've tried to follow the line on housing and rules within the planning and zoning of the city; not to allow rv's not in rv parks. Planning and zoning had a lady come to the actual council meeting saying she wanted to put a rv in a trailer park. She said I have twin 3 year old sons who need water and sewer; and right now they weren't living with that. We've had a dire need for those types of things. Every farmstead has rv's.

Representative Klein: If I remember correctly, last time there was some money taken out of the oil fund to provide water to your system. Did that get completed and is that working out?

Mike Hynek: The doubling of the size of the water plant has not been completed yet. They have put in a storage facility and the booster pumps on our existing line; and with additional storage facility, they're running at full capacity plus. That has helped. The completion of the water treatment plant is scheduled for next fall; and so, we're getting by. The cities are cooperating with industrial sales.

Representative Kempenich: That brings up a question, on some of this construction; is that a problem of getting people in to do some of the construction or is it just timing issues for you or for the city?

Mike Hynek: As far as getting completed; the contractor's availability?

Representative Kempenich: Yes.

Mike Hynek: That is very difficult. Most contractors are tied up. One thing we've also encountered is the cost of getting projects done. Our main street project, which was supposed to cost the city about $250,000.00, approached nearly $900,000.00; because when the project was designed, the state and federal get locked in and it's the city that has to pick up the difference.

Representative Brandenburg: Question I have, the activity been there in Stanley for awhile. Are you now starting to see some of that oil production tax money come back through the county and back to the city? Is it still not as much as you anticipated?

Mike Hynek: The city's capped out on what we get. The city of Stanley received a little over $1 million dollars last year, in regards to oil production tax that came back to the city. But when you're spending $5 and $6 million a year on infrastructure; you know.
Dan Brosz, Executive Committee, North Dakota Oil and Gas Producing Counties Association: I just want to say that everyone is in support of this bill. Things change really quickly. We really like the idea of the advisory board and quarterly; so they can react to what happens out there. Things are very fluid in the oil industry and we think the advisory board will work well to do that; because it's a large amount of funds.

Representative Glassheim: This is a lot of money that's going to be going through that advisory committee. How will you be set up to avoid political decisions; rather than, more long term planning decisions? Will they have an advantage getting money? How will there be some check on how the money's distributed?

Dan Brosz: One of the things we look at is, we understand there's going to be 4 people from out there; counties and cities represented. There's also 4 or 5 officials from the state that will be on that advisory committee; and all there doing is advising, but, we all have a problem out there. I think we've kind of got everybody together, we're trying to work together; because it's so large out there that it's changed compared to what it used to be. I think we'll be ok with that.

Chairman Thoreson closed the hearing.

Mayor, City of Minot: Presented additional written testimony. See attached testimony 1013.1.12.11K.

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HB1013
January 27, 2011
Recorder Job# 13576

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Minutes:

Chairman Thoreson opened the hearing on HB1013.

Lance Gabe, Commissioner, North Dakota State Land Department: See attached testimony 1013.1.27.11A, 1013.1.27.11B.

Representative Klein: What's the procedure on these permits; how does this operation work and what do you have to do?

Lance Gabe: We've tried to streamline the procedure to make it as much computer based as we can. We have a web application for oil company, engineering firm, etc,; where they can put in their route, legal, purpose of the project, etc. We have staff in house, we've also hired some field men who visit the site and work with the right away agents.

Representative Klein: Any easements and so forth, that you have to process? Do you charge for those permits? I imagine on easements you have on your documents the exact locations tied into reference points?

Lance Gaebe: That's accurate we have surveys from the engineering firms and survey companies that are attached as part of the easement; and descriptions of the property or section line. We do charge; the typical going rate is similar to whatever private land owners are getting. The only case where we might not charge is when we have access agreements just for staking or surveying.

Representative Klein: Those permit fees, they go into your general fund that you manage?

Lance Gabe: Which ever trust owns that land is who gets the remittance of that fee.

Testimony continued.

Representative Klein: Explain how this bonus acre works? Is that in addition to the r regular?

Lance Gabe: The bonus is how we auction off the right to lease. The lease is only $1.00 per acre per year; but the bonus is when they're bidding on a per acre basis for a one time bonus for the right to lease that land for 5 years or longer if it's held by production.

Representative Klein: So this bonus is on top of $1.00 an acre?

Lance Gabe: That's correct. For example, we might have 160 acres in McKenzie county that's up for auction. They are bidding the bonus per acre; they pay that for the right to be the lessee and that's just one time. They also pay $1.00 per acre per year and on top of that; if the lease has a 1/6% royalty, it's paid to the trust as well.

Representative Klein: What was that 1/6%?

Lance Gabe: 1/6% of the oil and gas that's eventually produced.

Representative Kempenich: When was your last leasing?

Lance Gabe: November 1, 2010. We have one next Tuesday.

Representative Kempenich: Have they gone back in to the old wells the state has?

Lance Gabe: They have, but, it's a confusing policy area.

Chairman Thoreson: Who goes in and makes that determination?

Lance Gabe: Not if it's held by production on the original lease for that particular tract.

Testimony continued.

Representative Kempenich: Do you produce reports for the budget section?

Lance Gabe: The leases are 5 years; and I had assumed that many weren't actually drilled and producing until the 4th year.

Jeff Engleson, Deputy Commissioner, North Dakota Land Department: Half the wells they are currently drilling contain new leases.

Lance Gabe: What Representative Kempenich is referencing is; we lease them on a one time basis for a 5 year lease. If they begin producing, that holds that lease for beyond a 5 year period. As long as they are paying royalties to the trust; they hold it until they cease production.

Representative Kempenich: In theory, the royalties should make up for the lease.

Lance Gabe: You're right. These are big numbers, but you look for example; you look at the acres in each of these quarterly sales. Our sale on Tuesday only has 11,000 acres in it.

Representative Kempenich: These are the numbers we're talking about now right?

Lance Gabe: All the money you see here came within 10 days of the auction which is held the first Tuesday in each of those months.

Chairman Thoreson: You have another auction next week?

Lance Gabe: Next week Tuesday.

Chairman Thoreson: You'll have those numbers when?

Lance Gabe: By the end of the day Tuesday.

Representative Kempenich: The new stuff is based on royalty type funding then it is on leasing?

Lance Gabe: That would be an accurate statement. The future revenue will be based more on royalty. In round numbers, we took in \$295 million in bonuses; but, \$80 million in royalties.

Representative Kempenich: What's your average turn around time? Six months is probably the average. Is that about the time frame from when they first start to pump to when you see any money coming off a well?

Lance Gabe: I don't know that answer. Six months to the first production.

Testimony continued.

Chairman Thoreson: On the handout we received, there was another one that says mineral title specialist; and that's being reclassified. Is that correct?

Lance Gabe: It's still the mineral title specialist, at this point, it hasn't been reclassified.

Chairman Thoreson: Are you looking at reclassifying? Is that something you're exploring and if so, what would you reclassify as?

Lance Gabe: We're looking at reclassifying it; but, I have not. I think we'll probably keep it as the mineral title specialist.

Chairman Thoreson: So that wouldn't be one of the positions authorized in the Governor's budget?

Lance Gabe: Right.

Representative Kempenich: It looks like a funded position, you just haven't filled it yet?

Lance Gabe: That's correct.

Representative Kempenich: Have you looked at contracting?

Lance Gabe: We've looked a little bit. We hired Dakota Guarantee and Title for some work; and that can work.

Testimony continued.

Chairman Thoreson: What would be the role of the unclaimed property auditor?

Lance Gabe: One of our responsibilities is managing the unclaimed property act for the state; property that's abandoned or unknown owners. We have $34 million to $35 million of unclaimed property. With unclaimed property, it's not just state agencies; but, anybody who has unclaimed property.

Chairman Thoreson: That's what I was getting at, I wanted to know if they were performing some type of an audit function.

Lance Gabe: They could; it might be education efforts.

Chairman Thoreson: So you need to have someone with an accounting background?

Lance Gabe: It's been someone with an accounting background; but it's also public relations. It could be apartment owners, law firms, dental offices, banks; 9 times out of 10, it seems, they didn't know they were supposed to remit that to the state unclaimed property division.

Representative Klein: On this unclaimed property, do they let you know at the bank that it's been 5 years and nobody's touched it or is there a certain time limit when they have to let you know?

Lance Gabe: I believe it's a 2 year timeframe.

Representative Klein: In another part you talk about the investments division. Where does that fit into your flow chart?

Lance Gabe: Jeff Engleson is the Deputy Commissioner, Director of Investments and the Energy Development Impact Officer. So he's responsible for the investment of the $1.7 billion and the distribution.

Representative Klein: That's where you want to add an additional person?

Lance Gabe: Unintelligible.

Representative Klein: That would be a 2 man office?

Lance Gabe: We would hope that we could have an assistant financial person who could do some of the more basic financial analysis or ratio analysis; and let the investment director focus on of the due diligence for the types of investment we put in the trust fund.

Representative Kroeber: When you talk about the $1.7 billion; is that all school land trust?

Lance Gabe: That's the collective. The follow up memo I had to the committee had the balance by trust. The $1.7 billion is all the permanent trusts.

Representative Kroeber: On the school lines trust, that's where we got the old tuition apportionment; we called it dollars from. There must be a formula that determines the amount of principle you can use out of that. It is more than just the interest, is it not?

Lance Gabe: You are right. In 2006 the voters changed that; it used to be just earnings and interest. Now the constitution has changed and it's a formula; it's 5% of the running 5 year value of the trust that's dispersed. The average value of the trust over 5 years is dispersed; it's in the appropriations bill and also in my testimony.

Representative Kroeber: That's increasing rapidly now with the additional dollars coming in; about $100 million. Is that not correct?

Lance Gabe: It's a $19.5 million. The total distribution for all the trusts is $98.48 million.

Representative Klein: How often do you change out your computers?

Lance Gabe: We have 3 or 4 laptops in the office; and we do a check out system. It's a 4 or 5 year rotation. There is an IT schedule established for that rotation.

Testimony continued.

Representative Klein: I'm looking at that bottom chart; you're operating a pretty smooth ship.

Lance Gabe: It's not smooth because those red bars are 75% of way through the biennium; the blue bars are the whole biennium cost

Representative Klein: Is that typical?

Lance Gabe: I don't think that's the case. It's keeping up with requests for rights of way, travel involved, additional costs because of the number of transactions in minerals, etc.

Representative Klein: Sub agencies will instead of turning money back in, make sure they do all their expenses to make it come it out.

Lance Gabe: To the contrary, I suspect that I'll be coming before your committee to ask; at some point, a transfer from our salary line to operating in order to complete the biennium.

Chairman Thoreson: What is causing you to be upside down on the fees and professional services line? What falls into that category and do you expect it to continue that way?

Lance Gabe: Legal fees are a big part of that; our attorney fees have gone up, our costs from other agencies have gone up, audit costs. As a special fund agency, all of our consultation with the Attorney General's office is billed.

Chairman Thoreson: Is that an hourly basis?

Lance Gabe: That's correct.

Chairman Thoreson: What per hour are they billing you?

Lance Gabe: I'll get that for you.

Representative Kempenich: Are you the lead agency on this river business that's out in front on this?

Lance Gabe: We are not involved in the corps. We are the lead agency, particularly in respect, to any of the minerals on a sovereign land. We did the initial effort to try and have the river and inevitable waters; delineated for the ordinary high water marks. The responsibility for the sovereign dirt is the state engineer's office.

Representative Kempenich: What time frame are you looking at?

Lance Gabe: We just, in the past month, received the preliminary data for phase II; which is the review of the channel that lies under the lake. We're reviewing that now to make sure there isn't any outliers. I'd say the next couple of months we'd be able to release that. Phase III, which is taking a second look at some of the more complicated areas west of Williston; we're still waiting from that information from the engineer.

Testimony continued.

Representative Kempenich: The board being the Governor?

Lance Gabe: The land board itself; the Governor, Attorney General, Secretary of State, Superintendent of Public Instruction.

Chairman Thoreson: Is there any discussion of putting this in as a separate stand alone bill; since it is a lot policy issues in a budget?

Lance Gabe: I wasn't party to any of those discussions about policy. I suspect the reason it was in this budget; is because of the dollars.

Chairman Thoreson: It certainly has a fiscal impact.

Lance Gabe: The increase in dollars are what necessitated the policy change.

Representative Kempenich: The question is what we do have; there's another infrastructure type bill out there.

Lance Gabe: Currently it's an annual distribution every spring; but, in this bill it starts on a quarterly system.

Representative Kempenich: It starts collecting July 1st. Their estimating $8.8 million a month coming into that; and quarterly that money would start rolling out.

Representative Klein: Development disabled loan fund program; how do we fit into that program?

Lance Gabe: After the law suit dealing with the institutional home at Grafton and there was a need for development of community based home, there was a program that was set up with the common school's trust fund being the source of funds of loans for developmentally disabled facilities. It was a low interest loan; and as the loan proceeds were paid back to the trust, the lands and minerals trust compensated from that interest.

Representative Klein: That was part of the whole deal where we had to shut down Grafton?

Lance Gabe: Right, so we have loans for those operations that are still being paid back.

Representative Glassheim: On page 7 is there a line missing?

Representative Klein: Looking at the state land set aside; there was none for the Grafton School that I can see, unless, it was some other place.

Lance Gabe: That's right. There's a trust that still exists for; that doesn't any more, is the Ellendale Normal School and the proceeds of that are dispersed through the other beneficiaries. But, I don't think there was ever one for Grafton.

Representative Kempenich: How aggressive do you get in investing your funds?

Lance Gabe: I would say we're very conservative type of investing.

Jeff Engleson: We do have a very conservative liquid investment program. We're approximately 51% equities, 49% fixed income. With the changes that went effect this biennium with the distribution formula, we are in the process of relooking at the whole thing. Quite frankly, we could be more aggressive if we wanted to.

Representative Kempenich: The growth the last couple years have been a challenge with a conservative type investment.

Jeff Engleson: We are earning .01% on our cash at Northern Trust right now.

Representative Glassheim: What would your overall percent be on return investments?

Jeff Engleson: As of September 30, our trailing 1 year number, we were up 11% in total portfolio. In 3 years, going back to 2008, we were basically even.

Representative Glassheim: Is that 11% earned or is 11% with counting new oil money coming in?

Jeff Engleson: That's the earnings of the investment plus the new money. I looked at this from March 2009 to September 2010, that was an 18 month period, we grew $600 million. Over that time, about half was investments and half was oil.

Chairman Thoreson: Can we get that information from you?

Jeff Engleson: Yes.

Representative Kroeber: I have a few notes that we needed a couple of amendments. One was changing something to the League of Cities.

Lance Gabe: Actually, Ryan Bernstein from the Governor's office, mentioned that. One of the members of the advisory board is listed as the League of Cities; I think by way of suggestion, they thought that would be more appropriate. Since the North Dakota Association of Oil and Gas Producing Counties also represents the League of Cities; that that person be from that association as opposed to the League of Cities.

Representative Kroeber: So they'll take and develop that for us?

Chairman Thoreson: The proposed amendment would take and replace on page 5 line 27 the words North Dakota League of Cities with North Dakota Association of Oil and Gas Producing Counties; similarly on page 5 line 31.

Representative Kroeber: I have a note concerning an emergency clause? That we need an emergency clause for the engineering position?

Lance Gabe: The FTE's that authorized wouldn't be available until July 1; so the concept of the emergency clause is to have those rules, procedures, board set up.

Chairman Thoreson: So you would need to have an emergency authority to fill the positions also?

Lance Gabe: Potentially. The other thing I also asked for is that that position would be a professional level position; where the Governor's budget has it as an administrative assistant. Similarly, the funds to pay for that, are not coming out of the Energy Development Impact Fund. The salary line has room for that position, but, the source of the funds to pay that.....Unintelligble

Representative Kempenich: You're talking about your budget spec I?

Joe Morrissette, Office of Management and Budget: When that position was added in the budget system, I should have applied the funding source as the EDIO fund; instead, I used the regular land department maintenance fund. The authorities there in their salaries line; basically, the effect is that the grants line could be reduced by the amount of funding that would be required to fund that position. By not funding the position from that EDIO fund, I left too much in the grants line; so the overall result, is that the grant's line overstated a little bit.

Representative Kempenich: Is that the right position listed?

Lance Gabe: It's the administrative assistant I.

Representative Kempenich: What are you looking for?

Lance Gabe: I'm looking for management level position.

Representative Klein: On page 7 of the bill for emergency measures which affects certain sections. Wouldn't it have been simpler to say this is an emergency measure and leave it that? What was the logic behind that?

Joe Morissette: The reason for not applying the emergency clause to the whole bill was; that then it would have applied the whole appropriation as an emergency measure. The intent was to put in place the new procedures for the distribution of EDIO grants as soon as possible; and to put the emergency clause on just those sections.

Dan Brosz, Executive Board, North Dakota Oil and Gas Association of Counties: See attached testimony 1013.1.27.11C.

Chairman Thoreson: This doesn't have anything to do with any support or personnel or any of the general government things going; just the infrastructure. Is that correct?

Dan Brosz: That's correct.

Testimony continued.

Chairman Thoreson: I see New Town has in there an initial for a community center?

Representative Kempenich: That's the whole thing; I what I had in mind was more of this infrastructure.

Dan Brosz: I put it in because they sent it to me and I had to leave it in there.

Testimony continued.

Representative Kempenich: The way the bill is drafted; $35 million is going to the 3 larger cities; and they're on a strategic plan.

Chairman Thoreson: Under Williston it says the needs to provide for core infrastructure; here it says $40,700.00?

Dan Brosz: $40,700,000.00.

Chairman Thoreson closed the hearing.

2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division
Medora Room, State Capitol

HB1013
February 21, 2011
Recorder Job# 14784

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the Commissioner of the University of School Lands and relating to the powers of the Board of University and School Lands, the duties of the Commissioner of the University of School Lands, the apportionment of oil and gas gross production tax proceeds, and the duties of the Energy Development Impact director; and to declare an emergency

Minutes:

Recorder malfunction

Representative Kempenich: See attached 1013.2.21.11A.

Chairman Thoreson: Alan, if you want to go ahead and clarify that.

Alan Knudson, Legislative Budget Analysis and Auditor, North Dakota Legislative Council: On page 4 it removes the requirement that commissioner of the board of university and school would serve as the chairman of that advisory committee. On page 4 it changes the amendment to subsection 1 section 57-51-15 which provided for the increase from $8 million to $100 million. We had to replace that section because with the change of the name; if you look on the amendment. On the top of page 2 is where the increase is made from $8 million to $100 million. If you go to page 5 of the amendment, there was also a reference to the energy development impact office that had to be changed to energy infrastructure and impact office. So the section is still in there, it's just expanded to cover all those areas.

Alan Knudson continued with attached 1013.2.21.11A.

Chairman Thoreson: So that's that language on page 7 of the amendment?

Alan Knudson: Yes.

Explanation continued.

Chairman Thoreson: But it still increases the total FTE from the current biennium which is 21.75 to a total of 24.75.

Alan Knudson: We're not changing the executive recommendation which added the 3 FTE's.

Representative Kempenich: No that's one of the conversations we had with the commissioner; part of Jeff's salary comes out of that when he works with the grants. That's why we left the grant money; they can't really fund that through the land department.

Representative Kempenich: Made a motion to move the amendment.

Representative Klein: Seconded the motion.

Representative Glassheim: What's the relationship in here between the commissioner and the impact officer?

Representative Kempenich: The land board makes the final decision.

Representative Glassheim: Who recommends to the land board?

Representative Kempenich: This board and the director will make recommendation to the land board and then the land board will grant it out.

Representative Glassheim: I just wanted to make sure that the commissioner is responsible for his employee.

Alan Knudson: If you look at the amendments on the bottom of page 6 and top of page 7, that's where it sets up the office. The director of the energy impact office is appointed by the board of university and school lands.

Representative Kempenich: Nothing can be done unless the board says; and they're all elected officials.

Representative Kroeber: I'm a little puzzled we're taking out a board but we're creating a board?

Representative Kempenich: We're not creating a board. They're going to have an advisory board but it's going to be one that's appointed by either the commissioner or the land board.

Representative Kroeber: Who appointed the other board?

Representative Kempenich: The Governor.

Representative Kroeber: The Governor appointed the other board; and this one, in case it's created, will be appointed by the commissioner.

Chairman Thoreson: It gives them the flexibility and the authority to do so.
Representative Kempenich: They'll appoint an advisory committee.

Joe Morrisette, Office of Management and Budget: I'm just concerned that the amendment in section 8 removes the continuing authority for the energy development grants and could pose a problem to the department. As it works now, the timing of their grants depends on when projects are completed; so at least in the current biennium, they're anticipating some of the grants they're awarding they wouldn't make the payments on those until after the close of this biennium. I think that could pose a problem.

Alan Knudson: On page 2 of the original bill they have an exemption from the expiration of the appropriation authority. So under that section they can continue their appropriation authority.

Chairman Thoreson: So right now that exempts and that would remain in the bill after amended?

Alan Knudson: That's correct.

A voice vote was made on amendment and adopted.

Representative Klein: I just want to check with council to see whether that other amendment that was proposed?

Representative Kempenich: Made a motion to "Do Pass as Amended".

Representative Klein: Seconded the motion.

A roll call vote was made for a "Do Pass as Amended". 7 Yea's 0 Nay's 0 Absent.

Chairman Thoreson closed the discussion.

2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee
Roughrider Room, State Capitol

HB 1013
2/22/11
Job # 14786

☐ Conference Committee

Committee Clerk Signature	

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the commissioner of university and school lands; to provide for distributions from permanent funds; relating to the oil and gas impact grant advisory committee; relating to the powers of the board of university and school lands, the duties of the commissioner of university and school lands, the apportionment of oil and gas gross production tax proceeds, and the duties of the energy development impact director; and to declare an emergency.

Minutes:

Proposed amendment .01003

Chairman Delzer: (Handed out amend .01003)

Vice Chairman Kempenich: Moved .01003

Representative Thoreson: Second

Discussion:

Vice Chairman Kempenich: Went over the amendment.
Discussed pp 8-9 of the amend we changed the funding of the grants line because the land department runs their budget out of the common schools trust fund and that is not part of this discussion so they funded the impact office in the past through the grants line item so to add an FTE, which would be the director of this impact fund would be funded out of the grants line. Changes shown on the end of the amendment.

Chairman Delzer: With your amendments, you have intent language the board can do something if they want to on the executive side. They could probably do that whether we had language in there or not.

Vice Chairman Kempenich: It gives them more of a comfort zone, though. That group is mainly together now. The structure that is in the bill now they would probably just appoint that.

Chairman Delzer: You think this will be driven by the Great Plains Study. I didn't think that had a whole lot to do with the money.

Vice Chairman Kempenich: It will in a way, due to the infrastructure language in it.

Representative Thoreson: If you go to page 7 of the amendments, in the original bill those were things the committee was tasked to do but we did allow them to create an advisory board rather than put it in code.

Representative Skarphol: Does this require any compliance with upper Great Plains or is it totally flexible.

Vice Chairman Kempenich: It is totally flexible, the way it's worded right now.

Representative Skarphol: That's reassuring that we are going to give total flexibility outside of the plan that was developed by the oil and gas counties. I can't vote for this.

Chairman Delzer: Further discussion? Your bullet points here trying to tie it up a little bit so that there isn't quite as much flexibility; is that correct?

Vice Chairman Kempenich: Yes, that's what we're trying to do. I have a list of what's been granted in the past, this money has gone to townships and county infrastructure mainly roads. There is some in there for ambulances and some in there for fire districts and things like that. In the past it has been mostly targeted towards the majority of the money has been infrastructure type.

Chairman Delzer: Is there anything in here that keeps the legislature in the loop at all with this money or is this just given to the executive branch?

Vice Chairman Kempenich: It's pretty much left up to the impact office and the land board. That is five of the elected such as the Governor, Superintendent of Schools, Treasurer, and Secretary of State.

Representative Skarphol: I'm absolutely dumbfounded that we a bill that is said to be supported by the oil and gas counties and then they turn around and don't want to comply with their own plan or require that their plan be completed as suggested. It is must mind boggling to me.

Vice Chairman Kempenich: What do you suggest? Do you want UGPTI referenced?

Representative Skarphol: I would hope these funds would be used to implement the UGPTI study.

Representative Dahl: If I'm correct, the UGPTI just deals with roads, and this is fund is to deal with water systems; this $100 million we are discussing right now. I am not sure the study is entirely applicable.

Representative Skarphol: But at the very least, you could require that those monies that go to counties and townships go to roads.

Chairman Delzer: Any further discussion by the committee? Is there anything in here that keeps them from funding housing at a city?

Vice Chairman Kempenich: The grant is going to come from that advisory board, but at the end of the day it's the director's call and the land board will be the one to have the final say on the grant awards. If you look at what's been done in the past, there's never housing or anything like that involved in grants awarded in the past, but there is nothing that precludes that.

Chairman Delzer: It's never been $100 million either, though. I would hate to see this money being given to a city for housing. I don't think that is the intent of the legislature would have under any circumstances.

Vice Chairman Kempenich: The name of the grant-well I guess housing could be considered infrastructure. When you look at what we had in front of our committee; like Williston for example, I think they came in with about $111 million of basically they are targeting their water treatment plant as far as that goes. There isn't anything that says they can't invest in housing.

Representative Skarphol: If you look at the report that comes from the tax commissioner's office as to the utilization of the oil dollars received in this last biennium there are counties that put 72.5% of their money into general government. There are counties that put zero percent of the money they received in oil revenue into roads. There were four categories; general government, public safety, roads and bridges and other. There was a wide distribution of all those counties into all those categories and quite frankly if we are going to put this kind of money out there to fix infrastructure I think the tax payers of ND view of that is that we are going to fix the roads that we keep hearing about.

Representative Glassheim: If you look at page 8 of the amendment, in existing language in section 11, it talks about legislative intent and guidelines for the grants. They are to meet the initial impacts affecting basic government services do not include activities related to housing is a secondary impact.

Chairman Delzer: I'm going to support this amendment with reservations without some sort of guidelines. It is the legislative branch that appropriates and granted we have the right to appropriate to the executive without a lot of guidelines, but I have some concerns.

Vice Chairman Kempenich: I think the people that are going to be involved with this are elected officials. I think they've got some pretty high pressure that this succeed where intended or they'll never see it again. The flexibility part of it is a question. If you want to have a report of how it is going, I don't think there is any problem with that.

Chairman Delzer: Further discussion on the motion to amend?

Representative Kroeber: I think we mentioned something about a change in funding source. You mentioned the common schools trust?

Vice Chairman Kempenich: No, we didn't change here was no money at all. The three new FTEs in the land budget were funded basically through the commons schools trust fund. That was three the commissioner had asked for. We changed one position to the director of this impact fund so we had to change the funding source from common schools trust fund to the grant money.

Chairman Delzer: common schools or land and minerals trust fund?

Representative Skarphol: I would like to know what the committee's opinion is on what they anticipate the $65 million that is not being appropriated to the large cities to be utilized. Is half of it going to go to township roads? Give me some idea how you think that 65% might be utilized.

Vice Chairman Kempenich: In the past, the better chunk of it went to township roads. Small amounts go to fire districts, schools, water lines, etc. The intent is not for normal wear and tear. If it is part of their ongoing infrastructure, that's not the intent. The intent is the impact of expansion. There have been some water and sewer lines built too. I don't think the intent is to build housing, from what I have understood. There are close to 600 units out in the oil country going up right as we speak right now.

Chairman Delzer: I can't speak for the committee, but I would say I would hope a large share of this is used for unforeseen road problems.

Representative Skarphol: Before we vote on this on the floor, I would appreciate the office providing us with a definition or a list of things that they believe fit into that category as not being eligible as secondary impacts.

Chairman Delzer: Further discussion on the motion to amend. Voice vote carries.

Vice Chairman Kempenich: I move we further amend by raising the 50% for large cities up to 60%.

Representative Dahl: Second.

Chairman Delzer: Discussion

Rep. Nelson: What is the ability of Williams County to raise a mill? What is the value of a mill in Williams County?

Chairman Delzer: We will have to get that for you.

Vice Chairman Kempenich: The director will have to make the call. I think there was an agreement of how that money will be split out and I think they will stick to it. It is 57.15 so we could just put 60%.

Representative Skarphol; what is the gentlemen's agreement? I would like to hear it.

Vice Chairman Kempenich: I think it is 2.5 and what is the balance going to Dickinson? Minot had the least amount out of that. Williston was $20 million.

Chairman Delzer: If they have this plan as to how they're going to do it, why didn't it get put in the bill?

Vice Chairman Kempenich: They didn't know if this was going to pass or not and what we were going to do.

Representative Skarphol: Maybe it would pass a little easier if it was in the bill.

Chairman Delzer: I'm disappointed. If they've decided how they are going to do most of this I wish they would have put it in the bill. If this bill goes forward we should certainly ask for it on the second side.

Representative Nelson: What is the distribution as you see it from the gentleman's agreement? Williston would get how much?

Vice Chairman Kempenich: Williston was 20, Minot, 2.5, Dickinson 12.5 and that leave the rest for Dickinson; 12.5. That is what the gentlemen's agreement was.

Sara Chamberlin, Legislative Council: One mill in Williams County would raise $69,248.

Chairman Delzer: All those in favor to further amend up to 60% for the large cities signify by saying I.

Motion carried on voice vote

Vice Chairman Kempenich: Do Pass as Amended.

Representative Thoreson: Second.

Chairman Delzer: Discussion

Representative Dosch: In Section 4 of the bill; distribution of state institutions. I noticed that BSC isn't included on there. Is any previsions made that they get some of this money.

Chairman Delzer: No. They came in a little late in the game. This is trust lands money. This is school lands.

Vote: 15 Yes 6 No 0 Absent Carrier: Rep. Kempenich

Hearing closed.

1013. 2-21-11 A

11.8164.01003
Title.
Fiscal No. 2

Prepared by the Legislative Council staff for
House Appropriations - Government Operations
February 21, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1013

Page 1, line 2, remove "to create and"

Page 1, remove line 3

Page 1, line 4, remove "gas impact grant advisory committee;"

Page 1, line 4, remove "and 15-02-05"

Page 1, line 5, remove "subsection 1 of section"

Page 1, line 5, replace "and section" with "57-62-03, 57-62-03.1, 57-62-04,"

Page 1, line 5, after "57-62-05" insert ", and 57-62-06"

Page 1, line 8, after "proceeds" insert ", the energy development impact office"

Page 1, replace line 22 with:

"Grants	9,777,759	90,000,510	99,778,269"

Page 1, replace line 24 with:

"Total special funds	$13,792,561	$91,672,628	$105,465,189"

Page 2, line 2, replace "**OIL AND GAS**" with "**ENERGY INFRASTRUCTURE AND**"

Page 2, line 3, replace "oil and gas" with "energy infrastructure and"

Page 3, line 25, replace "oil and gas" with "energy"

Page 3, line 26, after "fund" insert ", except that grants awarded annually may not exceed sixty percent of the biennial appropriation for energy infrastructure and impact grants. The board may create an advisory committee to assist the board in making its grant award determinations"

Page 3, remove lines 27 through 31

Page 4, replace lines 1 through 31 with:

"**SECTION 6. 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:

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 ~~eight~~one hundred million dollars per biennium;

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 two million dollars must be allocated to the county.

b. The next one million dollars must be allocated seventy-five percent to the county and twenty-five percent to the state general fund.

c. The next one million dollars must be allocated fifty percent to the county and fifty percent to the state general fund.

d. The next fourteen million dollars must be allocated twenty-five percent to the county and seventy-five percent to the state general fund.

e. All annual revenue remaining after the allocation in subdivision d must be allocated ten percent to the county and ninety percent to the state general fund.

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

4. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes.

b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student

cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, 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.

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

(1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.

(2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.

(3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.

(4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.

(5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:

    (a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.

    (b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.

    (c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.

c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be 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. A city may not receive an allocation for a fiscal year under this subsection and subsection 5 which totals more than seven hundred fifty dollars per capita. 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. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsections 3 and 4 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes.

b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsections 3 and 4 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs 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. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. 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 or other infrastructure needs in those townships. 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 subsections 3 and 4 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. A city may not receive an allocation for a fiscal year under this subsection and subsection 4 which totals more than seven hundred fifty dollars per capita. Once this per capita limitation has been reached, all excess funds to which

a city would otherwise be entitled must be deposited instead in that county's general fund. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

6. Within sixty days after the end of each fiscal year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the fiscal year with the tax commissioner, in a format prescribed by the tax commissioner, showing:

   a. The amount received by the county in its own behalf, the amount of those funds expended for each purpose to which funds were devoted, and the share of county property tax revenue expended for each of those purposes, and the amount of those funds unexpended at the end of the fiscal year; and

   b. The amount available in the county infrastructure fund for allocation to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

   Within sixty days after the time when reports under this subsection were due, the tax commissioner shall provide a report to the legislative council compiling the information from reports received under this subsection.

   In developing the format for reports under this subsection, the tax commissioner shall consult the energy ~~development~~infrastructure and impact office and at least two county auditors from oil-producing counties.

SECTION 7. AMENDMENT. Section 57-62-03 of the North Dakota Century Code is amended and reenacted as follows:

57-62-03. Loans - Terms and conditions - Repayment.

The board of university and school lands is authorized to make loans to coal development-impacted counties, cities, and school districts before or after the beginning of actual coal mining from moneys deposited in the coal development trust fund established by subsection 2 of section 57-62-02. Loans made prior to actual mining must be preceded by site permitting and by beginning actual construction of the mine or its mine mouth facility. Loans may be made for any purpose for which a grant may be made pursuant to this chapter, but before making any loan the board of university and school lands shall receive the recommendation of the energy ~~development~~infrastructure and impact office. The board of university and school lands shall prescribe the terms and conditions of such loans within the provisions of this chapter and shall require a warrant executed by the governing body of the county, city, or school district as evidence of such loan. The warrants must bear interest at a rate not to exceed six percent. The warrants shall be payable only from the allocations of

moneys from the coal development fund to the borrowing county, city, or school district and shall not constitute a general obligation of the county, city, or school district nor may such loans be considered as indebtedness of the county, city, or school district. Loans made in advance of actual coal mining must provide that repayment is to begin when the borrowing county, city, or school district receives allocations from the coal development fund. The terms of the loan must provide that not less than ten percent of each allocation made to the borrowing county, city, or school district pursuant to this chapter must be withheld by the state treasurer to repay the principal of the warrants and the interest thereon. The amount withheld by the state treasurer as payment of interest must be deposited in the general fund and the amount withheld by the state treasurer as payment of principal must be remitted to the board of university and school lands and deposited by the board in the trust fund provided for in subsection 2 of section 57-62-02. The warrants executed by the county, city, or school district have all of the qualities and incidents of negotiable paper and are not subject to taxation by the state of North Dakota or by any political subdivision thereof.

The board of university and school lands is authorized to sell such warrants to other parties and the proceeds of such sale which constitute principal must be deposited in the coal development trust fund and that which constitutes interest in the general fund. If the future allocations of moneys to the borrowing county, city, or school district should, for any reason, permanently cease, the loan shall be canceled except that if the county, city, or school district is merged with another county, city, or school district which receives an allocation of moneys from the coal development fund, the surviving county, city, or school district is obligated to repay the loan from such allocation. If the loan is canceled due to the permanent cessation of allocations of moneys to the county, city, or school district pursuant to this chapter, the board of university and school lands shall cancel those warrants it holds from such county, city, or school district and shall pay from any moneys in the trust fund provided for in subsection 2 of section 57-62-02 the principal and interest, as it becomes due, on those warrants of the county, city, or school district which are held by another party.

SECTION 8. AMENDMENT. Section 57-62-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-62-03.1. Oil and gas impact grant fund ~~- Continuing appropriation~~.

The moneys accumulated in the oil and gas impact grant fund must be allocated as provided by law and as appropriated by the legislative assembly for distribution through grants by the energy ~~development~~infrastructure and impact office to oil and gas development-impacted cities, counties, school districts, and other taxing districts or for industrial commission enforcement of laws and rules relating to geophysical exploration in this state. ~~The amounts deposited in the oil and gas impact grant fund under subsection 1 of section 57-51-15 are appropriated as a standing and continuing appropriation to the energy development impact office for grants as provided in this section.~~

SECTION 9. AMENDMENT. Section 57-62-04 of the North Dakota Century Code is amended and reenacted as follows:

57-62-04. Energy ~~development~~infrastructure and impact office - Appointment of director.

There is hereby created an energy ~~development~~infrastructure and impact office, to be a division within the office of the commissioner of the board of university and

school lands, the director of which must be appointed by and serve at the pleasure of the board of university and school lands. The director shall have knowledge of state and local government and shall have experience or training in the fields of taxation and accounting. The salary of the director must be set by the commissioner of university and school lands within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose. The board of university and school lands shall fill any vacancy in the position of director in the same manner as listed above and, in addition, shall serve as an appeals board under rules promulgated by the board of university and school lands to reconsider grant applications for aid under this chapter which have been denied by the director. All action by the board of university and school lands, including appointment of a director, must be by majority vote."

Page 5, line 3, overstrike "**development**" and insert immediately thereafter "**infrastructure and**"

Page 5, line 3, after "**impact**" insert "**office**"

Page 5, line 4, overstrike "development" and insert immediately thereafter "infrastructure and"

Page 5, line 4, after "impact" insert "office"

Page 5, line 5, remove the overstrike over "~~Develop a plan for the assistance, through financial grants for services and facilities, of~~"

Page 5, remove the overstrike over lines 6 and 7

Page 5, line 8, remove the overstrike over "~~2.~~"

Page 5, line 10, remove the overstrike over "~~3.~~"

Page 5, line 10, remove "2."

Page 5, replace line 17 with:

"4. Receive and review applications for impact assistance pursuant to this chapter.

5. Make recommendations, not less than once each calendar quarter, to the board of university and school lands on grants to counties, cities, school districts, and other political subdivisions in oil and gas development impact areas based on identified needs, and other sources of revenue available to the political subdivision.

6. Make recommendations to the board of university and school lands providing for the distribution of thirty-five percent of moneys available in the oil and gas impact fund to incorporated cities with a population of ten thousand or more, based on the most recent official decennial federal census, that are impacted by oil and gas development. The director may not recommend that an incorporated city receive more than fifty percent of the funds available under this subsection.

7. Make recommendations to the board of university and school lands providing for the distribution of sixty-five percent of moneys available in the oil and gas impact fund to cities not otherwise eligible for funding under this section, counties, school districts, and other political subdivisions impacted by oil and gas development."

Page 5, remove lines 18 through 31

Page 6, remove lines 1 through 31

Page 7, replace lines 1 through 5 with:

"**SECTION 11. 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~~infrastructure and 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. 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~~infrastructure and impact office must be made by an appointed or elected government official."

Page 7, line 6, replace "6" with "7"

Page 7, line 6, remove "and"

Page 7, line 6, after "10" insert ", and 11"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1013 - Land Department - House Action

	Executive Budget	House Changes	House Version
Salaries and wages	$4,145,824		$4,145,824
Operating expenses	1,431,096		1,431,096
Capital assets	10,000		10,000
Grants	99,888,100	(109,831)	99,778,269
Contingencies	100,000		100,000
Total all funds	$105,575,020	($109,831)	$105,465,189
Less estimated income	105,575,020	(109,831)	105,465,189
General fund	$0	$0	$0
FTE	24.75	0.00	24.75

Department No. 226 - Land Department - Detail of House Changes

	Changes Funding Source of New Office Assistant FTE[1]	Total House Changes
Salaries and wages		
Operating expenses		
Capital assets		
Grants	(109,831)	(109,831)
Contingencies		
Total all funds	($109,831)	($109,831)
Less estimated income	(109,831)	(109,831)
General fund	$0	$0

FTE	0.00	0.00

[1] The funding source is changed for the office assistant III position ($90,189) and related operating expenses ($19,642) included in the executive budget from the Land Department maintenance fund to the oil and gas impact grant fund. The position will assist with the duties of the energy infrastructure and impact office.

This amendment also:

- Changes the name of the Energy Development Impact Office to the energy infrastructure and impact office.
- Removes the statutory oil and gas impact grant advisory committee recommended in the executive. budget and allows the Board of University and School Lands the discretion of creating its own advisory committee for assisting with the determination of energy infrastructure and impact grant awards.
- Removes the continuing appropriation of money in the oil and gas impact grant fund.
- Precludes the board from awarding more than 60 percent of the biennial appropriation for oil and gas infrastructure and impact grants in any fiscal year.
- Provides that of the large cities' share of energy infrastructure and impact grants, one city may not receive more than 50 percent of the funds available each biennium.

Date: 2-21-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1013

House Appropriations Government Operations Division Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8164.01003

Action Taken Do Pass as amended

Motion Made By Representative Kempenich Seconded By Representative Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Thoreson	✓		Representative Glassheim	✓	
Vice Chairman Klein	✓		Representative Kroeber	✓	
Representative Brandenburg	✓				
Representative Dahl	✓				
Representative Kempenich	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Representative Kempenich

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

11.8164.01003
Title.
Fiscal No. 2

Prepared by the Legislative Council staff for
House Appropriations - Government Operations
February 21, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1013

Page 1, line 2, remove "to create and"

Page 1, remove line 3

Page 1, line 4, remove "gas impact grant advisory committee;"

Page 1, line 4, remove "and 15-02-05"

Page 1, line 5, remove "subsection 1 of section"

Page 1, line 5, replace "and section" with "57-62-03, 57-62-03.1, 57-62-04,"

Page 1, line 5, after "57-62-05" insert ", and 57-62-06"

Page 1, line 8, after "proceeds" insert ", the energy development impact office"

Page 1, replace line 22 with:

"Grants	9,777,759	90,000,510	99,778,269"

Page 1, replace line 24 with:

"Total special funds	$13,792,561	$91,672,628	$105,465,189"

Page 2, line 2, replace "**OIL AND GAS**" with "**ENERGY INFRASTRUCTURE AND**"

Page 2, line 3, replace "oil and gas" with "energy infrastructure and"

Page 3, line 25, replace "<u>oil and gas</u>" with "<u>energy</u>"

Page 3, line 26, after "<u>fund</u>" insert "<u>, except that grants awarded annually may not exceed sixty percent of the biennial appropriation for energy infrastructure and impact grants. The board may create an advisory committee to assist the board in making its grant award determinations</u>"

Page 3, remove lines 27 through 31

Page 4, replace lines 1 through 31 with:

"**SECTION 6. 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:

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 ~~eight~~one hundred million dollars per biennium;

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 two million dollars must be allocated to the county.

b. The next one million dollars must be allocated seventy-five percent to the county and twenty-five percent to the state general fund.

c. The next one million dollars must be allocated fifty percent to the county and fifty percent to the state general fund.

d. The next fourteen million dollars must be allocated twenty-five percent to the county and seventy-five percent to the state general fund.

e. All annual revenue remaining after the allocation in subdivision d must be allocated ten percent to the county and ninety percent to the state general fund.

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

4. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes.

b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student

cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, 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.

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

(1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.

(2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.

(3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.

(4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.

(5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:

(a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.

(b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.

(c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.

c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be 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. A city may not receive an allocation for a fiscal year under this subsection and subsection 5 which totals more than seven hundred fifty dollars per capita. 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. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsections 3 and 4 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes.

b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsections 3 and 4 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs 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. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. 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 or other infrastructure needs in those townships. 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 subsections 3 and 4 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. A city may not receive an allocation for a fiscal year under this subsection and subsection 4 which totals more than seven hundred fifty dollars per capita. Once this per capita limitation has been reached, all excess funds to which

a city would otherwise be entitled must be deposited instead in that county's general fund. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

6. Within sixty days after the end of each fiscal year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the fiscal year with the tax commissioner, in a format prescribed by the tax commissioner, showing:

   a. The amount received by the county in its own behalf, the amount of those funds expended for each purpose to which funds were devoted, and the share of county property tax revenue expended for each of those purposes, and the amount of those funds unexpended at the end of the fiscal year; and

   b. The amount available in the county infrastructure fund for allocation to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

   Within sixty days after the time when reports under this subsection were due, the tax commissioner shall provide a report to the legislative council compiling the information from reports received under this subsection.

   In developing the format for reports under this subsection, the tax commissioner shall consult the energy ~~development~~infrastructure and impact office and at least two county auditors from oil-producing counties.

SECTION 7. AMENDMENT. Section 57-62-03 of the North Dakota Century Code is amended and reenacted as follows:

57-62-03. Loans - Terms and conditions - Repayment.

The board of university and school lands is authorized to make loans to coal development-impacted counties, cities, and school districts before or after the beginning of actual coal mining from moneys deposited in the coal development trust fund established by subsection 2 of section 57-62-02. Loans made prior to actual mining must be preceded by site permitting and by beginning actual construction of the mine or its mine mouth facility. Loans may be made for any purpose for which a grant may be made pursuant to this chapter, but before making any loan the board of university and school lands shall receive the recommendation of the energy ~~development~~infrastructure and impact office. The board of university and school lands shall prescribe the terms and conditions of such loans within the provisions of this chapter and shall require a warrant executed by the governing body of the county, city, or school district as evidence of such loan. The warrants must bear interest at a rate not to exceed six percent. The warrants shall be payable only from the allocations of

moneys from the coal development fund to the borrowing county, city, or school district and shall not constitute a general obligation of the county, city, or school district nor may such loans be considered as indebtedness of the county, city, or school district. Loans made in advance of actual coal mining must provide that repayment is to begin when the borrowing county, city, or school district receives allocations from the coal development fund. The terms of the loan must provide that not less than ten percent of each allocation made to the borrowing county, city, or school district pursuant to this chapter must be withheld by the state treasurer to repay the principal of the warrants and the interest thereon. The amount withheld by the state treasurer as payment of interest must be deposited in the general fund and the amount withheld by the state treasurer as payment of principal must be remitted to the board of university and school lands and deposited by the board in the trust fund provided for in subsection 2 of section 57-62-02. The warrants executed by the county, city, or school district have all of the qualities and incidents of negotiable paper and are not subject to taxation by the state of North Dakota or by any political subdivision thereof.

The board of university and school lands is authorized to sell such warrants to other parties and the proceeds of such sale which constitute principal must be deposited in the coal development trust fund and that which constitutes interest in the general fund. If the future allocations of moneys to the borrowing county, city, or school district should, for any reason, permanently cease, the loan shall be canceled except that if the county, city, or school district is merged with another county, city, or school district which receives an allocation of moneys from the coal development fund, the surviving county, city, or school district is obligated to repay the loan from such allocation. If the loan is canceled due to the permanent cessation of allocations of moneys to the county, city, or school district pursuant to this chapter, the board of university and school lands shall cancel those warrants it holds from such county, city, or school district and shall pay from any moneys in the trust fund provided for in subsection 2 of section 57-62-02 the principal and interest, as it becomes due, on those warrants of the county, city, or school district which are held by another party.

SECTION 8. AMENDMENT. Section 57-62-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-62-03.1. Oil and gas impact grant fund ~~- Continuing appropriation~~.

The moneys accumulated in the oil and gas impact grant fund must be allocated as provided by law and as appropriated by the legislative assembly for distribution through grants by the energy ~~development~~infrastructure and impact office to oil and gas development-impacted cities, counties, school districts, and other taxing districts or for industrial commission enforcement of laws and rules relating to geophysical exploration in this state. ~~The amounts deposited in the oil and gas impact grant fund under subsection 1 of section 57-51-15 are appropriated as a standing and continuing appropriation to the energy development impact office for grants as provided in this section.~~

SECTION 9. AMENDMENT. Section 57-62-04 of the North Dakota Century Code is amended and reenacted as follows:

57-62-04. Energy ~~development~~infrastructure and impact office - Appointment of director.

There is hereby created an energy ~~development~~infrastructure and impact office, to be a division within the office of the commissioner of the board of university and

school lands, the director of which must be appointed by and serve at the pleasure of the board of university and school lands. The director shall have knowledge of state and local government and shall have experience or training in the fields of taxation and accounting. The salary of the director must be set by the commissioner of university and school lands within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose. The board of university and school lands shall fill any vacancy in the position of director in the same manner as listed above and, in addition, shall serve as an appeals board under rules promulgated by the board of university and school lands to reconsider grant applications for aid under this chapter which have been denied by the director. All action by the board of university and school lands, including appointment of a director, must be by majority vote."

Page 5, line 3, overstrike "**development**" and insert immediately thereafter "<u>**infrastructure and**</u>"

Page 5, line 3, after "**impact**" insert "<u>**office**</u>"

Page 5, line 4, overstrike "development" and insert immediately thereafter "<u>infrastructure and</u>"

Page 5, line 4, after "impact" insert "<u>office</u>"

Page 5, line 5, remove the overstrike over "~~Develop a plan for the assistance, through financial grants for services and facilities, of~~"

Page 5, remove the overstrike over lines 6 and 7

Page 5, line 8, remove the overstrike over "~~2.~~"

Page 5, line 10, remove the overstrike over "~~3.~~"

Page 5, line 10, remove "<u>2.</u>"

Page 5, replace line 17 with:

"<u>4. Receive and review applications for impact assistance pursuant to this chapter.</u>

<u>5. Make recommendations, not less than once each calendar quarter, to the board of university and school lands on grants to counties, cities, school districts, and other political subdivisions in oil and gas development impact areas based on identified needs, and other sources of revenue available to the political subdivision.</u>

<u>6. Make recommendations to the board of university and school lands providing for the distribution of thirty-five percent of moneys available in the oil and gas impact fund to incorporated cities with a population of ten thousand or more, based on the most recent official decennial federal census, that are impacted by oil and gas development. The director may not recommend that an incorporated city receive more than fifty percent of the funds available under this subsection.</u>

<u>7. Make recommendations to the board of university and school lands providing for the distribution of sixty-five percent of moneys available in the oil and gas impact fund to cities not otherwise eligible for funding under this section, counties, school districts, and other political subdivisions impacted by oil and gas development.</u>"

Page 5, remove lines 18 through 31

Page 6, remove lines 1 through 31

Page 7, replace lines 1 through 5 with:

"**SECTION 11. 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~~infrastructure and 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. 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~~infrastructure and impact office must be made by an appointed or elected government official."

Page 7, line 6, replace "6" with "7"

Page 7, line 6, remove "and"

Page 7, line 6, after "10" insert ", and 11"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1013 - Land Department - House Action

	Executive Budget	House Changes	House Version
Salaries and wages	$4,145,824		$4,145,824
Operating expenses	1,431,096		1,431,096
Capital assets	10,000		10,000
Grants	99,888,100	(109,831)	99,778,269
Contingencies	100,000		100,000
Total all funds	$105,575,020	($109,831)	$105,465,189
Less estimated income	105,575,020	(109,831)	105,465,189
General fund	$0	$0	$0
FTE	24.75	0.00	24.75

Department No. 226 - Land Department - Detail of House Changes

	Changes Funding Source of New Office Assistant FTE[1]	Total House Changes
Salaries and wages		
Operating expenses		
Capital assets		
Grants	(109,831)	(109,831)
Contingencies		
Total all funds	($109,831)	($109,831)
Less estimated income	(109,831)	(109,831)
General fund	$0	$0

FTE	0.00	0.00

---

[1] The funding source is changed for the office assistant III position ($90,189) and related operating expenses ($19,642) included in the executive budget from the Land Department maintenance fund to the oil and gas impact grant fund. The position will assist with the duties of the energy infrastructure and impact office.

This amendment also:

- Changes the name of the Energy Development Impact Office to the energy infrastructure and impact office.
- Removes the statutory oil and gas impact grant advisory committee recommended in the executive. budget and allows the Board of University and School Lands the discretion of creating its own advisory committee for assisting with the determination of energy infrastructure and impact grant awards.
- Removes the continuing appropriation of money in the oil and gas impact grant fund.
- Precludes the board from awarding more than 60 percent of the biennial appropriation for oil and gas infrastructure and impact grants in any fiscal year.
- Provides that of the large cities' share of energy infrastructure and impact grants, one city may not receive more than 50 percent of the funds available each biennium.

Date: 2/22
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1013

House Appropriations Committee

Legislative Council Amendment Number 01003

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Nelson		
Vice Chairman Kempenich			Representative Wieland		
Representative Pollert					
Representative Skarphol					
Representative Thoreson			Representative Glassheim		
Representative Bellew			Representative Kaldor		
Representative Brandenburg			Representative Kroeber		
Representative Dahl			Representative Metcalf		
Representative Dosch			Representative Williams		
Representative Hawken					
Representative Klein					
Representative Kreidt					
Representative Martinson					
Representative Monson					

Total (Yes) ____________ No ____________

Absent ____________

Floor Assignment ____________

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

01003

Voice vote carries

Date: 2/22
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1013

House Appropriations Committee

Legislative Council Amendment Number ______

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Dahl

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Nelson		
Vice Chairman Kempenich			Representative Wieland		
Representative Pollert					
Representative Skarphol					
Representative Thoreson			Representative Glassheim		
Representative Bellew			Representative Kaldor		
Representative Brandenburg			Representative Kroeber		
Representative Dahl			Representative Metcalf		
Representative Dosch			Representative Williams		
Representative Hawken					
Representative Klein					
Representative Kreidt					
Representative Martinson					
Representative Monson					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

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

amend the 50% for large cities up to 60%

voice vote carries

11.8164.01004
Title.02000
Fiscal No. 3

Prepared by the Legislative Council staff for
House Appropriations
February 22, 2011

1K
2/22/11
1of9

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1013

Page 1, line 2, remove "to create and"

Page 1, remove line 3

Page 1, line 4, remove "gas impact grant advisory committee;"

Page 1, line 4, remove "and 15-02-05"

Page 1, line 5, remove "subsection 1 of section"

Page 1, line 5, replace "and section" with "57-62-03, 57-62-03.1, 57-62-04,"

Page 1, line 5, after "57-62-05" insert ", and 57-62-06"

Page 1, line 8, after "proceeds" insert ", the energy development impact office"

Page 1, replace line 22 with:

"Grants	9,777,759	90,000,510	99,778,269"

Page 1, replace line 24 with:

"Total special funds	$13,792,561	$91,672,628	$105,465,189"

Page 2, line 2, replace "**OIL AND GAS**" with "**ENERGY INFRASTRUCTURE AND**"

Page 2, line 3, replace "oil and gas" with "energy infrastructure and"

Page 3, line 25, replace "<u>oil and gas</u>" with "<u>energy</u>"

Page 3, line 26, after "<u>fund</u>" insert "<u>, except that grants awarded annually may not exceed sixty percent of the biennial appropriation for energy infrastructure and impact grants. The board may create an advisory committee to assist the board in making its grant award determinations</u>"

Page 3, remove lines 27 through 31

Page 4, replace lines 1 through 31 with:

"**SECTION 6. 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:

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 ~~eight~~one hundred million dollars per biennium;

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 two million dollars must be allocated to the county.

   b. The next one million dollars must be allocated seventy-five percent to the county and twenty-five percent to the state general fund.

   c. The next one million dollars must be allocated fifty percent to the county and fifty percent to the state general fund.

   d. The next fourteen million dollars must be allocated twenty-five percent to the county and seventy-five percent to the state general fund.

   e. All annual revenue remaining after the allocation in subdivision d must be allocated ten percent to the county and ninety percent to the state general fund.

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

4. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes.

   b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student

cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, 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.

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

(1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.

(2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.

(3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.

(4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.

(5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:

(a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.

(b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.

(c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.

c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be 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. A city may not receive an allocation for a fiscal year under this subsection and subsection 5 which totals more than seven hundred fifty dollars per capita. 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. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsections 3 and 4 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes.

b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsections 3 and 4 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs 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. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. 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 or other infrastructure needs in those townships. 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 subsections 3 and 4 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. A city may not receive an allocation for a fiscal year under this subsection and subsection 4 which totals more than seven hundred fifty dollars per capita. Once this per capita limitation has been reached, all excess funds to which

5y 1

a city would otherwise be entitled must be deposited instead in that county's general fund. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

6. Within sixty days after the end of each fiscal year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the fiscal year with the tax commissioner, in a format prescribed by the tax commissioner, showing:

   a. The amount received by the county in its own behalf, the amount of those funds expended for each purpose to which funds were devoted, and the share of county property tax revenue expended for each of those purposes, and the amount of those funds unexpended at the end of the fiscal year; and

   b. The amount available in the county infrastructure fund for allocation to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

   Within sixty days after the time when reports under this subsection were due, the tax commissioner shall provide a report to the legislative council compiling the information from reports received under this subsection.

   In developing the format for reports under this subsection, the tax commissioner shall consult the energy ~~development~~infrastructure and impact office and at least two county auditors from oil-producing counties.

SECTION 7. AMENDMENT. Section 57-62-03 of the North Dakota Century Code is amended and reenacted as follows:

57-62-03. Loans - Terms and conditions - Repayment.

The board of university and school lands is authorized to make loans to coal development-impacted counties, cities, and school districts before or after the beginning of actual coal mining from moneys deposited in the coal development trust fund established by subsection 2 of section 57-62-02. Loans made prior to actual mining must be preceded by site permitting and by beginning actual construction of the mine or its mine mouth facility. Loans may be made for any purpose for which a grant may be made pursuant to this chapter, but before making any loan the board of university and school lands shall receive the recommendation of the energy ~~development~~infrastructure and impact office. The board of university and school lands shall prescribe the terms and conditions of such loans within the provisions of this chapter and shall require a warrant executed by the governing body of the county, city, or school district as evidence of such loan. The warrants must bear interest at a rate not to exceed six percent. The warrants shall be payable only from the allocations of

moneys from the coal development fund to the borrowing county, city, or school district and shall not constitute a general obligation of the county, city, or school district nor may such loans be considered as indebtedness of the county, city, or school district. Loans made in advance of actual coal mining must provide that repayment is to begin when the borrowing county, city, or school district receives allocations from the coal development fund. The terms of the loan must provide that not less than ten percent of each allocation made to the borrowing county, city, or school district pursuant to this chapter must be withheld by the state treasurer to repay the principal of the warrants and the interest thereon. The amount withheld by the state treasurer as payment of interest must be deposited in the general fund and the amount withheld by the state treasurer as payment of principal must be remitted to the board of university and school lands and deposited by the board in the trust fund provided for in subsection 2 of section 57-62-02. The warrants executed by the county, city, or school district have all of the qualities and incidents of negotiable paper and are not subject to taxation by the state of North Dakota or by any political subdivision thereof.

The board of university and school lands is authorized to sell such warrants to other parties and the proceeds of such sale which constitute principal must be deposited in the coal development trust fund and that which constitutes interest in the general fund. If the future allocations of moneys to the borrowing county, city, or school district should, for any reason, permanently cease, the loan shall be canceled except that if the county, city, or school district is merged with another county, city, or school district which receives an allocation of moneys from the coal development fund, the surviving county, city, or school district is obligated to repay the loan from such allocation. If the loan is canceled due to the permanent cessation of allocations of moneys to the county, city, or school district pursuant to this chapter, the board of university and school lands shall cancel those warrants it holds from such county, city, or school district and shall pay from any moneys in the trust fund provided for in subsection 2 of section 57-62-02 the principal and interest, as it becomes due, on those warrants of the county, city, or school district which are held by another party.

SECTION 8. AMENDMENT. Section 57-62-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-62-03.1. Oil and gas impact grant fund ~~- Continuing appropriation~~.

The moneys accumulated in the oil and gas impact grant fund must be allocated as provided by law and as appropriated by the legislative assembly for distribution through grants by the energy ~~development~~infrastructure and impact office to oil and gas development-impacted cities, counties, school districts, and other taxing districts or for industrial commission enforcement of laws and rules relating to geophysical exploration in this state. ~~The amounts deposited in the oil and gas impact grant fund under subsection 1 of section 57-51-15 are appropriated as a standing and continuing appropriation to the energy development impact office for grants as provided in this section.~~

SECTION 9. AMENDMENT. Section 57-62-04 of the North Dakota Century Code is amended and reenacted as follows:

57-62-04. Energy ~~development~~infrastructure and impact office - Appointment of director.

There is hereby created an energy ~~development~~infrastructure and impact office, to be a division within the office of the commissioner of the board of university and

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school lands, the director of which must be appointed by and serve at the pleasure of the board of university and school lands. The director shall have knowledge of state and local government and shall have experience or training in the fields of taxation and accounting. The salary of the director must be set by the commissioner of university and school lands within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose. The board of university and school lands shall fill any vacancy in the position of director in the same manner as listed above and, in addition, shall serve as an appeals board under rules promulgated by the board of university and school lands to reconsider grant applications for aid under this chapter which have been denied by the director. All action by the board of university and school lands, including appointment of a director, must be by majority vote."

Page 5, line 3, overstrike "**development**" and insert immediately thereafter "**infrastructure and**"

Page 5, line 3, after "**impact**" insert "**office**"

Page 5, line 4, overstrike "development" and insert immediately thereafter "infrastructure and"

Page 5, line 4, after "impact" insert "office"

Page 5, line 5, remove the overstrike over "~~Develop a plan for the assistance, through financial grants for services and facilities, of~~"

Page 5, remove the overstrike over lines 6 and 7

Page 5, line 8, remove the overstrike over "~~2.~~"

Page 5, line 10, remove the overstrike over "~~3.~~"

Page 5, line 10, remove "2."

Page 5, replace line 17 with:

"4. Receive and review applications for impact assistance pursuant to this chapter.

5. Make recommendations, not less than once each calendar quarter, to the board of university and school lands on grants to counties, cities, school districts, and other political subdivisions in oil and gas development impact areas based on identified needs, and other sources of revenue available to the political subdivision.

6. Make recommendations to the board of university and school lands providing for the distribution of thirty-five percent of moneys available in the oil and gas impact fund to incorporated cities with a population of ten thousand or more, based on the most recent official decennial federal census, that are impacted by oil and gas development. The director may not recommend that an incorporated city receive more than sixty percent of the funds available under this subsection.

7. Make recommendations to the board of university and school lands providing for the distribution of sixty-five percent of moneys available in the oil and gas impact fund to cities not otherwise eligible for funding under this section, counties, school districts, and other political subdivisions impacted by oil and gas development."

Page 5, remove lines 18 through 31

Page 6, remove lines 1 through 31

Page 7, replace lines 1 through 5 with:

"**SECTION 11. 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~~infrastructure and 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. 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~~infrastructure and impact office must be made by an appointed or elected government official."

Page 7, line 6, replace "6" with "7"

Page 7, line 6, remove "and"

Page 7, line 6, after "10" insert ", and 11"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1013 - Land Department - House Action

	Executive Budget	House Changes	House Version
Salaries and wages	$4,145,824		$4,145,824
Operating expenses	1,431,096		1,431,096
Capital assets	10,000		10,000
Grants	99,888,100	(109,831)	99,778,269
Contingencies	100,000		100,000
Total all funds	$105,575,020	($109,831)	$105,465,189
Less estimated income	105,575,020	(109,831)	105,465,189
General fund	$0	$0	$0
FTE	24.75	0.00	24.75

Department No. 226 - Land Department - Detail of House Changes

	Changes Funding Source of New Office Assistant FTE Position[1]	Total House Changes
Salaries and wages		
Operating expenses		
Capital assets		
Grants	(109,831)	(109,831)
Contingencies		
Total all funds	($109,831)	($109,831)
Less estimated income	(109,831)	(109,831)
	$0	$0

General fund		
FTE	0.00	0.00

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[1] The funding source is changed for the office assistant III position ($90,189) and related operating expenses ($19,642) included in the executive budget from the Land Department maintenance fund to the oil and gas impact grant fund. The position will assist with the duties of the Energy Infrastructure and Impact Office.

This amendment also:

- Changes the name of the Energy Development Impact Office to the Energy Infrastructure and Impact Office.
- Removes the statutory oil and gas impact grant advisory committee recommended in the executive budget and allows the Board of University and School Lands the discretion of creating its own advisory committee for assisting with the determination of energy infrastructure and impact grant awards.
- Removes the continuing appropriation of money in the oil and gas impact grant fund.
- Precludes the board from awarding more than 60 percent of the biennial appropriation for oil and gas infrastructure and impact grants in any fiscal year.
- Provides that of the large cities' share of energy infrastructure and impact grants, one city may not receive more than 60 percent of the funds available each biennium.

Date: 2/22
Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1013

House Appropriations Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X	Representative Nelson	X	
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert		X			
Representative Skarphol		X			
Representative Thoreson	X		Representative Glassheim	X	
Representative Bellew	X		Representative Kaldor	X	
Representative Brandenburg		X	Representative Kroeber	X	
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch		X	Representative Williams	X	
Representative Hawken	X				
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson	X				
Representative Monson		X			

Total (Yes) 15 No 6

Absent 0

Floor Assignment Rep. Kempenich

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

REPORT OF STANDING COMMITTEE

HB 1013: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1013 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "to create and"

Page 1, remove line 3

Page 1, line 4, remove "gas impact grant advisory committee;"

Page 1, line 4, remove "and 15-02-05"

Page 1, line 5, remove "subsection 1 of section"

Page 1, line 5, replace "and section" with "57-62-03, 57-62-03.1, 57-62-04,"

Page 1, line 5, after "57-62-05" insert ", and 57-62-06"

Page 1, line 8, after "proceeds" insert ", the energy development impact office"

Page 1, replace line 22 with:

"Grants	9,777,759	90,000,510	99,778,269"

Page 1, replace line 24 with:

"Total special funds	$13,792,561	$91,672,628	$105,465,189"

Page 2, line 2, replace **"OIL AND GAS"** with **"ENERGY INFRASTRUCTURE AND"**

Page 2, line 3, replace "oil and gas" with "energy infrastructure and"

Page 3, line 25, replace "<u>oil and gas</u>" with "<u>energy</u>"

Page 3, line 26, after "<u>fund</u>" insert "<u>, except that grants awarded annually may not exceed sixty percent of the biennial appropriation for energy infrastructure and impact grants. The board may create an advisory committee to assist the board in making its grant award determinations</u>"

Page 3, remove lines 27 through 31

Page 4, replace lines 1 through 31 with:

"**SECTION 6. 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:

    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 ~~eight~~<u>one hundred</u> million dollars per biennium;

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 two million dollars must be allocated to the county.

b. The next one million dollars must be allocated seventy-five percent to the county and twenty-five percent to the state general fund.

c. The next one million dollars must be allocated fifty percent to the county and fifty percent to the state general fund.

d. The next fourteen million dollars must be allocated twenty-five percent to the county and seventy-five percent to the state general fund.

e. All annual revenue remaining after the allocation in subdivision d must be allocated ten percent to the county and ninety percent to the state general fund.

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

4. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes.

b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, 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.

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

(1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.

(2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.

(3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.

(4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.

(5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:

(a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.

(b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.

(c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.

c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be 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. A city may not receive an allocation for a fiscal year under this subsection and subsection 5 which totals more than seven hundred fifty dollars per capita. 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. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsections 3 and 4 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes.

   b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsections 3 and 4 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs 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. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. 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 or other infrastructure needs in those townships. 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 subsections 3 and 4 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. A city may not receive an allocation for a fiscal year under this subsection and subsection 4 which totals more than seven hundred fifty dollars per capita. Once this per capita limitation has been reached, all excess funds to which a city would otherwise be entitled must be deposited instead in that county's general fund. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

6. Within sixty days after the end of each fiscal year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the fiscal year with the tax commissioner, in a format prescribed by the tax commissioner, showing:

   a. The amount received by the county in its own behalf, the amount of those funds expended for each purpose to which funds were devoted, and the share of county property tax revenue expended for each of those purposes, and the amount of those funds unexpended at the end of the fiscal year; and

b. The amount available in the county infrastructure fund for allocation to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

Within sixty days after the time when reports under this subsection were due, the tax commissioner shall provide a report to the legislative council compiling the information from reports received under this subsection.

In developing the format for reports under this subsection, the tax commissioner shall consult the energy ~~development~~infrastructure and impact office and at least two county auditors from oil-producing counties.

SECTION 7. AMENDMENT. Section 57-62-03 of the North Dakota Century Code is amended and reenacted as follows:

57-62-03. Loans - Terms and conditions - Repayment.

The board of university and school lands is authorized to make loans to coal development-impacted counties, cities, and school districts before or after the beginning of actual coal mining from moneys deposited in the coal development trust fund established by subsection 2 of section 57-62-02. Loans made prior to actual mining must be preceded by site permitting and by beginning actual construction of the mine or its mine mouth facility. Loans may be made for any purpose for which a grant may be made pursuant to this chapter, but before making any loan the board of university and school lands shall receive the recommendation of the energy ~~development~~infrastructure and impact office. The board of university and school lands shall prescribe the terms and conditions of such loans within the provisions of this chapter and shall require a warrant executed by the governing body of the county, city, or school district as evidence of such loan. The warrants must bear interest at a rate not to exceed six percent. The warrants shall be payable only from the allocations of moneys from the coal development fund to the borrowing county, city, or school district and shall not constitute a general obligation of the county, city, or school district nor may such loans be considered as indebtedness of the county, city, or school district. Loans made in advance of actual coal mining must provide that repayment is to begin when the borrowing county, city, or school district receives allocations from the coal development fund. The terms of the loan must provide that not less than ten percent of each allocation made to the borrowing county, city, or school district pursuant to this chapter must be withheld by the state treasurer to repay the principal of the warrants and the interest thereon. The amount withheld by the state treasurer as payment of interest must be deposited in the general fund and the amount withheld by the state treasurer as payment of principal must be remitted to the board of university and school lands and deposited by the board in the trust fund provided for in subsection 2 of section 57-62-02. The warrants executed by the county, city, or school district have all of the qualities and incidents of negotiable paper and are not subject to taxation by the state of North Dakota or by any political subdivision thereof.

The board of university and school lands is authorized to sell such warrants to other parties and the proceeds of such sale which constitute principal must be deposited in the coal development trust fund and that which constitutes interest in the general fund. If the future allocations of moneys to the borrowing county, city, or school district should, for any reason, permanently cease, the loan shall be canceled except that if the county, city, or school district is merged with another county, city, or school district which receives an allocation of moneys from the coal development fund, the surviving county, city, or school district is obligated to repay the loan from such allocation. If the loan is canceled due to the permanent cessation of allocations of moneys to the county, city, or school district pursuant to this chapter, the board of university and school lands shall cancel those warrants it holds from such county, city, or school district and shall pay from any moneys in the trust fund provided for in subsection 2 of section 57-62-02 the principal and interest, as it becomes due, on those warrants of the county, city, or school district which are held by another party.

SECTION 8. AMENDMENT. Section 57-62-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-62-03.1. Oil and gas impact grant fund ~~- Continuing appropriation~~.

The moneys accumulated in the oil and gas impact grant fund must be allocated as provided by law and as appropriated by the legislative assembly for distribution through grants by the energy ~~development~~infrastructure and impact office to oil and gas development-impacted cities, counties, school districts, and other taxing districts or for industrial commission enforcement of laws and rules relating to geophysical exploration in this state. ~~The amounts deposited in the oil and gas impact grant fund under subsection 1 of section 57-51-15 are appropriated as a standing and continuing appropriation to the energy development impact office for grants as provided in this section.~~

SECTION 9. AMENDMENT. Section 57-62-04 of the North Dakota Century Code is amended and reenacted as follows:

57-62-04. Energy ~~development~~infrastructure and impact office - Appointment of director.

There is hereby created an energy ~~development~~infrastructure and impact office, to be a division within the office of the commissioner of the board of university and school lands, the director of which must be appointed by and serve at the pleasure of the board of university and school lands. The director shall have knowledge of state and local government and shall have experience or training in the fields of taxation and accounting. The salary of the director must be set by the commissioner of university and school lands within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose. The board of university and school lands shall fill any vacancy in the position of director in the same manner as listed above and, in addition, shall serve as an appeals board under rules promulgated by the board of university and school lands to reconsider grant applications for aid under this chapter which have been denied by the director. All action by the board of university and school lands, including appointment of a director, must be by majority vote."

Page 5, line 3, overstrike "**development**" and insert immediately thereafter "**infrastructure and**"

Page 5, line 3, after "**impact**" insert "**office**"

Page 5, line 4, overstrike "development" and insert immediately thereafter "infrastructure and"

Page 5, line 4, after "impact" insert "office"

Page 5, line 5, remove the overstrike over "~~Develop a plan for the assistance, through financial grants for services and facilities, of~~"

Page 5, remove the overstrike over lines 6 and 7

Page 5, line 8, remove the overstrike over "~~2.~~"

Page 5, line 10, remove the overstrike over "~~3.~~"

Page 5, line 10, remove "2."

Page 5, replace line 17 with:

"4. Receive and review applications for impact assistance pursuant to this chapter.

5. Make recommendations, not less than once each calendar quarter, to the board of university and school lands on grants to counties, cities, school districts, and other political subdivisions in oil and gas development impact areas based on identified needs, and other sources of revenue available to the political subdivision.

6. Make recommendations to the board of university and school lands providing for the distribution of thirty-five percent of moneys available in the oil and gas impact fund to incorporated cities with a population of ten thousand or more, based on the most recent official decennial federal census, that are impacted by oil and gas development. The director may not recommend that an incorporated city receive more than sixty percent of the funds available under this subsection.

7. Make recommendations to the board of university and school lands providing for the distribution of sixty-five percent of moneys available in the oil and gas impact fund to cities not otherwise eligible for funding under this section, counties, school districts, and other political subdivisions impacted by oil and gas development."

Page 5, remove lines 18 through 31

Page 6, remove lines 1 through 31

Page 7, replace lines 1 through 5 with:

"**SECTION 11. 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~~infrastructure and 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. 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~~infrastructure and impact office must be made by an appointed or elected government official."

Page 7, line 6, replace "6" with "7"

Page 7, line 6, remove "and"

Page 7, line 6, after "10" insert ", and 11"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1013 - Land Department - House Action

	Executive Budget	House Changes	House Version
Salaries and wages	$4,145,824		$4,145,824
Operating expenses	1,431,096		1,431,096
Capital assets	10,000		10,000
Grants	99,888,100	(109,831)	99,778,269
Contingencies	100,000		100,000
Total all funds	$105,575,020	($109,831)	$105,465,189
Less estimated income	105,575,020	(109,831)	105,465,189
General fund	$0	$0	$0
FTE	24.75	0.00	24.75

Department No. 226 - Land Department - Detail of House Changes

	Changes Funding Source of New Office Assistant FTE Position[1]	Total House Changes
Salaries and wages		
Operating expenses		
Capital assets		
Grants	(109,831)	(109,831)
Contingencies		
Total all funds	($109,831)	($109,831)
Less estimated income	(109,831)	(109,831)
General fund	$0	$0
FTE	0.00	0.00

[1] The funding source is changed for the office assistant III position ($90,189) and related operating expenses ($19,642) included in the executive budget from the Land Department maintenance fund to the oil and gas impact grant fund. The position will assist with the duties of the Energy Infrastructure and Impact Office.

This amendment also:

- Changes the name of the Energy Development Impact Office to the Energy Infrastructure and Impact Office.
- Removes the statutory oil and gas impact grant advisory committee recommended in the executive budget and allows the Board of University and School Lands the discretion of creating its own advisory committee for assisting with the determination of energy infrastructure and impact grant awards.
- Removes the continuing appropriation of money in the oil and gas impact grant fund.
- Precludes the board from awarding more than 60 percent of the biennial appropriation for oil and gas infrastructure and impact grants in any fiscal year.
- Provides that of the large cities' share of energy infrastructure and impact grants, one city may not receive more than 60 percent of the funds available each biennium.

2011 SENATE APPROPRIATIONS

HB 1013

2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

HB 1013
03-08-2011
Job # 15060

☐ Conference Committee

Committee Clerk Signature	Alice Delzer

Explanation or reason for introduction of bill/resolution:

A BILL to provide an appropriation for defraying the expenses of the commissioner of university and school lands and to declare an emergency.

Minutes: See attached testimony 1 - 6

Chairman Holmberg called the committee to order on Tuesday, March 8, 2011 at 8:30 am in reference to HB 1013. Roll call was taken. All committee members were present. Tad H. Torgerson, OMB and Sara Chamberlin, Legislative Council were also present.

Allen Knudson, Legislative Council went through document which was updated through March 7. With the permanent oil trust fund on page 31, we did reflect additional actual revenue through February so there is an additional $17 million of revenue reflected as coming into the permanent oil tax trust fund, this biennium. If you note on the bottom of the page, under 0911, we do reflect the $22 million transfer that was in SB 2369 that you acted on yesterday. That's showing coming out. The state disaster fund, that is on page 41, that also reflects the items SB 2369 that you passed yesterday.

Chairman Holmberg states at a meeting this morning for committee chairmen, it does not appear to be a lot of bills coming our way this week. So our schedule for next week is light on bills, so we can expect that we will want to try to push some bills out. We have health meeting this afternoon and other subcommittees are going to meet.

Chairman Holmberg opened the hearing on HB 1013.

Lance Gaebe, Commissioner of the State Land Dept., Secretary for the Board of University and School Lands. Testified in favor of HB 1013 and provided written Testimony attached # 1. He states some people refer to it as the Energy Development Impact Bill. The primary responsibility of the Board of University and School Lands and the Land Department is to manage Common Schools Trust Fund and 12 other permanent educational trust funds that are governed by Article IX of the North Dakota Constitution. The Board is made up of the governor, attorney general, secretary of state, the state treasurer and the superintendent of public instruction.

The most significant changes from the current biennium budget proposed in HB 1013 are the addition of three FTE's and the substantial increase of the Energy Development Impact Grants line from $8 million to $100 million. The new positions are necessary to handle the increasing workload involved in managing the oil and gas mineral leases and production activity, managing the financial aspects and transactions of the trusts and implementing an expanded oil and gas impact grant program. The chief mission of the Land Department is managing permanent trust assets to fund education and other governmental functions. The Board also manages the Indian Cultural Education Trust, Lands and Minerals Trust Fund, Coal Development Trust Fund, and the Capitol Building Fund. We may have to ask you to transfer some funds from the salary line on the current biennium, to the operating line, so we can operate.
During the fiscal year of 2010, $295 million in lease options were collected. This is approximately the amount collected during the previous 39 years combined. Oil and gas royalties were $56.5 million in calendar year 2009 and $85.2 million in 2010. The Department processed 151 oil and gas lease assignments in 2009 and 227 in 2010. The Dept. is responsible for managing almost 1,500 producing properties today, up from approximately 549 at the end of 2006. The number of royalty reports received has grown at a similar pace. This growth has affected all divisions. Not just our mineral division but our accounting division, our investment section and even our surface area because the surface people are the ones that process all of the applications for easement and rights of way, for construction of roads, gas gathering lines, well sites that are on trust land and of course electrical distribution lines.

Senator Warner asks, "Does that include unclaimed royalties, mineral interests that haven't been found?"

Lance Gaebe states it does not include mineral interest but possibly royalties that are being paid.

Lance Gaebe states that if a person is identified but we can't find that person, that would be an in the unclaimed property division.

He continued his testimony regarding the budget and staff. Page 6 in testimony. 3 FT's are not included in the budget presented before you.

At the risk of being redundant, I want to emphasize that the leases that have been purchased that are sales; many will translate into new wells. These will be numbers that we couldn't have anticipated years ago. The Department has the responsibility for management of a portion of approximately 40% of the Bakken and Three Forks wells and we do have of these wells and so we do keep track of the royalties.

We anticipate increases in our IT costs, legal fees, and our professional costs for other services and temporary salaries for people who help us at the wells.

One I would suggest you consider, that the board of university lands, since they are going to be responsible for dispersing $100 million that they be given the flexibility necessary to run the program under some kind of continuing authority. At least, until we can figure out how the procedures are going to work and what type of personnel we need. Also, the prospect that the

FTE, if authorized, goes along with the emergency clause that several sections of the bill do have. Sections 5, 6,7,8,9,10,11 all have emergency clauses in the bill.
We have daily issues that come up. We have a new minerals director and told him to expect at least an issue a day, but it's 3 to 5 issues a day.

Senator O'Connell asks for a refresher course on section 4 of the bill?

Lance Gaebe states they would receive the interest and income from these trust assets. In 2006, the constitution was change by your action of the bill to 5% of the 5 year average value of the assets, per year. It becomes 10% of the 5 year average value of the assets, is dispersed from each of these permanent trusts and is done on an equal basis for each of those years of the biennium. So it essentially becomes 5% of the running 5 year average for each of these trusts. As I mentioned, what I have listed in my testimony, is the actual trust, as identified, on how we keep tract of it.

Senator O'Connell states that was my question. "Does each institution get equal percentage?"

Lance Gaebe states they are differences because they have different performance.

Lance Gaebe states that since the assets are co-mingled and we have the same 5% running average return for 10 years on financial assets, if they have mineral assets in the sections that they own, some are doing better than others. (Chart on Page 2 of testimony). He states the constitution changed in 2006. Distributions in section 4 are fixed.

Senator Christmann asks to be refreshed, do you pay in lieu of tax, like the Game and Fish Dept. does on their land or does the county get anything on school land?

Lance Gaebe states we don't pay anything for the school tax, we do pay for road and bridge assessments, and we will pay a fire assessment. We don't pay a portion of the mills because we fund them through the trust.

Senator Wardner states that the FTE should be in the emergency clause. What section should be added for that?

Lance Gaebe states the FTE is in section one. (Line 23 of section 1).

Chairman Holmberg states that if that is what the committee wants, Sara will do that.

Lance Gaebe states the $100 million doesn't start until the new biennium is dispersed but all the things to do, start as soon as the legislature passes the bill.

Chairman Holmberg states that I know you want to all be heard. Signup sheet to sign.

Ryan Bernstein, Governor's Deputy Chief of Staff and Legal Counsel testified in favor of HB 1013 and provided written testimony attached # 2. This bill is one of a package of bills, promoted by Governor Dalrymple, to help address the impacts of local infrastructure by the oil development. The final decision on the awards will be made by the members of the Board of

University and School Lands, which is comprised of the Governor, Attorney General, Secretary of State, Superintendent of the DPI and State Treasurer. This bill has an emergency clause.

V. Chair Bowman asks if $100 Million grants that can go to the political subdivisions, is there any specific requirements that they have to have, other than a need?

Ryan Bernstein states the intent is to have it related to the impact of the oil development. The overall basic premise of this impact is to fill the gaps. Such as things that are not being addressed by the road funds that are being impacted by oil and gas development. One thing that is excluded that is in the bill, that money cannot be used, there is legislative intent, in section 11. It states that infrastructure money may be used for basic governmental services but does not include activities relating to marriage or guidance counseling, service programs that alleviate other sociological impacts or services that meet secondary impacts.

Senator Christmann asks, in the middle of your testimony, it says that 35% of the monies available to cities of population of 10,000 or more, does that include what goes to the schools in those cities?

Ryan Bernstein states 35% to the cities themselves, such as Williston, Dickinson and Minot. 65% would be the schools, in other political subdivisions, including counties, townships etc.

Senator Krebsbach states also that no more than 60% going to any one city, is there a reason for that particular requirement?

Ryan Bernstein states that was put in on the House side, it was 50% they increased it to 60%, otherwise Williston would have been a little less than what they were anticipating getting out of the deal. So any one city could anticipate receiving $21 million out of the $35 million.

Jim Arthaud, Billings County Commissioner also sits on the Oil and Gas Associations Board of Directors. Testified in favor of HB 1013 and provided written Testimony attached # 3. We are seeking funds based on the strategic plan laid out by the GPTR study. Two agency bills, HB 1012 and 1013, embrace the strategic concepts created during the interim. We work very close with commerce, the DOT, the executive branch to come up with a way to quantify our needs we have out west. We toured the cities and counties and had a lot of town hall meetings, a lot of cities have had engineering studies done so they have quantified their impacts. The GPTR has quantified our impacts. One of the things that this does is that it is funded at $8 million dollars a year and we had a requests of up to $100 million dollars a year. Billings Co, on Hwy. 85, our emergency services has increased by 200%. We are the ones that take care of the emergency services, on Hwy. 85 and I-94 but we are happy to have the growth. We worked with the GPTR. We are happy what they did for us. We were working with Lynn Helms, so we projected what is going to happen and we know the geologies there. Two things can affect it, regulatory or pricing. It is not if, it is when it will be drilled. We know there will be 25,000 wells drilled and we know how much sand and water will move across our highways. There are not a lot of unknowns. There are about 4000 people living in temporary housing within a ten mile radius of Stanley. We appreciate the efforts of the legislature and the executive branch and would please ask for a DO PASS on HB 1013.

Chairman Holmberg states HB 1013 has two concepts that the committee is going to be looking at such as the office itself, the structure, the FTE's, where as you are testifying, for the enhancement of the program, for the Oil Impact Office and the problems you face in oil country. I would hope that other people today, who are testifying, will tell us if they are focusing on the staffing issues (FTE's) or if they are talking about the program that goes out to the counties, townships, cities and school districts.

Jim Arthraud states we are here for the programs on the oil impacts. I deal with the state land dept. quite often, as a county commissioner and we have an oil and gas division, within my company. We put disposable wells on state lands and the state lands receive the income off the disposal wells also. The State Land Dept. has quite a regulatory process that they follow; I can't imagine that they are being to be able to handle the impacts that they are having with the staff that they had 2 years ago. I would be here in support of Lances request also.

V. Chair Bowman asks are the grants in HB 1013 of $100 million, are they based upon the UGPT study or these separate from the money in HB 1012?

Jim Arthaud states they are separate. It helps us quantify, how many wells are going to be drilled, how many people it is going to take, and what the local towns are going to need. It will be a working document. We can go to OSHA records in Dickinson, how many increases in emergency room visits are we are going to have quantifiable on OSHA oil and gas drillings statistics, so the hospital can get prepared to enlarge their staff. Long story short, no, it is not based; it is part of the information. The $100 million will go to small towns, big towns and emergency services. The counties and schools can apply for it. However, when we were working with the executive branch, the money was for the cities.

Senator O'Connell asks, what is your feeling on the census count? Are we close?

Jim Arthaud states it is way short. I wish it would be next year when we have a redistricting issue. Under the UGPI, we sincerely believe in the oil and gas producing counties, in the next 15 to 20 years, very easily have another 100,000 people in western ND. We figure there are 35,000 now and that is quantifiable, that is not just one family member etc. My personal opinion is, "we missed it".

Chairman Holmberg states if you read the popular press article in some of the newspapers, talking about population changes and when you read the articles, you are lead to believe that those are the numbers given by the census bureau, they are not. They are a weak numbers coming from another agency. You total up the latest document they have, they estimate in Cass County went up to 145,300, total up that estimate, they are 20,000 short of what the actual census number are from ND, those census numbers were released a few months ago, don't believe them.

Brent Sanford, **Mayor of Watford City** testified in favor of HB 1013 and provided written Testimony attached # 4. **Capital Improvements Plan for Watford City.** I am presenting to you that would be looked at in the $65 million portion of the $100 million, as our population is far below 10,000. As a result of what happened to us in the construction season and the increase in the oil field, the community undertook a $100,000 engineering engagement with AA2S, Grand Forks. There are 750 water accounts in Watford City. When the housing study that was commissioned by the commerce dept. was done last summer, they estimated 1,000 temporary workers living in and around the immediate area of Watford City. That number is doubling as we speak. You would believe the amount of frozen ground being dug up to put in new camper trailers and small mobile homes. It is quite appalling. At the House hearing, I brought pictures of conditions but you have probably seen enough of that in the press. What we need to look at is how to deal with this population influx. What this does is, it tells us how to get to the commerce depts. number of a 3000 population leveling off for Watford City. How do we engineer, to the point of that level, where we can accept that type of population. Also, as you go into 2013-2014-2015, tells us the necessary additions to the infrastructure, we need to do if the population approaches 5,000. It is incredible, the influx of people. This is not a temporary problem. We have developers, surrounding the outskirts of Watford City, five of them, with plans to build 800-1000 homes, in addition, three motels and a truck stop, immediately south. This should be an exciting time, if we could do this over a 20 year period. We do not have the trunk lines to get the sewer and water to these new developments. These numbers, you are looking at, are trunk line investments. This has nothing to do with the unbelievable amounts of $25,000-$50,000 per lot that the developer is going to have put in themselves. That may be funded through TIF, special assessments or their own money. The cities don't have enough money to give towards that incentive. These numbers are simply for the trunk lines, to get the sewer out and around the city, to where the developers have purchased land and are bringing in their plats, as we speak. We feel this type of project that the governor was looking at, for the $65 million portion of the under 10,000 population areas. It is infrastructure that is needed, that there is no way to get that done, in a one to two year time. It is something that needs to be done, otherwise, the oil fields is going to have to look at other places to house their workers. They are not going to take these temporary accommodations when the jobs get to the more permanent phase. The pipe liners and work-over rig personnel, the drilling rig personnel, they are used to living in temporary housing but the long term production jobs, they have always lived in Watford City and Bowman and Tioga. They are used to living 10-20 miles from where they work but not 200 miles from where they work. That permanent population has not quite hit yet but it is coming as the wells are being drilled. McKenzie County has the largest number of rigs at this point. So these permanent jobs are coming as well and we have no place for them to live. The unseen part of this, that has not even been included in the 3,000 population mark that the housing study said, is the indirect jobs. Right now, there is no place to live for someone to work on Main St. We have beautiful business, that the Stenehjem family put in and it was in there the other night and half of the booths were closed down. They don't have enough employees to operate it. The waiting line is out the door. There is no place to live. We are at a crisis phase of mark rate housing. This is just the beginning to get the infrastructure in the ground. The developers are ready to go.

Brent Sanford states you are exactly correct. In Watford City, we capped out on the gross production tax, two years ago. We deficit spent by $1 million for our 2011 budget. That can't continue. We are sincerely hoping that the HB 1077 takes off the caps, goes through the Senate with the same type of support. We all need that. The impact happened after we hit the cap. We have already capped out on our bonds for the Main St. project.

Senator Wardner states that I do appreciate you have a plan. I like that. You have a vision for the future for your community. My question would be, there are other communities like

Watford City, is $100 million enough or if we do this next biennium, will we be able to take care of the needs of the New Town, the Parshall, Stanley's, the Tioga's etc.

Brent Stanford states, no. You see the total for us would be $6.5 million Stanley's is closer to $8 million. Tioga, Ray and Killdeer, they don't have this binder yet but they need to do it. It is just starting to hit Crosby. They don't know what to do with the temporary housing so they are housing trailers at their fair grounds.

Senator Wardner asks as far as these communities, do they all have plans in place? If they got the money, would they be able to go to work and make things happen? Or isn't there enough people to get the job done?

Brent Sanford states the Commerce Dept. assisted with this study. They contributed by one third, the county contributed one third and city contributed one third. You look at towns that aren't able to plan to that degree. They can't even get off the ground floor. They can't even get the $50,000 the $100,000 to put one of these plans together. That is an issue that our economic development people were talking about with the Commerce Dept. last summer. There needs to be a grant program, in the first place, to get the engineering started, to see what you need to do. We had a city council meeting last night and we approved 3 of these line items on 2011 column, with just going on faith that there may be some funds available from this oil infrastructure bill. The engineering fees we approved were $150,000. That was just 3 of the line items on the 2011 column. The money is monumental and it needs to be spent.

Senator Wanzek asks, I am staring to wonder, as far as construction people, is there enough construction people, and what does it do to the bids?

Brent Sanford states that the bids are coming in 50-110% higher than estimated. They have to bring their own housing. Companies look, and ask, where are the motels? You have to bring your own campers, the camp grounds are full the options are very limited.

Senator Robinson asks what percentage of your workers are bringing families with them and what impact have you experienced in your school system?

Brent Sanford states, we have seen impacts. This housing is so temporary that we have 3 men living in 24 ft. camper. It is not family friendly. They need at least an apartment. There is one oil company that is providing single wide trailer homes for their drivers,

Senator Robinson asks, do you have any surveys where the bulk of workers are coming from?

Brent Sanford states, in 2008-2009, when the drilling occurring, people tended to be from Bismarck, Minot and more from ND. The pipeline employees are traditionally from oil field states. Truck drivers are coming from all over the country, MN, SD, MT, because their economies are so poor. The income is good, they acclimate to the climate. It's all over the board where they are coming from.

Senator O'Connell asks the cost to employers. They get paid from the time they leave home until they get back home from a 12 hour shift.

Lyn James, President of City Commission, Bowman and President of the NDLC (ND League of Cities) and City Representative for Association of Oil and Gas Producing Counties: testified in favor of HB 1013 and provided written Testimony attached # 5. Her testimony shares information gathered by the Executive Board of the ND Association of Oil and Gas Producing Counties that illustrates the cities' urgent needs for assistance with infrastructure in their communities.

Steve Holen, Superintendent of Schools in Watford City, member of ND Oil and Gas Producing Counties Executive Committee testified in favor of HB 1013. He did not provide written testimony to the committee. In his school district, they have reached the cap as many have in the western part of the state have done. Last session, we went into the infrastructure fund to ask for busses. The support for this bill is the fact that we are eligible to apply for the $65 million of impact funds. We have always applied for those funds but the lack of funds in that funding source has made it really impossible to accommodate the true needs for our school district. Two years ago, we went from 520 kids and now we are at about 625. We gained about 45 kids since the beginning of school. We are trying to hire teachers with no housing available. The infrastructure of our transportation departments, we are competing with the oil field, for diesel mechanics etc. Many of our districts have to take those efforts into their own hands. We want to be recognized as a political subdivision, in need of those impact dollars and continue to want to be a part of the oil and production tax formula. The $100 million may not meet the need. I ask for your support on this bill.

Ron Ness, President of the ND Petroleum Council testified in favor of HB 1013 and provided written Testimony attached # 6. We represent 47 of the top 50 oil producers in the state and numerous companies involved in water transportation. I support the comments of all previous speakers. One thing our industry is seeing and investing in heavily, out of their own pockets, are the fire departments, emergency rooms, hospitals, and the fire chief. We have to have qualified people who are trained in fighting an oil field fire. Those services are stressed. Industry is funding this. I don't feel we should we should be funding those services, when the state of ND is benefiting greatly and we are having raise money with an industry to make sure they have their needs and their goods. I would like to acknowledge these people and their importance to industry. Introduced, Jack Ekstrom, Whiting Petroleum, Eric Dille, with EOG Resources, Dave Searle, Marathon Oil Co., Blu Holsey, Continental Resources, Perry Pearce, Conoco Phillips, Lyn Moser, Inland Oil and Gas. All these companies are on my Board of Directors. They are here today as an indication of our support for this bill and any other bills that add any infrastructure to the west. We stand strongly in support of this bill. All of this growth and change doesn't come without impact. Money from oil, affects water projects, education and tax relief.

Senator Christmann states he doesn't know if his question is from anecdotal stories or reality stories. When the coal impacts were pretty significant in my area, a complaint was you could go down and couldn't money for water or sewer or streets that were needed but you could get money to put in grass green on the golf course or a new fish cleaning station at the lake. There was too much emphasis on recreation and not enough on fundamentals. Do you see this in support of recreation as well or is it just the fundamentals?

Ron Ness states, you passed out a bill, that is in the House now, concerning parks and recs We don't spend enough time and that is why that study that the counties and the governor initiated was is really critical. The transient nature of all the workers, right now, looks at this as the land of opportunity. About 85 % of the jobs in the oil industry require basic skill. They pay $80,000 plus benefits. Where else in the country can you go and find those kinds of jobs, as long as you can be drug free, show up to work and tolerate the conditions that we have in ND. We are able to attract these people. We have to create an environment in which people will want to live here. The upper midlevel managers, the people that come after the wells drilled and assume the permanent jobs, will want to move their families here. If we don't create the water systems for these cities to expand, they will go home. The sheet I get from Job Service is incredible, on the number of job openings we have. If we lose these people and the economy continues to improve elsewhere and there are opportunities for them at home, now we are going to be strapped for people. Are parks, part of that, in those communities? That is a policy decision you have to make. If that is part of the solution, it ought to be. I think bigger picture, and really it is about workforce. You get workforce, you fill the schools. 100+ kids in Watford City, ND. People are coming from all over, there are jobs and they pay well. They need work.

V. Chair Bowman asks when we set up the formulas for allocations to the counties, cities and schools, we did that before we saw this huge growth. Those formulas are not adequate; it looks like we will see this for many years. Wouldn't one of the solutions be to raise those formulas up?

Ron Ness states going back to 2007, we had no idea of what we had. By the time you got here in 2009, the rig count had gone from 98 to 32; oil had gone from $145 in July to ND oil selling for $27.00 a barrel. I would hope this session; we come out and over fund. You are back here in two years. My frustration is that I feel we have spent two years, with all of the focus in Western ND, figuring on how you are going to get the 2011 legislature, to put more money into the budget. We should have been spending it planning, how we are going to expand these communities, how we are going to do things right. Now, everything has been on hold for 2 years, we are way behind the eight ball again. Let's overfund, do it right, make these communities winners. This is an opportunity of a lifetime. This is an economic renaissance that is before us.

Senator O'Connell states you expanded on elementary education. You have the big guys here, who every one refers to as the "deep pockets". Visiting with their people out there in the oil fields, they would like to bring families in and see higher education get more involved, the dorms are full, due to no housing. Can you verify that?

Ron Ness states, I will be here on Friday talking about the Williston State College Training program. That program has been a tremendous success. I don't follow up with the higher ed. budget but that college has proven its worth. That program was designed by industry and needs to expand to provide more training opportunities.

Terry Traynor, Association of Counties, states that County Officials and County Commissioners ask me to make sure that they clear that they are very supportive of their western counterparts and hope you will give bill a DO PASS recommendation.

Senator Holmberg closes the hearing on HB 1013.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

HB 1013
03-17-2011
Job # 15585

☐ Conference Committee

Committee Clerk Signature	Alice Delzer

Explanation or reason for introduction of bill/resolution:

A SUBCOMMITTEE HEARING IN REGARDS TO THE LAND DEPARTMENT

Minutes: "No attached testimony."

Chairman Krebsbach called the subcommittee hearing together at 10:00 am in the Harvest Room in reference to HB 1013, the Land Department. Senators Christmann and Robinson were also present. Tad H. Torgerson, OMB and Sara Chamberlin, Legislative Council were also present. All of the subcommittee are present as well as Lance Gaebe from Land Department. Go through the bill and express any concerns you have with the bill.

Lance Gaebe states, in HB 1013, Section 1, Appropriations for the Operations and Salaries for our department but also includes the increases in the grants line for the Energy and Development Impact Office. The House changed that name to the Energy Infrastructure Impact Office, so that is the biggest change on Line 20, it shows here it is $9.7M, but last session in a different bill, you changed that to $8M and it was the grant amount for the EDIO program. The governor's budget proposed and the House did pass that to be $100M grants line. The reason it is not quite $100M ($99,778M) is just short of $112,000 is that it is made available for operations. That is what is put in the salary line and part of the operating line for expense of running that office. You will note an increase in our salary line, part of that is that there are 3/FTE's, that were included in the governor's budget and passed by the House. One was for an energy accountant/energy auditor/royalties auditor. One was for an assistant accountant to assist our budget analyst and investment director and one was for an office assistant for the energy impact program. Our operating expenses increased some. Our operations, we are exceeding what was authorized by the last legislature, due to a large part to the increased energy activity, so we are at the edge of our operating expense for the current biennium, as does the contingency line increase. The board was required to transfer all of the contingency line for the current biennium to help us cover operations so that was increased somewhat. That was passed by the house as well. The Energy Development and Impact Office, allows the Energy Impact and Infrastructure Office to carry forward grants. If they make an award to a political subdivision accounting at the end of a fiscal year, but that project doesn't get done until the next year, they can carry forward that appropriation and it is not turned back to the general fund.

Senator Christmann asks, do you want questions as we go? Year ago, when there was coal impact in my area, there was a coal impact fund and they did things. I don't know if they ever did anything around there but there may be by South Heart. I am not sure, Section 1, we talk about the oil and gas impact grant fund and Section 2, and we are talking about energy infrastructure and impact grants. Are these separate funds, have they been, are they being merged or what is the difference, distinctions or similarities between these two.

Lance Gaebe states, I may have to defer to Jeff Engleson for some of this. The oil and gas impact fund is a separate fund specifically from the oil and gas gross production tax. It is a standalone fund. There is separately an Energy Development Impact Office. The Coal Impact Fund and that is part of the coal extraction tax. There isn't a grant fund there but there is a loan fund. In the past six months, we have provided a low interest loan to McLean County for a courthouse expansion, out to that coal impact fund. It is also the same source as the school construction loan fund, where any school can apply for funds for school construction. The Energy Development Impact Office is within the Land Dept. and the only grants line is an Oil and Gas Impact Fund. There is a Coal Impact fund but we don't grant from it. It is a low interest loan for impacts to political subdivisions. How that works is, if the coal activity discontinues, they would not be obligated to pay back the balance. We basically deduct from the proceeds that the county would get from their share of the extraction tax and that pays back the loan on their behalf. If the coal would cease to be produced, they wouldn't be responsible for paying back that loan.

Senator Christmann asks, if something cracked loose at South Heart, they would just have access to loans through that fund? Something coal related, for the political subdivisions, schools, counties and so forth.

Lance Gaebe states, exactly.

Senator Krebsbach states, I am understanding that the Coal Impact Fund is kept separate from the Oil and Gas Impact Fund.

Lance Gaebe states, that is correct. It is called the Oil and Gas Impact Fund and later in this bill, I will explain where that is. It use to be capped at $8M per biennium and it now will be capped at $100M. The first 1% of the gross production taxes is what kills that. Section 3, of the bill, is a provision where by the Board of University and School Lands (Land Board) has the ability to transfer from the various lines. That has been fairly consistent in previous years and thankfully we had that ability in the current biennium to be able to do that to cover unanticipated increases in our operating expenses. Section 4, of the bill, is a formula driven distribution from the various trusts. How this works is by the change in the constitution in Article 9 of the Constitution in 2006. The 5% of the running five year average value of the trust is dispersed to the beneficiaries. So what you see in lines 13-26, is the 10%, due to two years in the biennium, of the five average values of those trusts. I may have mentioned in my testimony, I listed the trusts names themselves and in some cases this bill is actually the beneficiary. So for example, we still have a trust for the Ellendale School, that doesn't exist anymore, so the benefits of that trust are dispersed equally to Dickinson State, Minot State and so forth. The total is the same for the distributions but I listed my testimony by the name of the trust and the way the bill has, it is by the recipient. This is formula driven, really isn't changeable because it is very specific in the Constitution, how that formula is calculated. I did provide a spreadsheet on how that calculation was generated if you are interested.

Senator Warner asks, the bottom 3, Dickinson State, Dakota College, Minot State are those the ones that benefit from the Ellendale trust.

Lance Gaebe states, the ones that benefit from the Ellendale trust are 7 beneficiaries. Dickinson State, Minot State, Dakota College at Bottineau, Veteran's Home, School for the Blind, State Hospital and the State College of Science. It is on the bottom of the second page of my testimony.

Senator Warner asks, if that the entire amount of money that those receive?

Lance Gaebe states, no, they all have their own.

Senator Warner states, it seems odd that the three numbers for the three bottoms are identical. Do they have an identical funding source or are they evenly divided?

Jeff Engleson, Energy Impact Director, states, the simple answer is that for the trusts, they are the beneficiaries. All of those that end in 429, split the Ellendale Trust Fund distribution. They each get $1/7^{th}$. That is why they all have that same ending, the 429.

Lance Gaebe asks, do the bottom three trusts, Mayville, Dakota College and Dickinson State, do they have other trusts?

Jeff Engleson states, no they don't. They have no other trust but they are included in law as the entities that receive $1/7^{th}$ of the Ellendale Trusts Distribution.

Lance Gaebe states, Section 5, broadens the authority, currently the Energy Development Impact office director makes the grant decisions. In current law and he is directly appointed by the board. Section 5, adds the paragraph 6 on page 3, which basically has the board making the Impact Grant disbursements as opposed to the director making the sole decision. Currently, the director makes the decision but the board is the appellate. Then in this case, the bill recommends the staff makes recommendations for grants but the board actually makes those awards.

Senator Christmann asks, and the board is?

Lance Gaebe states, the board is governor, the secretary of state, the attorney general, the state treasurer and secretary of public instruction.

Senator Krebsbach states, on page 4 of the bill, the amount if changing there.

Lance Gaebe states, that the portion that is allotted that deals with the gross production tax and the first 1% of the gross production tax, one of the 5% will go into the funds and currently is capped at 8 and it will change it to 100.

Senator Warner states, page 3, paragraph 6, what are cities that are over, no, I am asking it in the wrong place, aren't I? This references cities over 10,000, that's Dickinson, Minot and Williston. Then the 60% biennial appropriation is a limiter, is that relative proportion of the largest city within the three?

Senator Krebsbach states, we will come to that in Section 7.

Lance Gaebe states, a different bill that have an agreement between a relative share of 35% of the funds will go to those three major cities and there is a rough agreement that it will be $20M to Williston, $10M to Dickinson and $5M to Minot. They were onetime in a separate bill, HB 1034, and this bill, later in the language, that 35% of the $100M will go to the 3 big cities. A different piece of legislation had that at $20M for Williston, $10M for Dickinson and $5M for Minot.

Senator Krebsbach asks, that distribution will be made by the board?

Lance Gaebe states, yes that is correct. Our understanding is that only would be for city governments in those cases.

Senator Krebsbach states, that would apply to the $65M for the other areas in that infrastructure.

Lance Gaebe states, I think that for the other $65M any political subdivision is now by applicant.

Senator Krebsbach asks, they apply for a grant then?

Lance Gaebe states, "yes". I don't know how the actual intent is but under the $35M but it would be grant specific would be how we do that as well.

Senator Krebsbach states, it would be an application for by the cities for this of that $35M.

Lance Gaebe states, for specific projects. How we do it, historically, we haven't just cut a check. Once they make an application and demonstrate that it is complete and provide invoices and so forth and show that it is done, and then we provide the dollars. It is not an upfront distribution. We won't have all this money in the fund on July 1. As gross production taxes are collected that fund will be filled so we will collect money throughout the biennium. We won't have $35M on day 1 to send to those cities. The original bill was introduced by the governor and had an actual statutory granting advisory committee. It was set up of representatives from the cities and counties and me. The House changed that to an advisory committee. The land board may set up a committee to advise.

Senator Krebsbach states, that is optional. They have the authority to do it in this bill. (Line 28, page 3).

Lance Gaebe states, the only changes on pages 4&5, is a change from the $8M into the Oil and Gas Impact Grant Fund to $100M and that is accomplished by basically being having it be a full 1% of the 5% of the gross production tax. There was some concern at the Treasurer's Office that they were concerned about the order of these two paragraphs. (page 4, line 6, paragraphs A&B). The Treasurer's Office indicated to me that they wouldn't be able to do b) the allocating of the money directly to the cities (Williston and Dickinson) where they have $1M and $2M for each of those cities. They wouldn't be able to do that until the fund had reached $100M. They would have to do it in a sequence. (page 6, no changes). (Top of page 9, the House changed the name of the office to Energy Infrastructure and Impact Office, Line 5, Page 9) similar in (Line 17 of page 9).

Senator Christmann asks, why? There must be a distinction.

Lance Gaebe states, it was not discussed at length but the House said the fund and the efforts in the DOT bill and this one were on infrastructure. That is where the focus has been and requested by the counties and that it would be for roads, water sewer etc.

Senator Warner states, I agree that this is an appropriate amendment. One of the problems we have had in the past is that we have been so "bound up" with the ideas of remediating damage which has already occurred and that with the change of emphasis, we are trying to get ahead of the damage.

Lance Gaebe states, (Section 8) that is the reason for the changes relates to the name change. The removal of the continuing appropriation is another change.

Discussion was turned over to OMB. I believe that section was taken out because it duplicated that Lance talked about.

Lance Gaebe continues, (Section 9) is the name change again. (Section 10) is more the process for the Energy Development Impact Office disbursements are made. How the recommendations are made.

Senator Krebsbach asks, is there a timeline of the monies reaching the Fund?

Discussion ensues by OMB that it will take a year to get the $100M so about $8M/month would go into the Fund.

Lance Gaebe states, some of my concerns are, one would be in that regard in that I did ask the committee during the full hearing about the prospect of having that FTE be available immediately. One other concern is in our current biennium, we are pushing the edge of our operating expense. These are not outlandish expenses or travel, these are that we have requests for easements everyday and so someone works with those companies to get on that land and in state travel for those things, legal expenses related to mineral ownership. Mostly these situations involve FTE's.

Senator Warner asks, I have questions in relation to unclaimed property. I understand unclaimed property does not accrue interest but it must be invested somewhere. Does that go to general fund?

OMB states, the interest and income go into the common schools trust fund. Royalties that maybe that should have been paid to an owner may end up in unclaimed properties but the actual mineral asset or the mineral interest would not.

Senator Christmann asks, on the last page, section 6, I know what the commissioner said the intention is but when it says that 35% of the money goes to those 3 cities, based on the most recent census, I assume that means to figure out which of those three cities. It this worded well? When we talked about infrastructure, what are we talking about school districts are mentioned several times?

Senator Krebsbach states, we will look into that.

OMB, Jeff, states, I think the wording with school districts that is the way the law reads in general. As far as entities eligible for grants, it's counties, cities, schools and other political subdivisions is the way it is worded, in the main law. It is to be consistent language.

Senator Christman asks, the bill that passed in the Senate, is that coming out of here or are we talking about something else?

OMB, states, I believe it is still on. It's still open.

Lance Gaebe, states, (Section 7) deals with the coal program and describes how that works and how the loans are done.

Senator Krebsbach states, we will recess at this time on HB1013.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee
Harvest Room, State Capitol

HB 1013
March 31, 2011
Job # 16259

☐ Conference Committee

Committee Clerk Signature	Rose Laning

Explanation or reason for introduction of bill/resolution:

A vote on HB 1013 – Land Department

Minutes:

You may make reference to "attached testimony."

Chairman Holmberg called the committee hearing to order on HB 1013.
Becky J. Keller – Legislative Council; **Joe Morrissette** – OMB

Land Department subcommittee: **Senators Krebsbach, Christmann, Warner**

Senator Krebsbach: The bill came to this committee from the House wherein they added 3 FTEs. Your subcommittee agreed that that was reasonable and should be continued. In addition to that, they reduced $2M for the energy impact grant. We know what the bill was when it came from the House and the subcommittee has worked on this and they have concluded that no changes will be made.

Senator Krebsbach moved Do Pass
Senator Bowman seconded.

A Roll Call vote was taken. Yea: 11 Nay: 0 Absent: 2

Senator Krebsbach will carry the bill.

Date: 3-31-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1013

Senate APPROPRIATIONS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ____________

Action Taken: ☑ Do Pass ☐ Do Not Pass ☐ Amended ~~☐ Adopt Amendment~~

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Krebsbach Seconded By Bowman

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell		
Senator Grindberg			Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Krebsbach

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

REPORT OF STANDING COMMITTEE

HB 1013, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1013 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

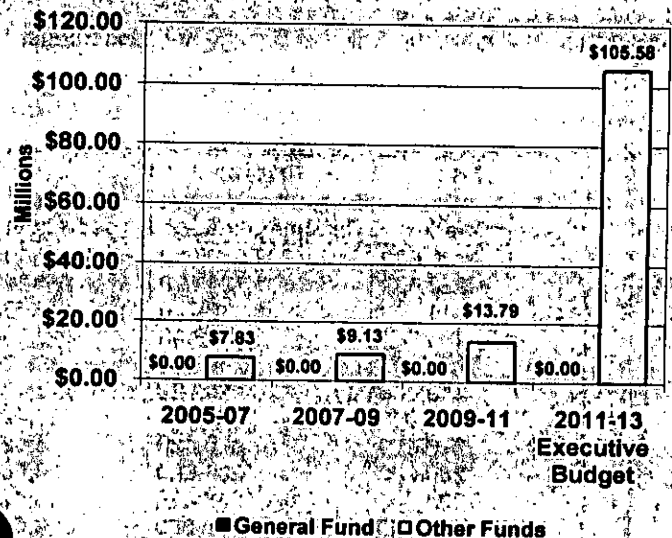
HB 1013

Prepared by the North Dakota Legislative Council
staff for House Appropriations
January 11, 2011

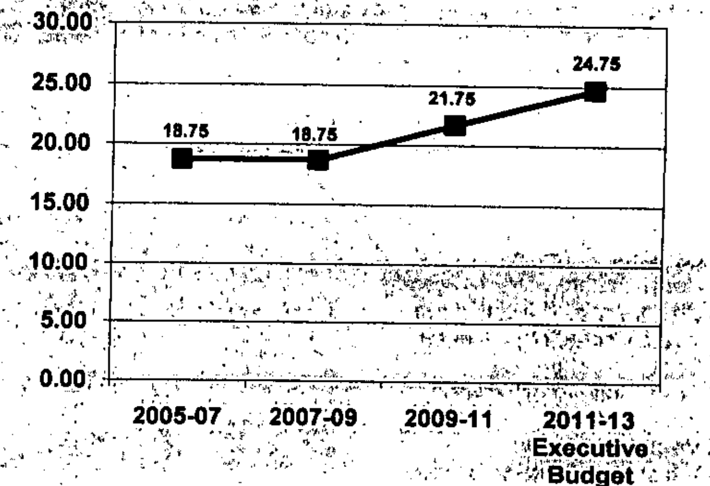
Department 226 - Land Department
House Bill No. 1013

	FTE Positions	General Fund	Other Funds	Total
2011-13 Executive Budget	24.75	$0	$105,575,020	$105,575,020
2009-11 Legislative Appropriations	21.75	0	13,792,561	13,792,561
Increase (Decrease)	3.00	$0	$91,782,459	$91,782,459

Agency Funding



FTE Positions



Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2011-13 Executive Budget	$0	$0	$0
2009-11 Legislative Appropriations	0	0	0
Increase (Decrease)	$0	$0	$0

Executive Budget Highlights

	General Fund	Other Funds	Total
1. Adds funding for 3 FTE positions--auditor III (minerals royalty auditor) ($157,684), accounting budget specialist ($115,395), and office assistant III ($90,189)--and associated operating expenses ($134,889)		$498,157	$498,157
2. Reduces the $10 million appropriated in 2009 Senate Bill No. 2013 for energy development impact grants by $2 million to reflect the actual amount available for these grants in the 2009-11 biennium of $8 million pursuant to provisions of 2009 House Bill No. 1304, which provided an $8 million statutory maximum for oil and gas gross production tax revenues deposited in the oil and gas tax impact grant fund		($2,000,000)	($2,000,000)
3. Adds funding to increase the statutory cap on oil and gas gross production tax allocations to the oil and gas impact grant fund from the current level of $8 million per biennium to $100 million per biennium to expand the energy development impact grant program		$92,000,000	$92,000,000
4. Adds funding for increased operating costs relating to expansion of the Land Department operations as a result of oil activity		$453,080	$453,080
5. Adds funding for additional temporary staff to perform initial site inspections and reclamation inspections on state lands		$132,108	$132,108
6. Adds funding for salary reclassifications of several staffing positions due to increased technical skills and responsibilities required		$52,800	$52,800

7. Adds funding to increase the contingency fund line item to provide flexibility to the board to adjust spending and allocate resources as demands change due to the expansion of Land Department operations as a result of oil activity	$50,000	$50,000
8. Adds funding for office equipment and information technology-related costs relating to increased costs due to Administrative Hearings vacating the Land Department's building as of July 1, 2011	$37,360	$37,360
9. Adds funding for building repairs and maintenance	$20,000	$20,000

Other Sections in Bill

Section 3 provides, upon approval of the Board of University and School Lands, the commissioner of University and School Lands may transfer from the contingencies line items to all other line items. The commissioner shall notify the Office of Management and Budget of each transfer made pursuant to this section.

Section 4 provides permanent fund income distributions to state institutions as follows:

	2009-11 Legislative Appropriation	2011-13 Executive Budget Recommendation	Increase (Decrease)
Common schools	$77,000,000	$92,514,000	$15,514,000
North Dakota State University	1,230,000	1,424,000	194,000
University of North Dakota	1,114,000	1,310,000	196,000
Youth Correctional Center	438,000	528,000	90,000
School for the Deaf	356,000	454,000	98,000
State College of Science	410,000	523,429	113,429
State Hospital	480,000	603,429	123,429
Veterans' Home	276,000	279,429	3,429
Valley City State University	260,000	286,000	26,000
North Dakota Vision Services - School for the Blind	234,000	247,429	13,429
Mayville State University	178,000	184,000	6,000
Dakota College at Bottineau	28,000	31,429	3,4[illegible]
Dickinson State University	28,000	31,429	3,[illegible]
Minot State University	28,000	31,429	3,4[illegible]
Total	$82,060,000	$98,448,003	$16,388,003

Section 7 increases the maximum amount of oil and gas tax revenues that may be deposited in the oil and gas impact grant fund by $92 million per biennium, from $8 million to $100 million. The fund is used for providing oil and gas development impact grants and the administration of the oil and gas development impact grant program.

Sections 5, 6, 8, 9, and 10 relate to the distribution of oil and gas impact grants. Section 5 provides authority to the board to award and distribute oil and gas impact grants from moneys deposited in the oil and gas impact grant fund. Section 6 provides that the commissioner serve as chairman of the Oil and Gas Impact Grant Advisory Committee. Section 8 provides that the energy development impact director serve as a member of the Oil and Gas Impact Grant Advisory Committee and that the authority to award grants to counties, cities, school districts, and other taxing districts changes from the energy development impact director to the Board of University and School Lands pursuant to Chapter 15-01. Section 9 creates an Oil and Gas Impact Grant Advisory Committee, defines membership, duties, and expense reimbursement. Section 10 provides that Sections 5, 6, 8, and 9 are declared an emergency measure.

Continuing Appropriations

Unclaimed property - North Dakota Century Code Section 47-30.1-23 - Payments made to owners of unclaimed property.

Investments and farm loans - Sections 15-03-13 and 15-03-04.1 - Money manager and custodial fees and loan administration fees to maintain and enhance income earning potential of trusts' financial assets.

County services - Section 15-04-23 - Payments made to counties for various services provided that benefit school trust lands.

Land expenses - Sections 15-04-24 and 15-07-22 - Payments for appraisal fees, survey costs, surface lease refunds, weed and insect control, cleanup costs, capital improvement rent credits, fire protection, land rent, value survey costs, and other expenses.

In lieu of taxes - Section 57-02.3-07 - Payments made in lieu of property taxes.

Developmentally disabled loan fund program - Section 15-08.1-09 - Repayment of developmentally disabled loan fund progra[illegible] Nos. 2 and 3 from the lands and minerals trust fund to the common schools trust fund.

Significant Audit Findings

None.

Major Related Legislation

Senate Bill No. 2033 - Energy Development Impact Office. This bill allows oil and gas impact fund grants to be given for long-term planning and engineering studies associated with road infrastructure, water, sewer, housing, local services, and other essential needs that are impacted by oil and gas development. This bill changes the administration of the fund by having the commissioner of University and School Lands appoint the director of the Energy Impact Development Office, instead of the Board of University and School Lands, and requires this appointed director to make recommendations to the board regarding impact grants to political subdivisions so the board may make impact grants, instead of the director.

Senate Bill No. 2045 - Appropriation - Transfer - Oil and gas impact grant fund - Legislative intent. This bill provides for a transfer from the permanent oil tax trust fund to the oil and gas impact grant fund of $100 million from the permanent oil tax trust fund for infrastructure development grants.

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ND STATE LAND DEPARTMENT
Helping to Fund Education

Lance D. Gaebe, Commissioner

TESTIMONY OF LANCE D. GAEBE
STATE LAND COMMISSIONER
North Dakota State Land Department

IN SUPPORT OF HOUSE BILL NO. 1013

HOUSE APPROPRIATIONS COMMITTEE
GOVERNMENT OPERATIONS DIVISION
January 12, 2011

Chairman Thoreson, and members of the House Appropriations Committee, I am Lance Gaebe, Secretary for the Board of University and School Lands, and Commissioner for the State Land Department.

I am here to testify in support of the Land Department's requested total special funds appropriation found in HB 1013.

The primary responsibility of the Board of University and School Lands and the Land Department is to manage the Common Schools Trust Fund and 12 other permanent educational trust funds that are governed by Article IX of the North Dakota Constitution. These trust funds were established at statehood when the Federal Government granted the state 3.2 million acres of land "for the support of common schools" and other public institutions. The State Constitution and statute provide that the Land Board shall manage the land, minerals and proceeds of these trust funds for exclusive benefit of beneficiaries. Other prominent roles within the Department are the Unclaimed Property Division which serves as the repository for financial accounts, cash assets and securities which have been abandoned or forgotten by the rightful owner; and the Energy Development Impact Office, which administers coal impact loans and the oil and gas impact grant program. The Department has a total of 21.75 authorized FTEs for these responsibilities.

The budget request's most significant proposed changes from the current biennium are the addition of three (3) FTEs and the substantial increase of the Energy Development Impact Grants line from $8 million to $100 million. The new positions are necessary due to the increasing workload involved in managing the oil and gas mineral leasing and production activity, managing the financial assets and transactions of the trusts, and implementing an expanded oil and gas impact grant program. The increase in the energy impact grants included in the Governor's Budget is in response to growing infrastructure and impact needs in the oil producing communities and counties. Ryan Bernstein of Governor Dalrymple's Office will explain the recommended appropriation in this area.

MISSION OF THE STATE LAND DEPARTMENT

Support for Education

The primary mission of the Land Department is managing permanent trust assets to fund education and other governmental functions. The following is a list of expected distributions from the various permanent trust funds administered by the Land Department pursuant to Article IX of the North Dakota Constitution for the 2011-2013 biennium. Distributions from the Common Schools Trust fund are projected to be $15.3 million more (19.9%) than distributions for the current biennium. All of the other 12 remaining permanent trusts also will receive increases over the current biennium:

Trust Fund	Actual 2009-2011 Bi. Distributions	Actual 2011-2013 Bi. Distributions	Increase in Distributions	Percentage Increase. in Distributions
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School of Science	388,000	492,000	104,000	26.8%
School of Mines	428,000	560,000	132,000	30.8%
Veteran's Home	248,000	248,000	0	0%
UND	692,000	750,000	58,000	8.4%
TOTAL	$ 82,266,000	$ 98,448,000	$ 16,182,000	19.7%

* *The Ellendale State College Trust is split equally between seven beneficiaries: Dickinson State University, Minot State University, Dakota College at Bottineau, Veteran's Home, School of the Blind, State Hospital, and State College of Science.*

The Board also manages the Indian Cultural Education Trust, Lands and Minerals Trust Fund, Coal Development Trust Fund, and the Capitol Building Fund.

The Land Department manages 707,402 surface acres, over 2.5 million mineral acres, and approximately $1.7 billion in trust fund financial assets as of December 31, 2010. The surface acres are leased to ranchers and farmers across the state. Mineral acres are offered for oil, gas, coal, gravel and subsurface mineral leasing. Revenues from all sources are deposited in trust funds and are invested in a diversified portfolio of financial assets. According to Article IX of North Dakota's Constitution, distributions from the permanent trust funds must be ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. Equal amounts must be distributed during each year of the biennium. Distributions from the other trust funds managed by the Land Board are made in accordance with legislative appropriations.

Audit Findings

As requested by the Legislative Council, I will first address recent financial audit findings.

The Land Board's financial audit for the periods ending June 30, 2010 and 2009 was completed in November, 2010 by the auditing firm Eide Bailly. The audit identified a material weakness in internal controls. More specifically, a lack of controls or internal audit functions over royalty revenue to ensure that the income being received is accurate. The audit also noted a lack of processes to ensure the royalty receivable report run for the year-end contains adequate receivable balances.

Due to the dramatic increase in oil activity and resulting revenues the trusts are receiving, the Land Board recognizes that processes need to be improved to ensure all revenues received are accurate. Steps have been taken to ensure that revenues received are accurate and reports generated for receivables contain accurate amounts owed to the trusts.

Many of you will recall that the Department sought approval from the Budget Section in September to utilize a 2009 Legislature authorized FTE for a revenue compliance professional. We are currently recruiting for an accounting/audit manager that will head up a newly established revenue compliance division within the Department. This division will assure timely and accurate accounting of: royalty and other lease remittals, surface lease payments and other cash receipts pursuant to the terms of lease contracts, state statutes, and leasing rules and regulations. This division will also be responsible for implementing and monitoring accounting, managerial and systems controls, and will also oversee compliance reviews of entities submitting unclaimed property payments to the State Land Department. I hope that we can have this position filled by mid February.

2009-11 Appropriation and Spending

The Department's expenditures in the salary line are running behind the pace of the appropriated authority for the current biennium, largely because of vacancies. However, our operating expenses are exceeding the pace of the 2009-2011 appropriation. Operating expenditures for the Department exceeded the 75% of the $739,952 appropriated at the close of the calendar year, and the Board needed to transfer $50,000 from the contingencies line item to operations.

No single expense was solely responsible for exceeding the 75% benchmark. Operating expenditures have generally increased as a result of the growth in energy activity, and the resulting travel, professional services and office operations. Several expenditures within the operating line that have, or will, exceed the biennial appropriation include:

	Appropriation	Expended as of 12/31/10
Professionals Services:		
Legal	$43,250	$51,005
Temporary Services	$4,800	$9,628
Travel:		
In State Vehicle Mileage	$31,400	$42,898
Operating Fees & Services:		
Advertising	$38,600	$55,450
Misc Contractual fees	$3,970	$13,689
Professional Supplies:		
Resource	$530	$5,147
Food and Clothing:		
Food Supplies (mineral auctions)	$300	$1,969
IT / Telephone:		
Cellular Phones and Mobile Wireless Internet	$1,640	$3,158
Janitorial Services		
(including snow removal)	$55,540	$48,811

Much of the extra expense is the result of the growth in minerals activity which has affected all divisions within the Department. The growth has been rapid in terms both the growth in trust assets and growth in the Department's workload. Some examples of that growth include:

- Total financial assets managed by the Land Board increased by more than $772.7 million from March 2009 to September 2010 (the last finalized quarter), an 85% increase in 18 months.
- During fiscal year 2010, $295 million in lease bonuses were collected, this is approximately the amount collected during the previous 39 years combined.
- Oil and gas royalties were $56.5 million in calendar year 2009 and will be approximately $85 million in 2010.
- The Department has a share in approximately 40% of new Bakken wells currently being drilled.
- The Department is responsible for managing almost 1500 producing properties today, up from approximately 549 at the end of 2006. The number of royalty reports received has grown at a similar pace.
- A record 231 rights-of-way in were processed in 2010, most dealing with the energy sector construction of roads, pipelines, well sites or electricity distribution.

- 151 oil and gas lease assignments were processed in 2009, and 227 were processed in 2010
- Unclaimed property postings grew from just under 30,000 names in 2004 to 61,311 currently; during this time 14,000 claims were also paid.

Staffing

There are several currently funded open positions within the Department.

- With the anticipated retirement of Tom Feeney later this winter, the Department has recently hired a new Minerals Management Director, who will start next week.
- We are in the process of hiring a Manager of Revenue Compliance, which I already discussed. This person will implement management controls of royalty and rent accounting and oversee compliance with lease terms and agreements.
- We have another vacancy in the minerals area with the recent departure of the second minerals title specialist this biennium.

PROPOSED 2011-2013 BUDGET

Staffing

Our budget request seeks additional FTEs to help with the growing workload in the minerals, financial management, unclaimed property compliance and investment areas of the Department.

The Land Department's revenues have multiplied in recent years, increasing workload in terms of dollars received and number of transactions to be processed. Three additional FTEs are included within Governor Dalrymple's budget recommendation and within HB 1013:

1. One position is to assist with royalty audits and the administration of mineral leases. This person will work within the revenue compliance division previously discussed.

2. One accounting FTE is intended to provide assistance to the Department's Investment Director who is currently responsible for all aspects of the Department's investment program, in addition to his Deputy Commissioner and Energy Development Impact Office role. An assistant will help with base level operations and investment functions so that the Investment Director can focus his efforts on higher level investment functions.

3. One FTE is for administrative support for the Energy Development Impact Office. This is to support the expanded oil and gas impact grant program proposed by the Governor.

Three additional positions were included in the Department's budget request, but are not included in HB 1013. Those positions are:

1. An unclaimed property auditor, a role that was lost within the Department with the expansion of the minerals area.
2. An assistant budget analyst/accountant to assist our sole accountant with basic accounting responsibilities in order to allow her time to undertake more analytical financial management,
3. An additional administrative support position.

The highly publicized mineral lease bonus auctions will translate into new wells in numbers that were not anticipated a few years ago. The dramatic growth in bonuses and royalties has challenged us and new systems and employees will be needed to manage royalty collections and for accurate lease management. The workload has increased for all areas within the Department and these additional positions are needed to help the Department better fulfill its fiduciary responsibilities to trust beneficiaries.

Operations

The Governor's Budget recommends an increase of the Department operations expenses line for the anticipated inflation and continued growth of expenditures such as professional services, advertising, information technology, legal fees, temporary salaries and building occupancy costs. The contingency line is also increased by $50,000 to allow for potential costs related to oil and gas mineral ownership disputes. If additional positions are provided to the Department over and above the Governor's recommendation, additional operating funds would also be needed.

Energy Development Impact Office

As the EDIO program is currently structured, the Director has the responsibility for making the annual grant decisions and the Land Board is the appellate. The Director of the Energy Development Impact Office is currently a 25-30% FTE position. The division utilizes approximately an additional one-third of an FTE for administrative support.

HB 1013 greatly expands the oil and gas impact grant program. Ryan Bernstein from the Governor's Office will address the specifics of the proposed changes to the EDIO; however, there are a couple of items that I would like to mention.

There is one correction that will need to be made to the bill as presented. The cost of an EDIO administrative assistant FTE is reflected in the salary line of the budget, but the source of those funds is not identified. Currently all collective operating expenses and salaries within the Department are paid by the trusts on a prorated basis, except for the EDIO expenses and salaries, which are paid from the Oil and Gas Impact Grant Fund. The salary costs of the additional FTE for the Energy Development Impact Office needs to come from the Impact Fund, and HB 1013 as written does not do that.

Additionally, I believe that the responsibilities to draft policies, undertake quarterly, rather than annual grant rounds, and managing the advisory committee will require a professional level employee, not an office assistant, as is proposed within the budget. I request that that budget for EDIO be expanded to allow for a management level salary. Similarly, the increase in grant rounds and anticipated extra site visits and office occupancy will likely cost more than has been historically allocated for the EDIO, and I hope that you will consider increasing the operating expense for EDIO to cover the cost of this expanded role.

CONCLUSION

As requested by Legislative Council, I have focused on the audit, current financial status and pressing budget needs of the State Land Department, but would welcome the opportunity to discuss the details of our current operations and budget request. Though I have only worked at the Department for a few months, it is clear that the workload has increased dramatically and that more help is needed. I look forward to working with the committee to explain how the tasks have grown within this important Department.

The Board's responsibility to preserve the trusts and maintain income stability for the trust beneficiaries continues to be met. All permanent and other trust funds remain in sound financial condition despite recent turmoil in the financial markets. Land is prudently managed providing for a fair market return of grazing lease income. Mineral leasing and development activity continues to be very active with large bonuses being collected, and as development occurs production will enhance the trusts with royalties received. Significant growth will continue to occur for the benefit of trust fund beneficiaries as mineral and energy development grows. Unclaimed property collections continue to accumulate assets held for owners and unclaimed property administration is efficient in the processing of a record number of claim applications. The future for the trusts is very bright. I respectfully request your consideration to provide the Department the spending authority to manage the assets under the control of the Land Board as efficiently and effectively as possible.

1013.1.12.11A

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1. One position is to assist with royalty audits and the administration of mineral leases. This person will work within the revenue compliance division previously discussed.

2. One accounting FTE is intended to provide assistance to the Department's Investment Director who is currently responsible for all aspects of the Department's investment program, in addition to his Deputy Commissioner and Energy Development Impact Office role. An assistant will help with base level operations and investment functions so that the Investment Director can focus his efforts on higher level investment functions.

3. One FTE is for administrative support for the Energy Development Impact Office. This is to support the expanded oil and gas impact grant program proposed by the Governor.

Three additional positions were included in the Department's budget request, but are not included in HB 1013. Those positions are:

1. An unclaimed property auditor, a role that was lost within the Department with the expansion of the minerals area.
2. An assistant budget analyst/accountant to assist our sole accountant with basic accounting responsibilities in order to allow her time to undertake more analytical financial management,
3. An additional administrative support position.

The highly publicized mineral lease bonus auctions will translate into new wells in numbers that were not anticipated a few years ago. The dramatic growth in bonuses and royalties has challenged us and new systems and employees will be needed to manage royalty collections and for accurate lease management. The workload has increased for all areas within the Department and these additional positions are needed to help the Department better fulfill its fiduciary responsibilities to trust beneficiaries.

Operations

The Governor's Budget recommends an increase of the Department operations expenses line for the anticipated inflation and continued growth of expenditures such as professional services, advertising, information technology, legal fees, temporary salaries and building occupancy costs. The contingency line is also increased by $50,000 to allow for potential costs related to oil and gas mineral ownership disputes. If additional positions are provided to the Department over and above the Governor's recommendation, additional operating funds would also be needed.

Energy Development Impact Office

As the EDIO program is currently structured, the Director has the responsibility for making the annual grant decisions and the Land Board is the appellate. The Director of the Energy Development Impact Office is currently a 25-30% FTE position. The division utilizes approximately an additional one-third of an FTE for administrative support.

HB 1013 greatly expands the oil and gas impact grant program. Ryan Bernstein from the Governor's Office will address the specifics of the proposed changes to the EDIO; however, there are a couple of items that I would like to mention.

There is one correction that will need to be made to the bill as presented. The cost of an EDIO administrative assistant FTE is reflected in the salary line of the budget, but the source of those funds is not identified. Currently all collective operating expenses and salaries within the Department are paid by the trusts on a prorated basis, except for the EDIO expenses and salaries, which are paid from the Oil and Gas Impact Grant Fund. The salary costs of the additional FTE for the Energy Development Impact Office needs to come from the Impact Fund, and HB 1013 as written does not do that.

Additionally, I believe that the responsibilities to draft policies, undertake quarterly, rather than annual grant rounds, and managing the advisory committee will require a professional level employee, not an office assistant, as is proposed within the budget. I request that that budget for EDIO be expanded to allow for a management level salary. Similarly, the increase in grant rounds and anticipated extra site visits and office occupancy will likely cost more than has been historically allocated for the EDIO, and I hope that you will consider increasing the operating expense for EDIO to cover the cost of this expanded role.

CONCLUSION

As requested by Legislative Council, I have focused on the audit, current financial status and pressing budget needs of the State Land Department, but would welcome the opportunity to discuss the details of our current operations and budget request. Though I have only worked at the Department for a few months, it is clear that the workload has increased dramatically and that more help is needed. I look forward to working with the committee to explain how the tasks have grown within this important Department.

The Board's responsibility to preserve the trusts and maintain income stability for the trust beneficiaries continues to be met. All permanent and other trust funds remain in sound financial condition despite recent turmoil in the financial markets. Land is prudently managed providing for a fair market return of grazing lease income. Mineral leasing and development activity continues to be very active with large bonuses being collected, and as development occurs production will enhance the trusts with royalties received. Significant growth will continue to occur for the benefit of trust fund beneficiaries as mineral and energy development grows. Unclaimed property collections continue to accumulate assets held for owners and unclaimed property administration is efficient in the processing of a record number of claim applications. The future for the trusts is very bright. I respectfully request your consideration to provide the Department the spending authority to manage the assets under the control of the Land Board as efficiently and effectively as possible.

1013.1.12.11B

Testimony
House Bill 1013
House Government Operations Division
Wednesday, January 12, 2011; 9:30 a.m.

Good morning. My name is Ryan Bernstein, and I am the Governor's Deputy Chief of Staff and Legal Counsel. I am here to testify in support of HB 1013 particularly the sections that relate to the oil impact grant. Sections 5, 6, 7, 8, 9, 10, and 11.

House Bill 1013 increases the Oil and Gas impact fund from $8 million per biennium to $100 million per biennium to help address the impacts being felt in the oil and gas producing counties and help promote stability in the energy sector. This bill is one of a package of bills promoted by Governor Dalrymple to help address the impacts on local infrastructure.

The Governor has proposed $229 million for state roads and $142 million for county and township roads in oil and gas counties. This $100 million would supplement that money by filling gaps that were not addressed by the state, county and township road funds and the Gross Production Tax formula.

Section 7 creates an oil and gas impact grant advisory committee. It is comprised of the commissioner of university and school lands, who will chair the committee, the energy development impact director, director of the division of energy of the department of commerce, the director of the department of transportation, a member representing cities with a population of ten thousand or more, one member representing cities with a population of less than ten thousand, and two members representing the oil and gas producing counties. In the current bill draft, we have the city representatives selected from a list submitted by the League of Cities. I've been told the Oil and Gas Association of Oil and Gas Producing Counties also represents cities, so I am proposing the current amendment to change League of Cities to the Association of Oil and Gas Producing Counties.

The Committee will develop a plan for providing the grants to counties, cities, school districts, and other political subdivisions in oil and gas development areas. The committee will receive and review the applications and make recommendations, no less than once each quarter, to the board of university and school lands based on needs, other sources of revenue available to the political subdivision, and other criteria established by the committee.

The recommendation will provide $35 million of the $100 million for cities such as Dickinson, Williston, and Minot. Before recommending this split and dollar amount, the Governor, the Department of Transportation, and Commerce Department met with city officials and discussed roughly how much each city had in impacts that might not be addressed in the transportation budget. The $35 million is a reflection of those needs identified by the cities. Other counties, cities, school districts, and political subdivisions will be eligible for $65 million.

The intent of this legislation is to supplement other infrastructure bills that have been proposed by Governor Dalrymple. While the other bills are more specifically directed at roads, this $100 million dollars can be used for any project that has been directly impacted by oil and gas development. This impact grant money could be used for city streets, county and township projects, sewers, Emergency Medical Services, schools, and land and infrastructure improvements that will facilitate the development of housing.

The final decision on the awards will be made by the members of the Board of University and School Lands, which is comprised of the Governor, Attorney General, Secretary of State, Superintendant of the Department of Public Instruction, and State Treasurer.

We believe it is important to implement the program as quickly as possible to help the schools and political subdivisions start to plan and outline the projects that can be addressed by this fund. Therefore, the set up of this committee has an emergency clause.

Mr. Chairman and members of the committee, we hope you support this bill and the increase in the oil impact fund. Investment in this infrastructure will not only help the political subdivisions and schools, but it will help promote the stability of the energy industry in North Dakota.

1013.1.12 HC

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1013

Page 5, line 27, replace "<u>North Dakota league of cities</u>" with "<u>North Dakota association of oil and gas- producing counties</u>"

Page 5, line 31, replace "<u>North Dakota league of cities</u>" with "<u>North Dakota association of oil and gas- producing counties</u>"

Renumber accordingly

1013.1.12.11D

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www.land.nd.gov
www.nd.gov

ND STATE LAND DEPARTMENT
Helping to Fund Education
Lance D. Gaebe, Commissioner

To: Chairman Thoreson and members of the Government Operations division

From: Lance Gaebe, Land Commissioner

Cc: Legislative Council and OMB staff

Date: January 13, 2011

RE: HB 1013 additional materials requested

During the presentation of my testimony in support of HB 1013 on 1/12/11, three additional pieces of information were requested:

- mineral reservation levels and dates - are summarized below
- trust balances - as of September 30, 2010 is attached (December balances not yet final)
- Gross Production Tax distribution chart - State Treasurer's visual version is attached

MINERAL RESERVATIONS in "severed" minerals (where state no longer owns the surface):

1) Prior to March 13, 1939 - no mineral reservation

2) Contracts dated from March 13, 1939, through February 19, 1941 - 5% mineral reservation.

3) Contracts dated from February 20, 1941, to June 27, 1960, - 50% mineral reservation

4) Contracts dated after June 28, 1960 - 100% mineral reservation

One exception, based in law that went into effect July 1, 1951, minerals are not reserved on land sold back to a former owner or a direct lineal descendant:

38-09-01.3. Sale of state lands to former owner, spouse, or lineal descendants free of reservations. Whenever the state or any of its departments sell lands to any person, from whom the state derived the title to such lands, or to the person's spouse or lineal descendants in the first degree, the lands must be sold free of any reservation of minerals provided for in section 38-09-01.

Schedule of Net Assets

Assets by Trust:	September 30, 2010	September 30, 2009	Assets by Type:	September 30, 2010	September 30, 2009
Common Schools	$1,330,608,544	$948,906,096	Cash	$4,980,886	$1,701,907
North Dakota State University	19,159,522	14,734,039	Receivables	17,223,972	14,132,996
School for the Blind	2,819,209	2,158,031	Investments	1,571,751,556	1,012,307,991
School for the Deaf	7,042,479	4,700,396	Office Building (Net of Depreciation)	666,709	707,366
State Hospital	7,589,656	6,277,099	Farm Loans	42,948,903	40,866,410
Ellendale *	3,283,588	2,255,631	Developmentally Disabled Loans	792,247	1,054,163
Valley City State University	3,709,538	2,761,614	Energy Development Impact Loans	4,662,406	5,017,678
Mayville State University	2,171,665	1,813,474	School Construction Loans	29,104,534	33,460,440
Youth Correctional Center	8,824,422	4,743,252	Due from Other Trusts and Agencies	6,547,564	4,123,500
State College of Science	7,191,128	5,433,249			
School of Mines **	7,938,937	6,408,149			
Veterans Home	2,575,470	2,409,298			
University of North Dakota	9,992,837	7,082,858			
Capitol Building	2,978,022	1,330,072			
Lands and Minerals	199,002,824	39,810,474			
Coal Development	63,186,300	62,007,990			
Indian Cultural Education Trust	604,635	540,731			
Total	$1,678,678,776	$1,113,372,451	Total	$1,678,678,776	$1,113,372,451

Lands and Minerals Trust Fund

Lands and Minerals designated fund balance totals $51,049,169 as of September 30, 2010. This designation was made by the Board to indicate that these funds should not be transferred out of the Lands and Minerals Trust fund until potential title disputes related to certain riverbed leases have been resolved.

Ellendale Trust

Income of assets held by Ellendale Trust are allocated equally as follows:

- Dickinson State University
- Minot State University
- Dakota College at Bottineau
- School for the Blind
- Veterans Home
- State Hospital
- State College of Science - Wahpeton

**** School of Mines**

Benefits of the original grant to the School of Mines are distributed to the University of North Dakota.

Oil Tax Distributions

5% Gross Production Tax

1% of the 5%
or
1/5 (20%)

33.3% — Oil Impact Fund
($8M cap)

$500,000 to City with Population 7,500 or > and Mining Employment > 2%
(Distribution formula limited to 60%)
OR
$1,000,000 to City with Population 7,500 or > and Mining Employment > 7.5%
(Distribution formula limited to 60%)

66.70% — State General Fund
(+ $ over cap of Impact Fund)
($71M cap)

Permanent Oil & Gas Trust Fund
($ over $71M cap)

Oil & Gas Research Fund
(2% up to $4M cap)

4% of the 5%
or
4/5 (80%)

State General Fund %		Oil & Gas Counties %	
0%	⟺	100%	[$0 - $2,000,000]
25%	⟺	75%	[$2,000,000 - $3,000,000]
50%	⟺	50%	[$3,000,000 - $4,000,000]
75%	⟺	25%	[$4,000,000 - $18,000,000]
90%	⟺	10%	[Over $18,000,000]

45% Counties
(Must levy 10 mills for road purposes)

20% Cities
(Cap of $750 per person)

35% Schools

Excess over $5,350,000 to
County Infrastructure Fund

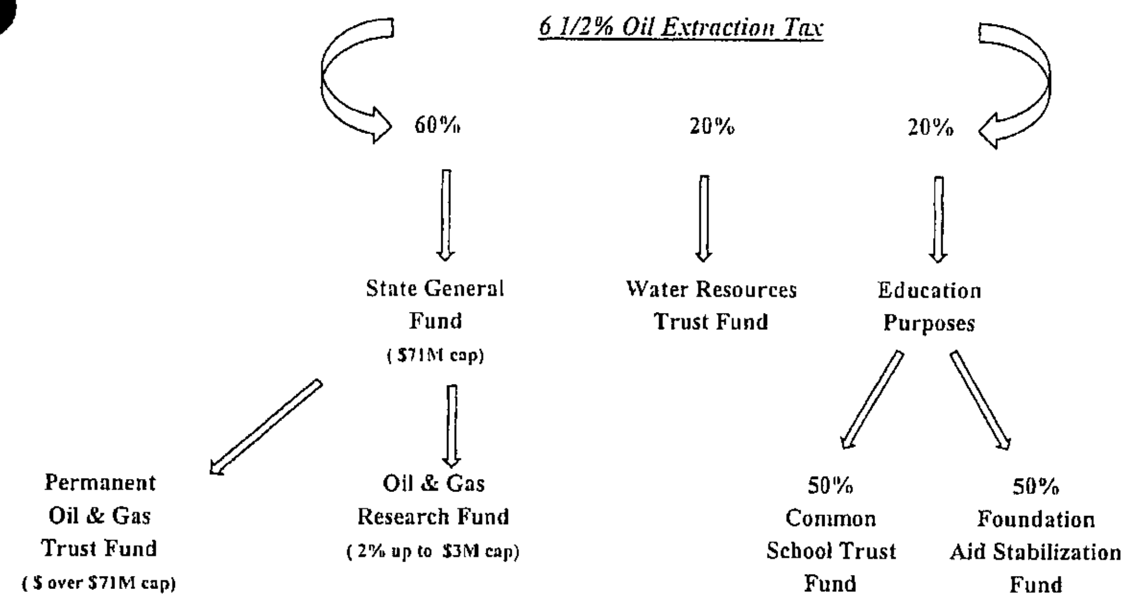
35%
Townships or Schools
(County allocates based on grant applications)

County General Fund
(Unallocated funds)

Organized Township
(Must levy 10 mills for township purposes)

Unorganized Township

Schools		County Infrastructure Fund	
100%	⟺	0%	[1st $350,000]
75%	⟺	25%	[2nd $350,000]
66 2/3%	⟺	33 1/3%	[Next $262,500]
50%	⟺	50%	[Next $175,000]
100%	⟺	0%	[Next $490,000] (County with population of 3,000 or <)
100%	⟺	0%	[Next $560,000] (County with population of 3,001 to 6,000)
100%	⟺	0%	[Next $735,000] (County with population of 6,000 or >)
0%	⟺	100%	[Excess of above]



Title Summaries:

Oil Impact Fund: Funds are available via grant applications to assist local political subdivisions in dealing with issues arising from oil and energy development and/or activities.

te General nd: Fund is for assistance with projects and programs (educational, transportation, governmental, human services, agricultural, etc.) across the entire state.

45% to Counties: Counties must levy at least 10 mills for road purposes to be eligible for allocations.

Oil & Gas Counties: **Counties** - Funds assist counties impacted by the production of oil and gas. Entitlement is based on a percentage and population basis.

Oil & Gas Counties: **Schools** - Funds assist schools in counties impacted by the production of oil and gas. Entitlement is based on a percentage and population basis.

Oil & Gas Counties: **Cities** - Funds assist cities in counties impacted by the production of oil and gas. Entitlement is based on a percentage and population basis.

Resources Water Trust Fund: Fund assists with construction of water related projects, including rural water systems and programs for energy conservation.

Common School Trust Fund: **Education purposes** - Proceeds are deposited with DPI and interest from the fund is distributed to schools via tuition apportionment payments.

Foundation Aid Stabilization Fund: **Education purposes** - Interest monies are transferred to State General Fund. Principle balance may be used for revenue shortage to State General Fund.

Permanent Oil & Gas Fund: Fund is for assistance with projects and programs (educational, transportation, governmental, human services, agricultural, etc.) across the entire state.

Oil & Gas Research Council Fund: Fund assists to accumulate and disseminate information concerning the petroleum industry to foster the best interests of the public and industry.

County nfrastructure d: Funds are available via grant applications to a county for townships and schools in dealing with infrastructure issues arising from oil and energy development and/or activities. Organized townships must levy 10 mills for road purposes to be eligible.

1013.1.12.11E

Bill No. HB1013
Hearing Committee: H-APPROPRIATIONS
Date: January 12, 2011

Honorable Chairman Thoreson and Committee Members,

My name is Ward Koeser, Mayor of the City of Williston, and I ask you to support HB1013, a bill to place significant financial resources at the disposal of our local governmental units dealing with current infrastructure development issues.

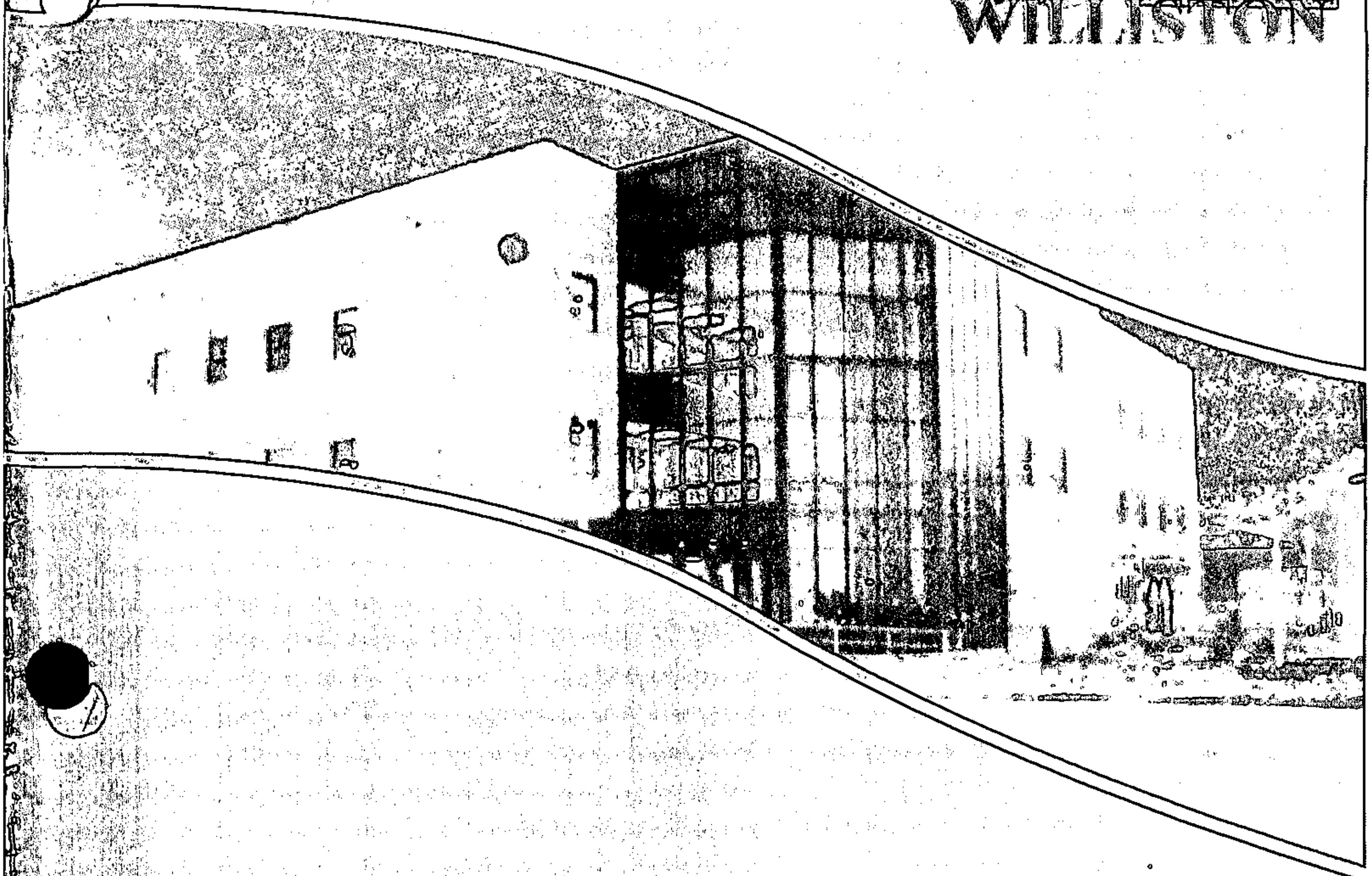
In Williston, this most recent boom cycle in the oil industry has been a welcomed event to our citizens, but it has reignited concerns about past cycles of growth and debt burden to support growth and development. HB 1013 would provide resources to the cities in oil-producing counties to pro-actively mitigate the immediate challenges of such rapid growth. In addition, HB 1013 makes significant grant funds available for projects that otherwise may have to be abandoned because of a prohibitive local cost share. The City of Williston never could have survived financially through the events of the last cycle without the assistance of the Oil Impact Grant fund. While it was not enough to insulate us from the debt burden accumulated in trying to keep pace with the industry growth and demands, it was critical to our continued existence as a city.

We now stand in the position of needing to respond again to these demands for growth of this industry. We have exhausted our stock of developed residential, commercial, and industrial properties in the last five years, and have seen enormous development of property on the periphery of the city as well. In order to continue to address industry and worker concerns, we have significant infrastructure development issues again before us. By increasing funds available for Oil Impact Grants, we would have the ability to present our case for the assistance necessary to support the developments for the industry, which so critically supports the entire State revenue stream at this time. In addition, the provision of a specific allocation to cities allows those cities to respond in a more immediate manner to the needs of its citizens.

I can cite countless examples of the need for grants to alleviate the effect of the oil industry on our area. Williston has immediate core infrastructure needs in the amount of $111,550,000, which includes improvements and additions to transportation, wastewater, stormwater, water, and solid waste facilities. Stepped up demand on our water supply has taxed our sewage treatment facilities. Increased truck traffic impacts city streets to the point that even a rigorous maintenance schedule cannot keep up with the wear and tear. There are more demands on law enforcement in dealing with a much larger population, and fire protection services have the challenges of unusual combustibles and chemicals. Meeting these challenges requires a combination of meaningful financial assistance to address both immediate and long term needs, recognizing that this industry has and will continue to benefit all of North Dakota.

I appreciate the opportunity to bring information to you on this critical issue, and ask you to support a 'Do Pass' recommendation for HB 1013. Thank you for your attention to my testimony, and I would be happy to answer any questions you have about the effects of the oil industry on our area.

1013.1.12.11F



WILLISTON

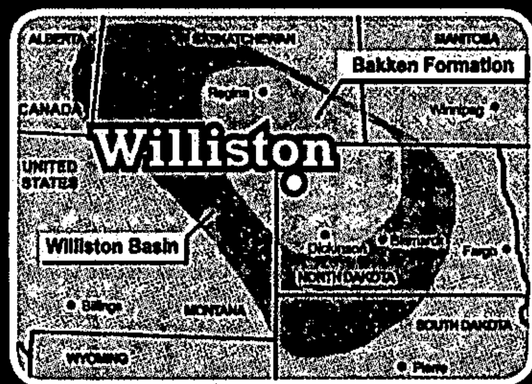
CAPITAL IMPROVEMENTS PLAN

INVEST IN THE WEST | To Help Fund The Rest

JANUARY 2011

BUILD WILLISTON

CENTER OF THE WILLISTON BASIN



WILLISTON | Capital Improvements Plan

INVEST IN THE WEST | To Help Fund The Rest

The City of Williston has been, and continues to be, the service center for oil activity in northwest North Dakota. Over the past several years, the City has experienced significant growth due to increased oil activity associated with the Bakken Formation. Current estimates indicate that the population has increased by nearly 40 percent since 2006, with a substantial amount of this new growth living in temporary housing. To support the current and projected future growth, the City of Williston has estimated that more than $185,000,000 in fundamental infrastructure investments are necessary to address critical challenges related to transportation, wastewater, water, storm sewer, solid waste, and institutional services.

EXPERIENCED LEADERS

As the service center for oil activity in northwest North Dakota over the past decades, the City of Williston has extensive experience accommodating and fostering oil development. Therefore, it is prudent that Williston continue to serve as the experienced veteran and center for the oil producing activities.

SPREADING THE WEALTH

A myriad of support services for oil development and production are provided by companies across the region. Although Williston is the service center for the Bakken Formation, companies from across the region contribute to the commerce of the area.

FINANCIAL ASSISTANCE IS NEEEDED

To meet the critical infrastructure needs of sustaining oil development and production in northwest North Dakota, the City of Williston is seeking financial assistance from the State of North Dakota. The assistance is needed to extend critical infrastructure at the pace necessary to support growth in an orderly fashion, provide quality location for houses to be built and businesses to locate, and provide a safe environment with quality services for the people.

LONG-TERM GROWTH EXPECTED

The current population for the City of Williston has been estimated to be nearly 17,000, with more than 1,000 people living in temporary housing. Many people from the oil industry have compared the City of Williston to Midland, Texas, a service center for the oil activity in Texas. Midland has been the center of the Texas oil industry for the past 70 years, and has grown from a population of just over 9,000 people in 1940 to an estimated population of nearly 109,000 in 2009. Many have attempted to estimate the population for the City of Williston, and all future indications are that the population in the next five years could exceed 25,000, with a 20-year projection of 40,000 to 50,000 not out of the question.

WILLISTON | Improvements

Project	Total Estimated Project Costs
Transportation	$112,600,000
Wastewater	$52,950,00
Stormwater	$400,000
Water	$550,000
Buildings	$16,350,000
Solid Waste	$2,400,000
SUBTOTAL	$185,250,000

TRANSPORTATION | Improvements

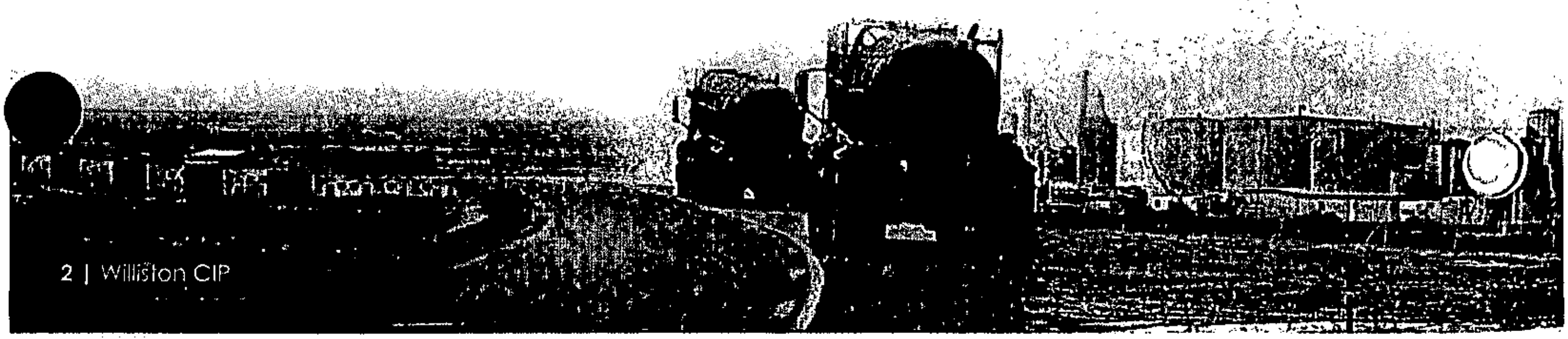
Project	Total Estimated Project Costs	Population 20,000	25,000	30,000	40,000
East Williston Truck Route	$5,600,000	$5,600,000			
26th Street West	$7,500,000	$2,500,000	$5,000,000		
Highway 2 Corridor	$35,500,000	$35,500,000			
Northwest Bypass	$33,000,000	$33,000,000			
32nd Ave. West	$31,000,000			$31,000,000	
Airport Improvements	FAA				
SUBTOTAL	$112,600,000	$76,600,000	$5,000,000	$31,000,000	$0

WASTEWATER | System Improvements

Project	Total Estimated Project Costs	Population 20,000	25,000	30,000	40,000
Wastewater Treatment Plant Upgrade	$41,800,000	$15,000,000	$19,900,000		$6,900,000
Collection System Extensions (Trunkline, Force Mains and Lift Station)					
NORTH SERVICE AREA	$4,900,000	$4,900,000			
WEST SERVICE AREA	$5,900,000	$5,900,000			
East Side Lift Station	$350,000	$350,000			
SUBTOTAL	$52,950,000	$26,150,000	$19,900,000	$0	$6,900,000

STORM WATER | System Improvements

Project	Total Estimated Project Costs	Population 20,000	25,000	30,000	40,000
Storm Water System Master Planning	$400,000	$400,000			
SUBTOTAL	$400,000	$400,000	$0	$0	$0

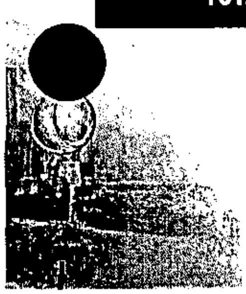


ER | System Improvements		Population			
Project	Total Estimated Project Costs	20,000	25,000	30,000	40,000
Northwest Pumping Station	$250,000	$250,00			
Northeast Pumping Station	$300,000	$300,000			
Northwest ND Regional Water Supply					
NW Regional Water - West Service Connection	$2,500,000	All estimated project costs for City of Williston Water Treatment and Supply System are included in the Regional Water System Improvement Plan, which will be funded through water rates.			
Water Treatment Expansion	$6,000,000				
Surface Water Supply Intake Improvements	$1,500,000				
Horizontal Collector Well and Transmission Pipe	$15,000,000				
NW Area Regional Water Treatment	$25,000,000	*Not included in Total			
SUBTOTAL	$550,000	$550,000	$0	$0	$0

BUILDINGS | Emergency Response & Government Services		Population			
Project	Total Estimated Project Costs	20,000	25,000	30,000	40,000
Fire / Ambulance					
ve Substation	$2,350,000	$2,350,000			
way 2 West Substation	$2,350,000		$2,350,000		
Highway 2 North Substation	$2,350,000			$2,350,000	
Government Services Building Space	$9,300,000	$3,100,000	$1,550,000	$1,550,000	$3,100,000
SUBTOTAL	$16,350,000	$5,450,000	$3,900,000	$3,900,000	$3,100,000

SOLID WASTE | Landfills		Population			
Project	Total Estimated Project Costs	20,000	25,000	30,000	40,000
Landfill Expansion	$2,400,000	$2,400,000			
SUBTOTAL	$2,400,000	$2,400,000	$0	$0	$0

	Total Estimated Project Costs	Population			
		20,000	25,000	30,000	40,000
TOTAL	$185,250,000	$111,550,000	$28,800,000	$34,900,000	$10,000,000

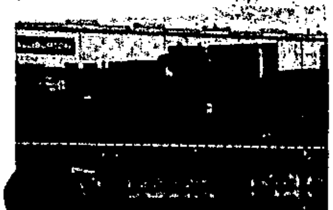


PRIMARY GOALS
Safety, Efficient Movement of People and Goods, Multimodal Transportation, Land Use/Development, Coordination between Local and State Jurisdictions, and Economic Development.

Through comprehensive planning, the City of Williston has developed transportation planning tools to address six primary goals: safety, efficient movement of people and goods, multimodal transportation, land use/development, coordination between local and state jurisdictions, and economic development. Numerous studies have been developed over the past several years to address the transportation improvements as they relate to the City of Williston and the surrounding areas. Exhibit A illustrates the five major transportation improvement projects that have been included in the Capital Improvements Plan.

Additional information regarding the studies can be found at:

http://www.willistonplan.com/FinalPlans/Default.aspx



East Williston Truck Route

This project is a Truck Route designation that realigns 51st Street NW along the north side of the industrial park to elongate the east/west segment and reduce grade conflicts. Improvements will be constructed to increase pavement thickness and increase shoulder widths throughout the remainder of the corridor to facilitate designation as a Truck Route. This project is intended to reduce traffic on East Dakota Parkway. ($5,600,000)

26th Street West

This project involves the construction of 26th Street West. The project will include a paved two-lane arterial roadway with urban sections from 138th Avenue NW to 139th Avenue NW as well as the construction of a paved two-lane roadway with rural sections from 139th Avenue NW to 141st Avenue NW. ($7,500,000)

Highway 2 Corridor

Improvements to the Hwy 2 Corridor will include upgrades as identified in the Hwy 2/85 Corridor Study. In general, the improvements will include a realignment of various segments of the roadway to increase turning radii and create improved intersections, eliminate several intersections to minimize potential traffic/pedestrian conflicts, and improve traffic control by improving turning lanes and adding signalized intersections where necessary. ($35,500,000)

Northwest Bypass

The Northwest Bypass is a recommended roadway that will bypass the City of Williston and allow traffic to flow without interference from local traffic, as well as reduce congestion within the City, while improving roadway safety. The bypass will begin west of Williston at the intersection of Highway 85 and Highway 2 and extend north and east to a point north of Williston at the intersection of Highway 2 and County Highway 7. Funding for this project will require considerable coordination and collaboration between the Federal, State, and Local agencies. ($33,000,000)

32nd Avenue West

The 32nd Avenue West project provides a critical north/south connection between Highway 2/85 and 53rd Street NW. The project will involve paving a two-lane arterial through the project corridor, with an urban section from 53rd Street to 26th Street NW. In addition, the project will also preserve the right-of-way for the construction of three to five-lane arterial (including bridge over Sand Creek) as needed to serve further development in the area. ($31,000,000)

Airport/Railroad

The City of Williston relies on consistent and reliable air services for both passenger travel and freight delivery. To continue to provide this service, it is critical that the City continue to work with the Federal Aviation Administration to ensure that proper planning and funding are made available for future improvements or expansions to the airport as deemed necessary. In addition, air service and railroads play a critical role in providing delivery of goods to the City of Williston. Consideration should be giving to a future intermodal transport station to allow for integrated and efficient transportation of freight using multiple modes of transportation such as rail, and truck.

The City of Williston has developed comprehensive Wastewater Master Plans to address the Wastewater Treatment Facility (WWTF) as well as the sanitary sewer collection system. The Capital Improvements Plans (CIP) for the Wastewater system were developed to prioritize the projects that were identified.

Wastewater Treatment Facility

The Williston WWTF is currently operating at capacity. To address capacity limitations at the WWTF, it is anticipated that the City of Williston will be required to complete a multi-phased expansion. Each phase builds upon the previous phase until ultimate capacity of the existing WWTF site and treatment type is reached. ($41,800,000)

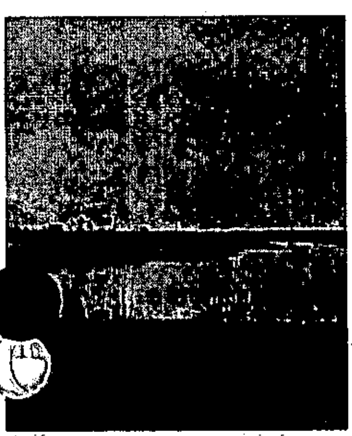
Each phase builds upon the previous phase until ultimate capacity of the existing WWTF site and treatment type is reached.

PHASE 1	Expansion of the pond storage facilities, improvements to the headworks facility, expansion of the aerated pond system, and expansion of the effluent pumping system. ($15,000,000)
PHASE 2	Conversion of the facility to a continuous discharge facility. This will require additional aerated pond capacity, tertiary treatment, new disinfection system, and expanded effluent pumping. ($19,900,000)
PHASE 3	The third phase will include the conversion of existing storage ponds to aeration ponds. At this time, the facility will be expanded to the maximum limits of the site. ($6,900,000)

Collection System Extensions

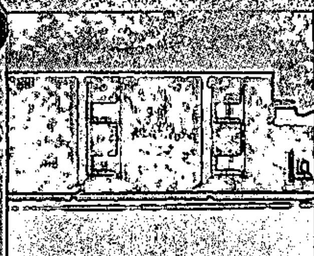
The wastewater collection system has been divided in to two separate service areas and one individual lift station. Major collection system improvements (typically gravity sewer greater than 15-inches in diameter, forcemains, and major lift stations) have been included in the CIP. Exhibits of each service area have been provided to illustrate the proposed improvements that are necessary to serve the areas. It should be noted that projects included in the CIP have been shown with the bold lines. Other infrastructure will be necessary for development, but has not been incorporated into the CIP, as it will typically be addressed through developer fees or special assessments. ($11,500,000)

STORM WATER | System Improvements



Storm Water System Master Planning

To address the eminent impacts of future development on the storm water system, it is imperative that the City develop a storm water runoff evaluation and concept-level storm water master plan. The evaluation will address existing system limitations, as well as identify the future regional storm water infrastructure that will be required as new properties are developed. Two specific development areas have been identified as needing immediate attention. These areas are Pheasant Run Development and Sand Creek Development. In addition, it is recommended that the capital improvements budget include dollars for the City to purchase critical regional storm water detention/retention areas that are identified during the master planning process. ($400,000)



Regional Water System Improvements

As a regional water stakeholder in northwest North Dakota, the City of Williston has been collaborating on a regional water development plan for the past several years. The efforts have resulted in the development of a regional water supply plan centered on the Missouri River and the Williston Regional Water Treatment Facility as the source for the regional water demands. A detailed discussion of the projects necessary to implement the water development plan are not included in this plan since it is to be funded through water sales.

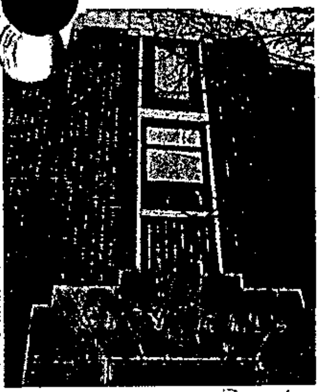
Note: The Regional Water System Improvements are not included in the Capital Improvements Plan

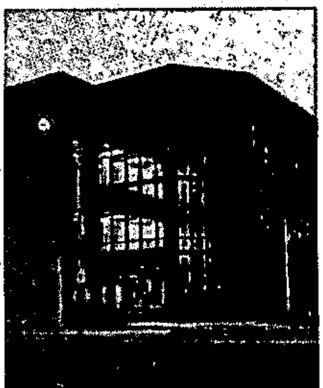
Northwest Pumping Station

The Northwest Pumping Station is an interim pumping station required to provide adequate domestic supply to developing areas in Northwest Williston. Although this area will be served by the future regional water system improvements, it is critical that this pumping station be constructed in the interim to provide adequate pressure and flow to the existing and proposed developments. Exhibit E illustrates the proposed location of the Northwest Pumping Station as well as the proposed service area. ($250,000)

Northeast Pumping Station

The Northeast Pumping Station is an interim pumping station required to provide domestic supply to existing and proposed development along the northeastern portion of Williston. This area is illustrated in Exhibit E. Proposals for development within this area have been delayed due to the inability of the City's water system to provide adequate flow and pressure. Therefore, it is proposed that a pumping station be constructed to provide service to this area and allow development to occur. ($300,000)





he City is expanding, the rvice areas for emergency services are also expanding. It is critical that the emergency services are located in strategic locations to ensure that the emergency services can respond in a timely manner.

Public Services

The City of Williston is served by law enforcement from the City Police Department, Williams County Sheriff's Department, and the State Highway Patrol. The City recently constructed a new Law Enforcement Center. This facilty is expected to handle the future needs with minor equipment upgrades.

Ambulance service is provided through an Ambulance District located in Williston in partnership with the Williston Fire Department. Fire Protection is provided by the Williston Fire Department located on 11th Street West.

As the City is expanding, the service areas for emergency services are also expanding. It is critical that the emergency response facilities are located in strategic locations to ensure that the emergency services can respond in a timely manner.

Fire /Ambulance Substations

Three new Emergency Service Substations have been identified in the Capital Improvements Plan. A map of the existing fire station with a 1.5 mile service area is provided in Exhibit F. This Exhibit also identifies proposed locations for three new fire/ambulance substations as well as the proposed service boundaries for each of the substations. ($7,050,000)

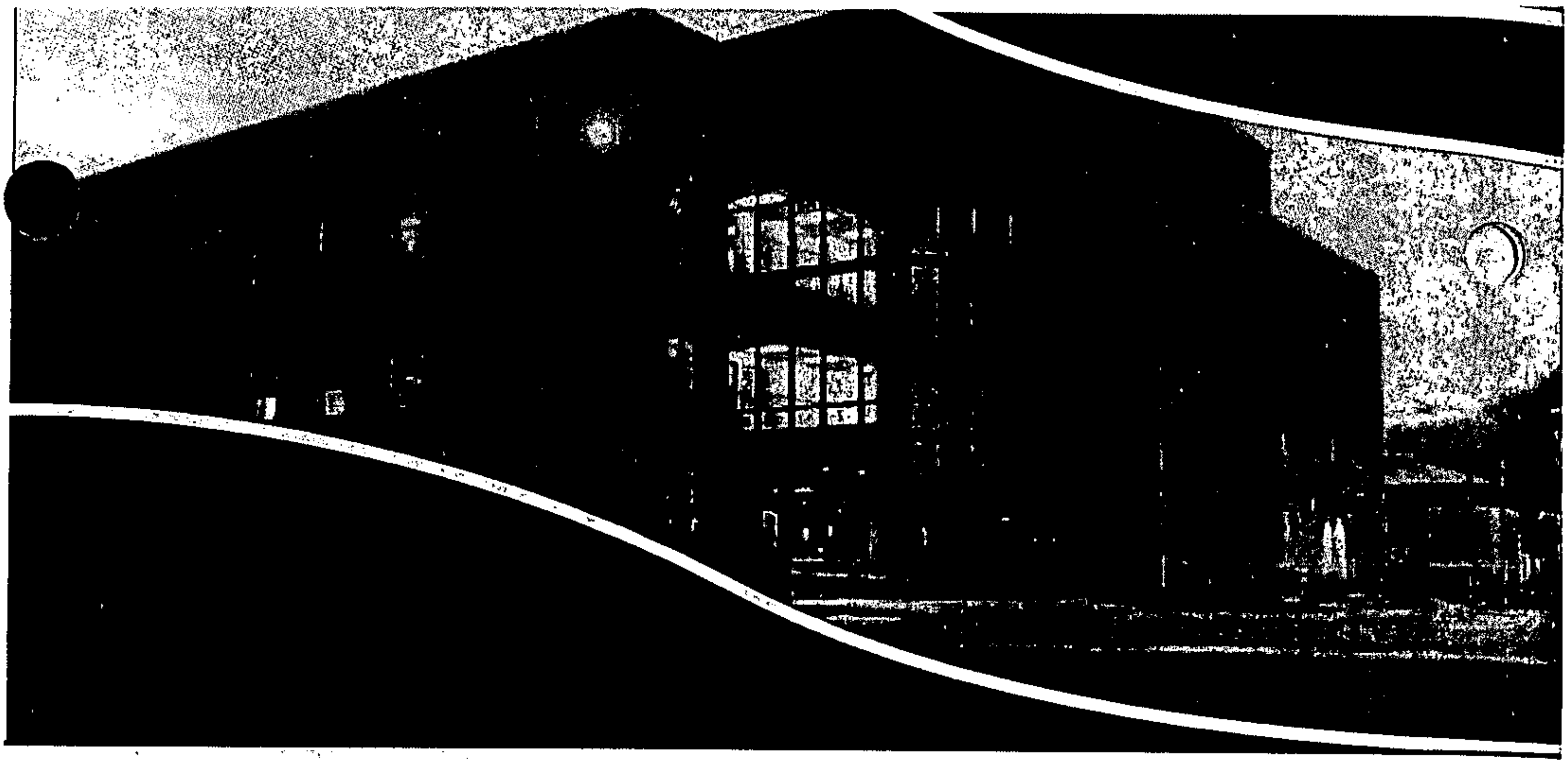
Government Buildings

The City of Williston's planning, engineering, and inspection services along with it's finance and utility billing departments are experiencing extreme demand and growth. The current City Hall is crowded and the space to intake, review plans, and meet with developers, engineers, and contractors is inadequate to handle the current number of requests not to mention the projected growth. Additionally, the Economic Development and Job Development offices are lacking adequate facilities to conduct meetings internally and with external groups. In consideration of these departments and their ability to successfully perform their duties, additional building space has been included in the CIP. ($9,300,000)

SOLID WASTE | Landfills

Landfill Expansion

To ensure that the City has the capacity to dispose of the increased volume of solid waste, it is anticipated that an expansion of the solid waste disposal facility will be necessary. The expansion will involve a new solid waste disposal cell that is estimated to cover approximately 10 acres. The expansion will occur adjacent to the existing landfill and will not require additional acquisition of property or rezoning, which can be two major hurdles in landfill expansions. The project will involve the excavation of the new landfill cell, preparation of the cell with an appropriate liner, and the installation of a leachate collection system to meet US Environmental Protection Agency, Municipal Solid Waste, Subtitle D Regulations. ($2,400,000)



INVEST IN THE WEST | To Help Fund The Rest

WILLISTON'S INVESTMENT IN NORTH DAKOTA'S OIL INDUSTRY

- Williston is the center of North Dakota's oil industry.
- Williston was prepared to handle a 40% growth population increase as a result of previous local investments.
- Unprecedented growth rate has consumed all existing City capacity and state assistance is needed to catch up and support the anticipated oil industry growth.
- State investment is needed for **CORE INFRASTRUCTURE ONLY.**
- Subdivision distribution and streets will be paid for through assessments, general obligation bonds, or developer investments.

WILLISTON IMMEDIATE CORE INFRASTRUCTURE NEED

(As shown in the tables under the 20,000 population)

Transportation	$76,600,000
Wastewater	$26,150,000
Storm Water	$400,000
Water (temporary facility)	$550,000
Buildings	$5,450,000
Solid Waste	$2,400,000
TOTAL	$111,550,000

Governors Budget Provides funds for $20,000,000 of the need.

WILLISTON PRIORITY PROJECTS THAT REQUIRE STATE INVESTMENT TO PROVIDE THE CORE INFRASTRUCTURE

East Williston Truck Route	$5,600,000
26th Street West Extension	$2,500,000
North Sanitary Sewer Collection System Extension	$4,900,000
West Sanitary Sewer Collection System Extension	$5,900,000
Wastewater Treatment	$15,000,000
Transportation (planning and right of way)*	$6,800,000
TOTAL INVESTMENT NEEDED	$40,700,000

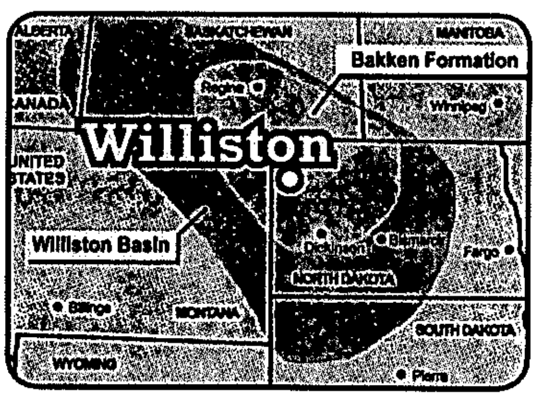
* 10% of estimate for Highway 2 Corridor and Northwest Bypass

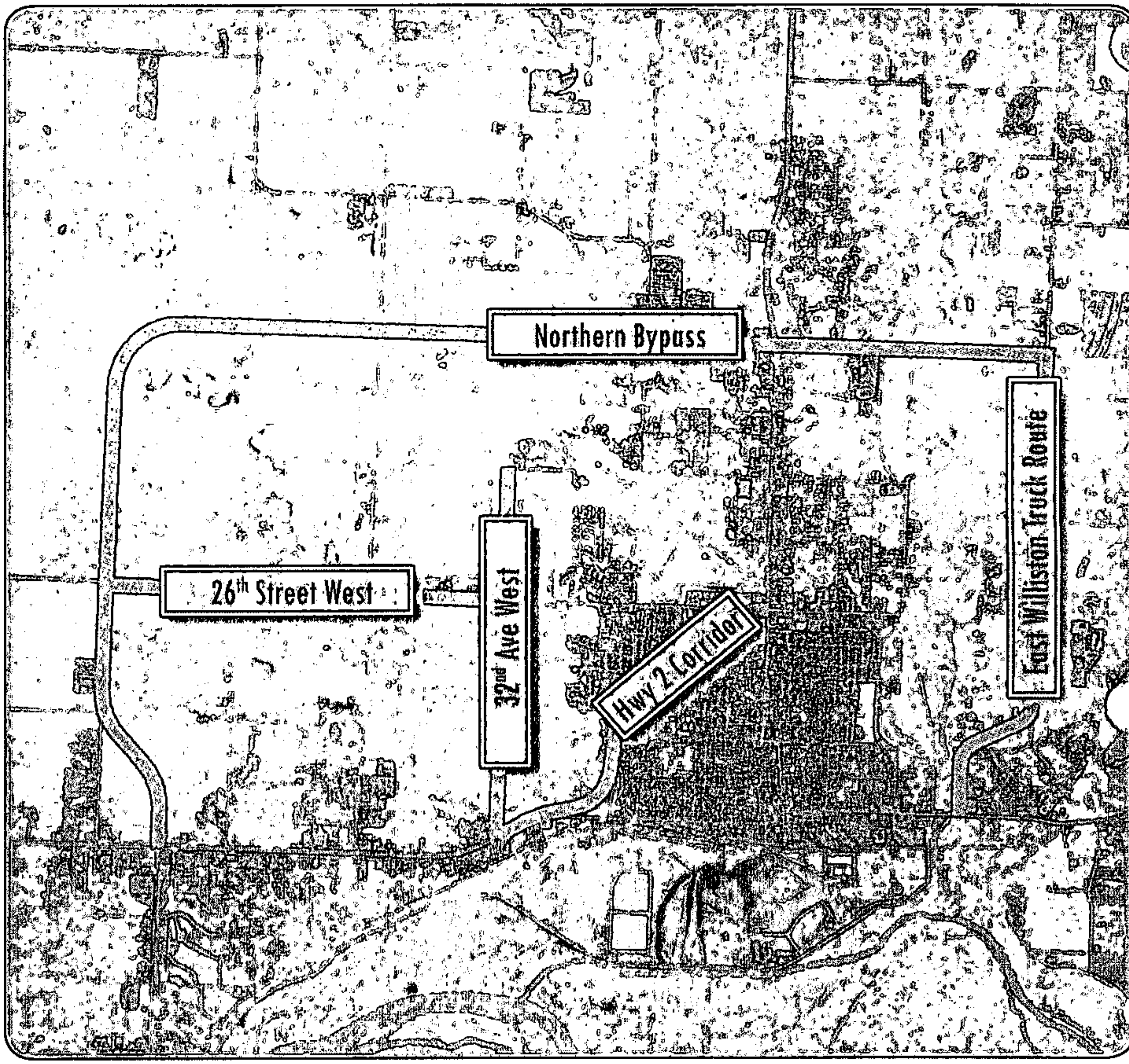
An additional Investment of $20,000,000 above the Governors Budget is needed.

BUILD

WILLISTON

CENTER OF THE WILLISTON BASIN



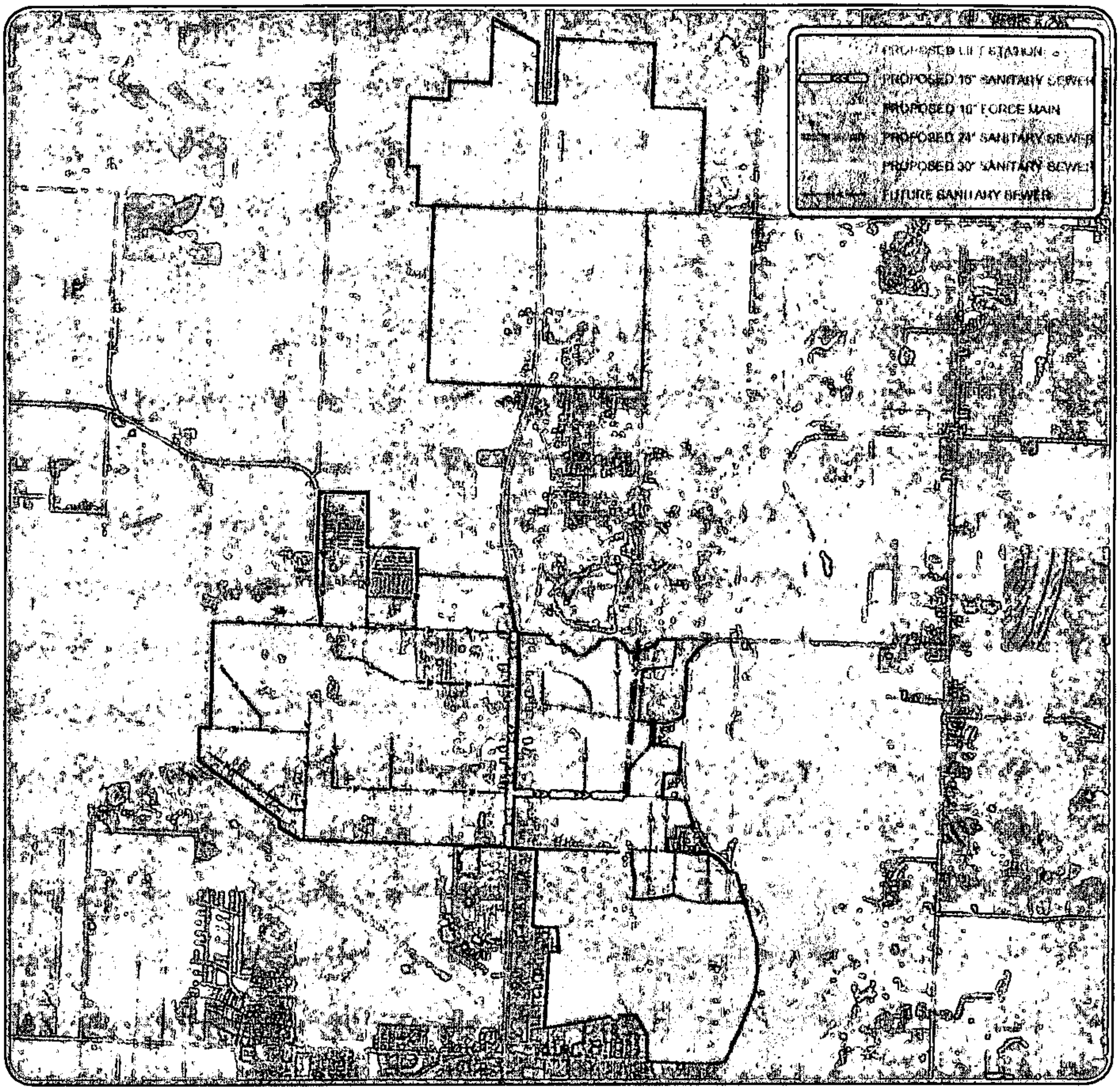


TRANSPORTATION | Improvements

	Total Estimated Project Costs
SUBTOTAL	$112,600,000

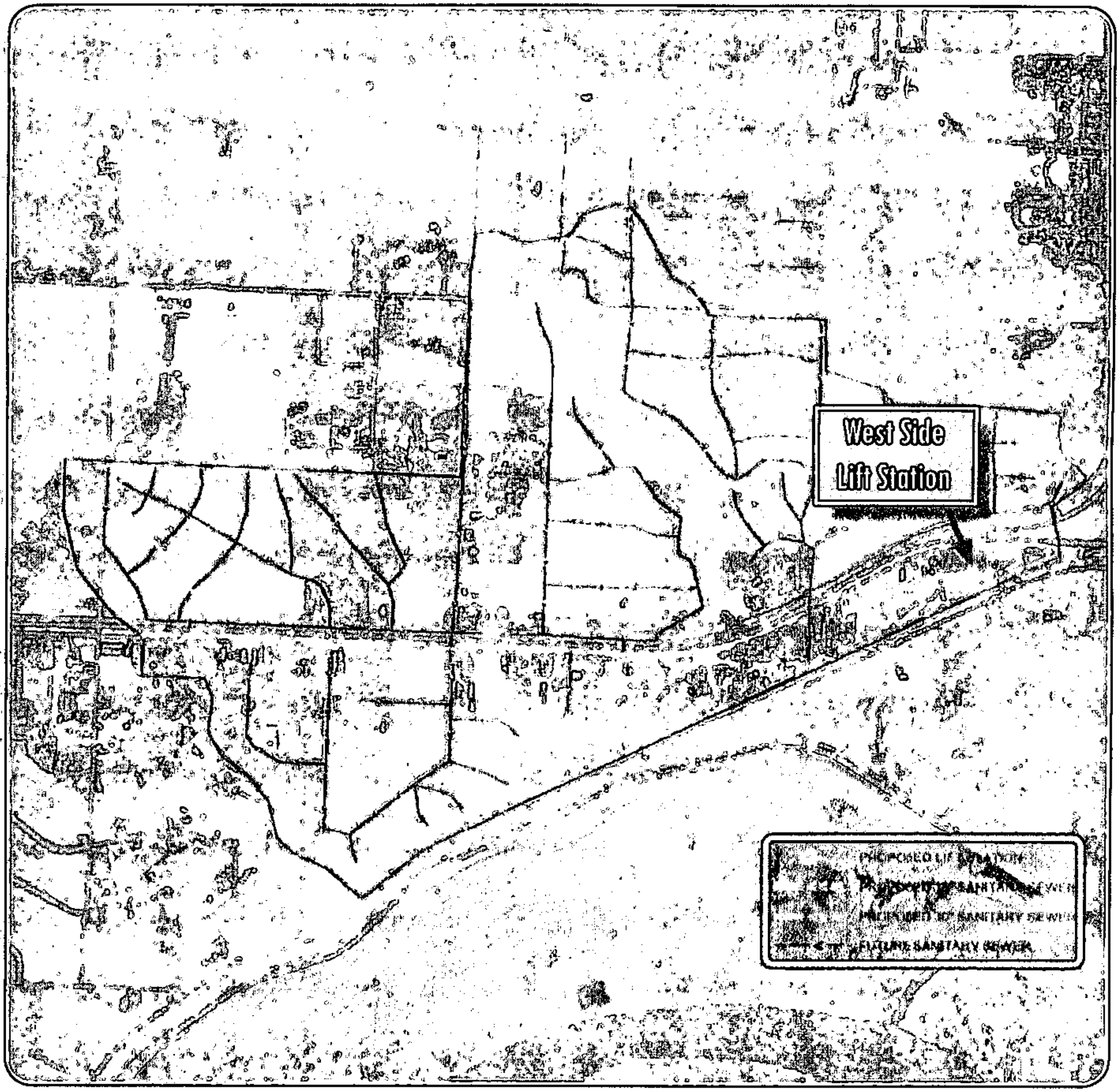
WASTEWATER | Treatment Plant Upgrade

	Total Estimated Project Costs
SUBTOTAL	$41,800,000



WASTEWATER | North Service Area

	Total Estimated Project Costs
SUBTOTAL	$4,900,000

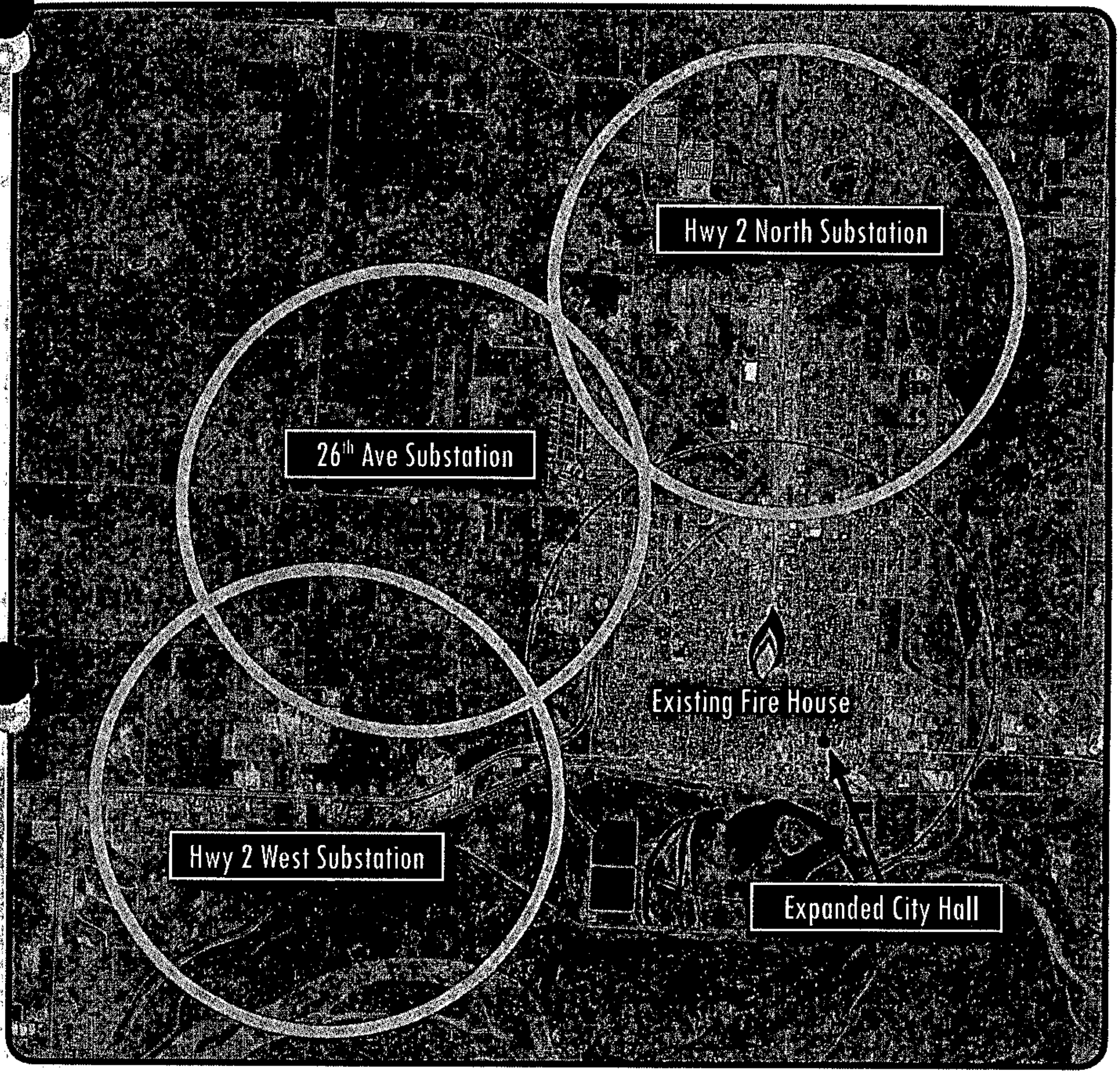


WASTEWATER | West Service Area

	Total Estimated Project Costs
SUBTOTAL	**$5,900,000**

WATER | System Improvements

	Total Estimated Project Costs
SUBTOTAL	$550,000



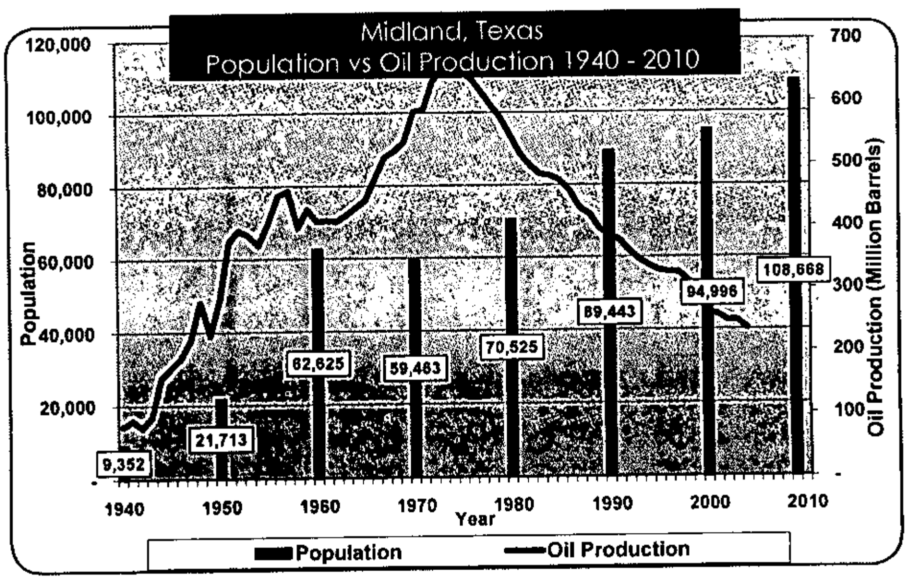
BUILDINGS | Emergency Response and Government Services	Total Estimated Project Costs
SUBTOTAL	$16,350,000

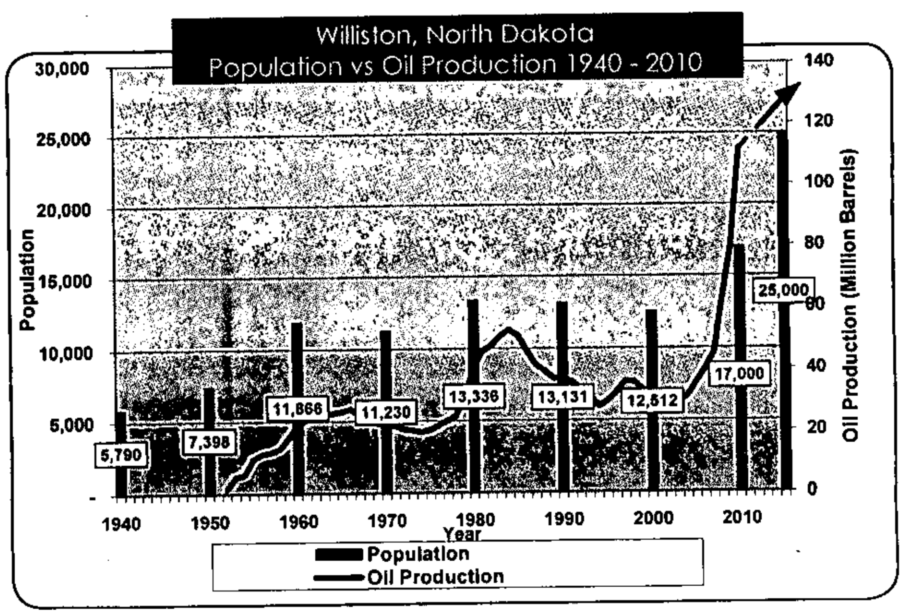
HOW DO WE PROJECT POPULATION?

Much has been said in comparing Williston, ND to Midland, TX.

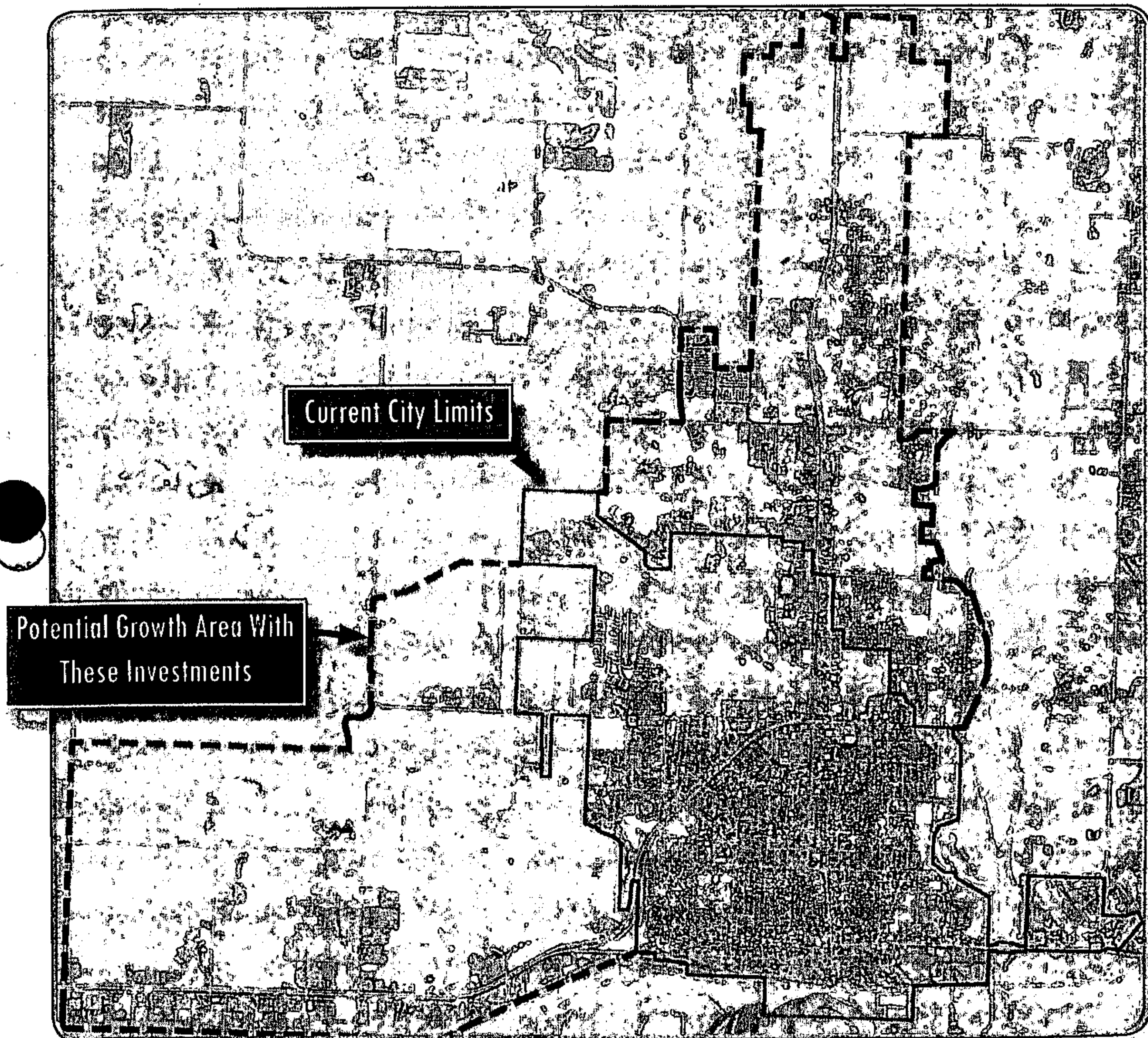
Midland, Texas is located in the heart of Texas and has been defined as a community rooted in the petroleum industry. From 1940 to 1960 the population grew from 9,352 people to 62,625 people. At this same time the oil production in the area increased from less than 100 million barrels in 1940 to nearly 400 million barrels in 1960.

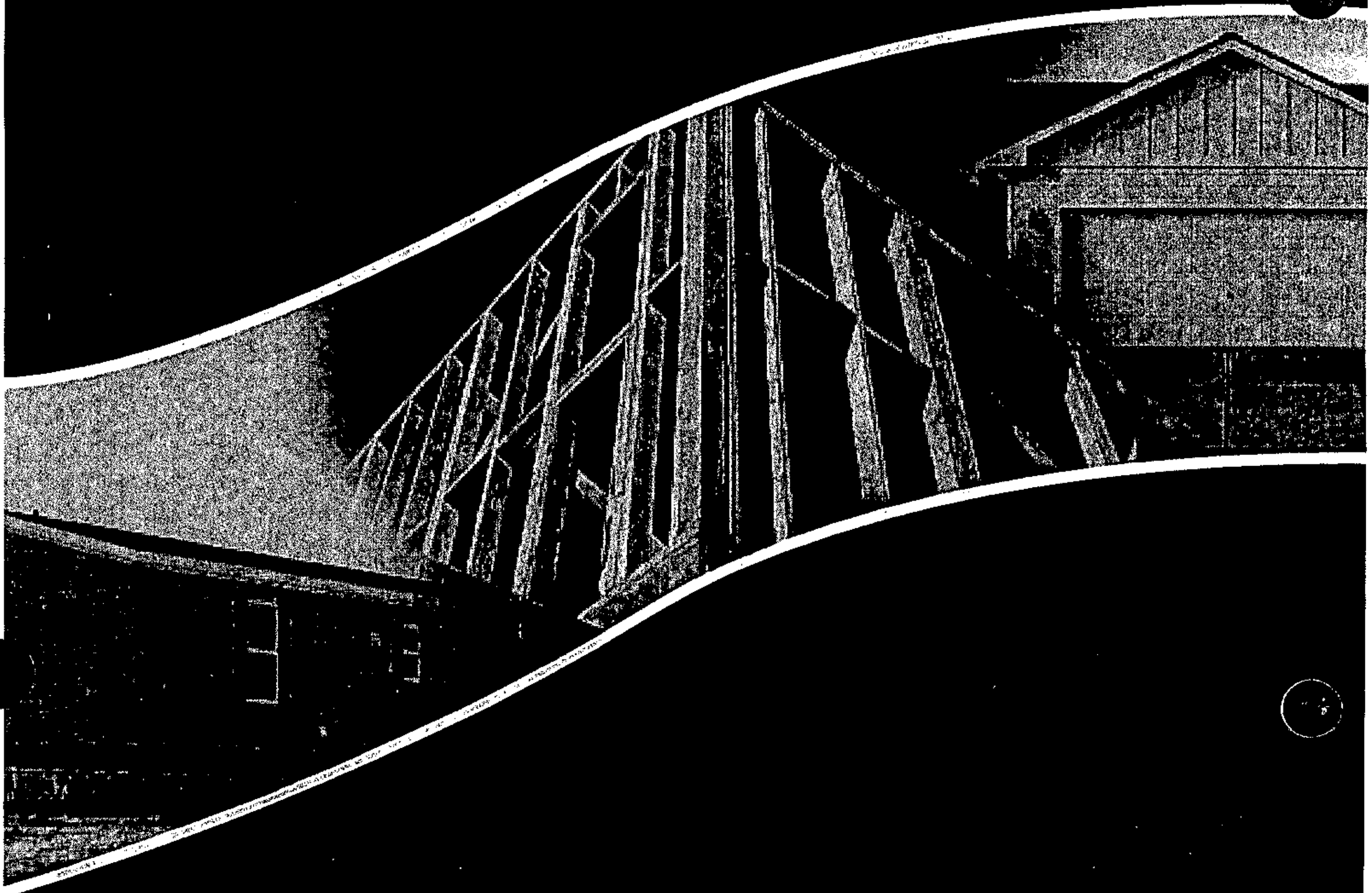
Much like Midland, the City of Williston is located in the center of oil production in northwestern North Dakota and is experiencing similar growth patterns. As an economic hub, Williston is projected to continue to grow as the oil production is estimated to increase. What lies ahead for the City of Williston is unknown, but based on historical trends and oil production projections, it appears that significant growth is eminent.





WILLISTON | Projected Growth Area

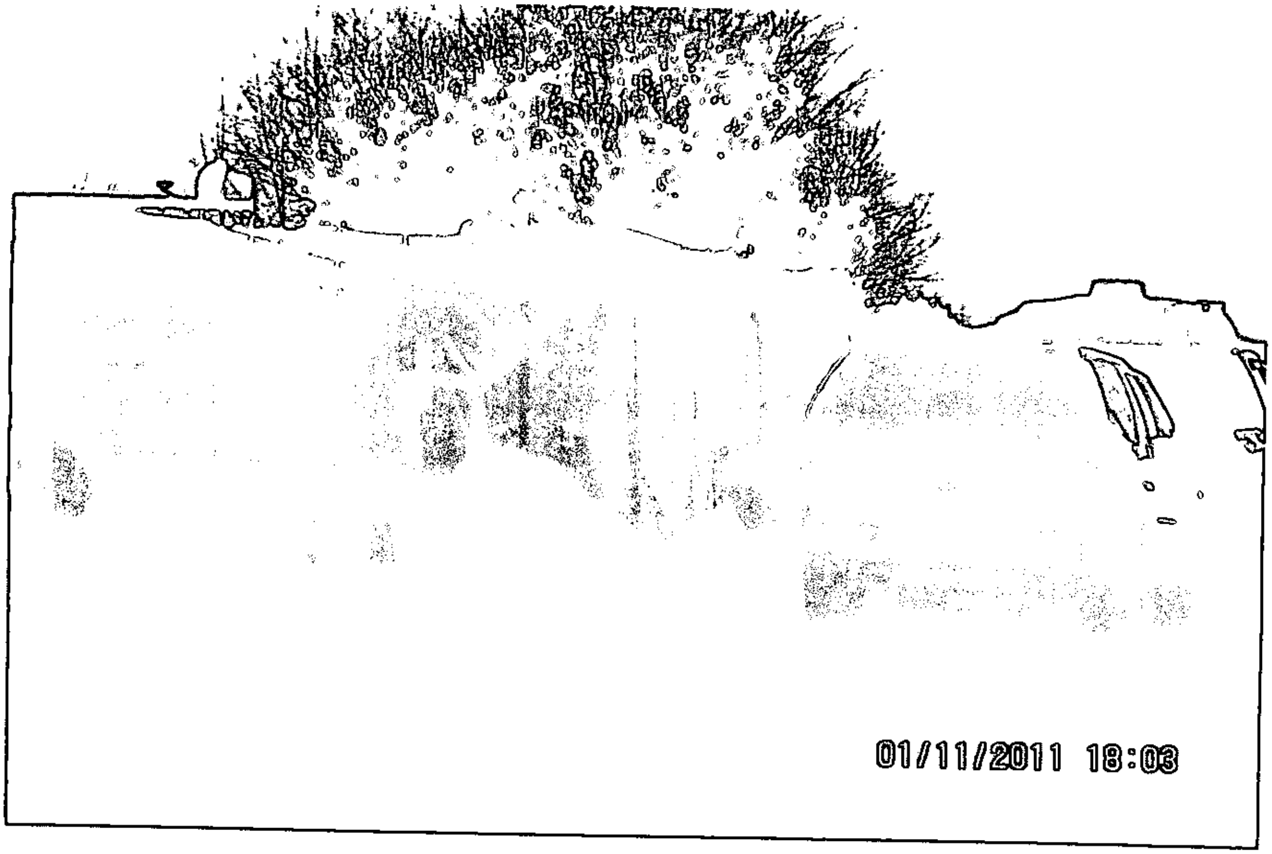


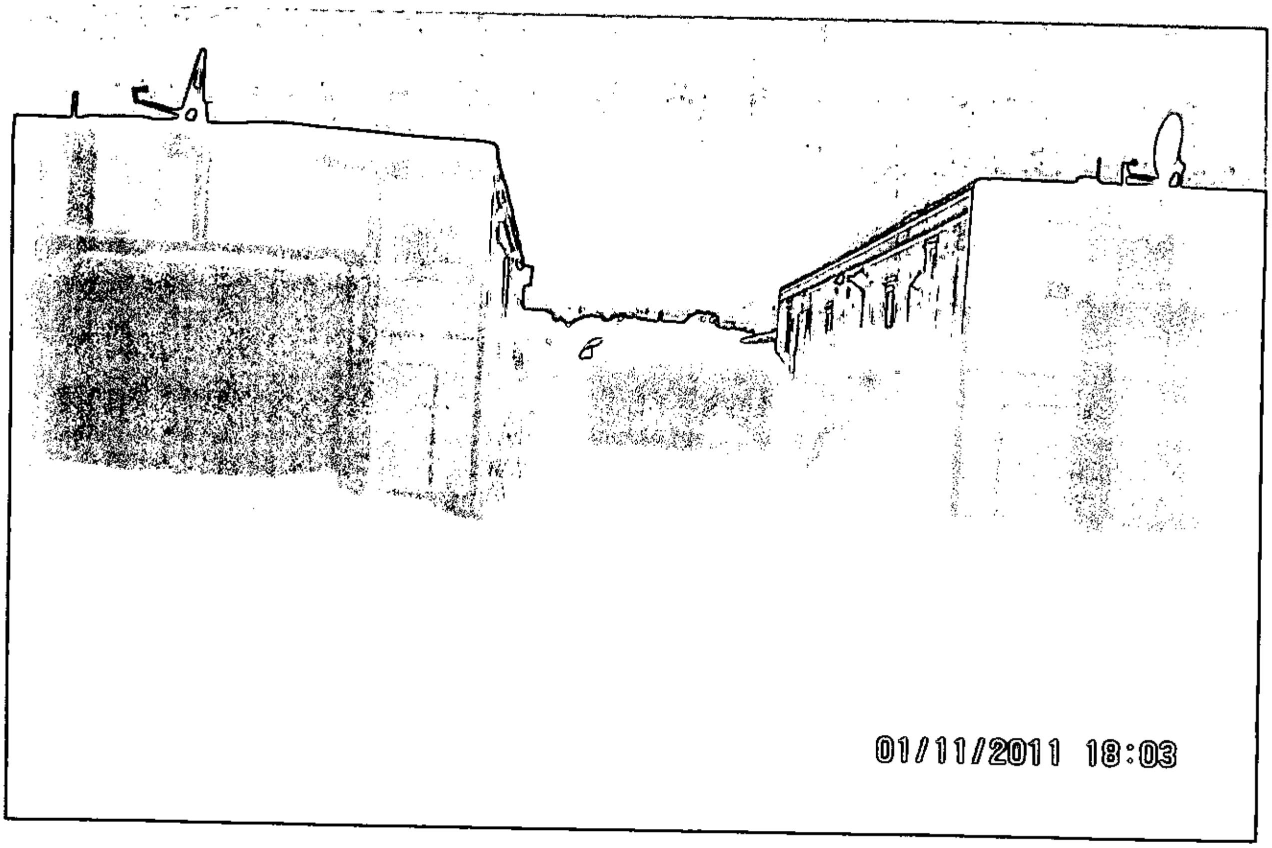


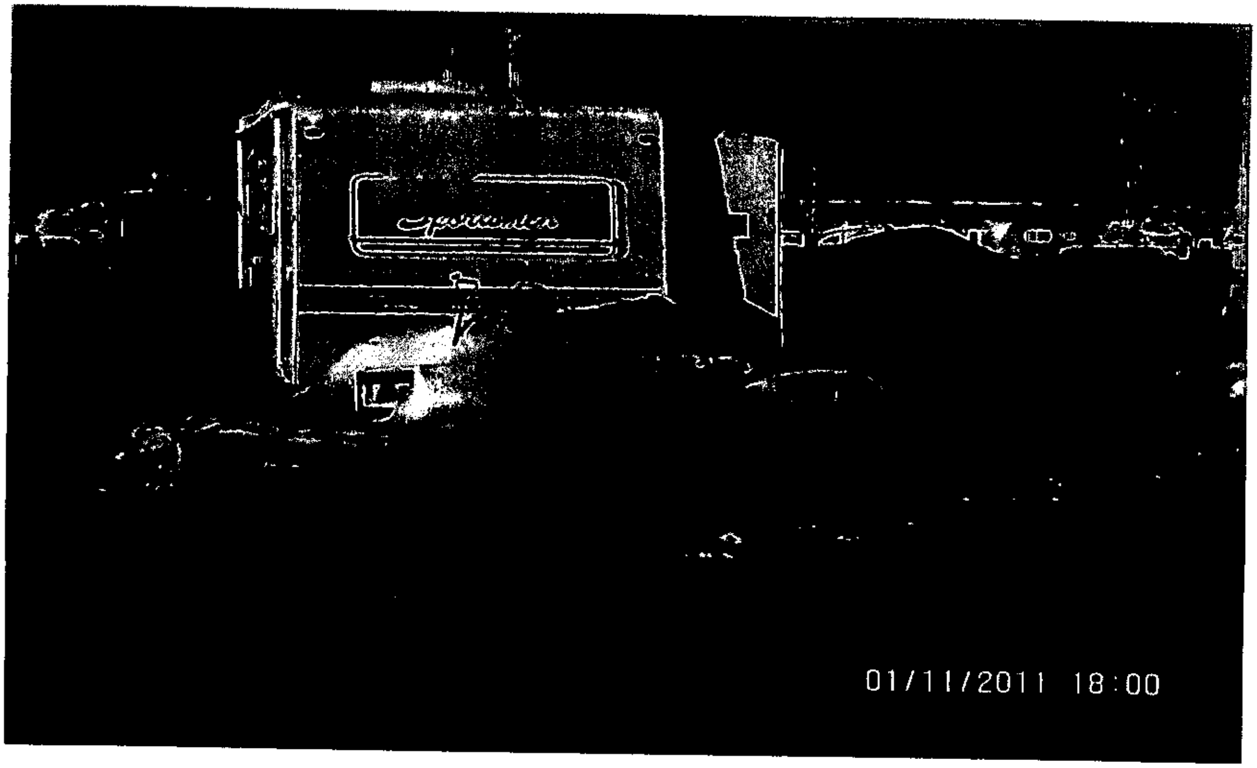
THE ROAD MAP TO SUCCESS

AE2S | 309 Washington Avenue Suite 404
Williston, ND 58801 | 701-774-3080

1013.1.12.11G



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1013.1.12.11H

AmeriTech Engineering Corporation
Post Office Box 1796
107 Main Street
Williston, North Dakota 58802

Telephone: (701) 577-4127 - Fax: (701) 577-1535

Mr. Golden W. Welch
CAPRIATI CONSTRUCTION CORP.
1692 Wicklow Way
Henderson, NV 89014

January 4, 2011

Re: Estimate to Survey and Engineer a parcel of land in the Southeast Quarter of Section 13 (43 +/- Acres) Township 150 North, Range 98 West, McKenzie County, North Dakota, Northwest of Watford City, ND.

Dear Golden,

Using your preliminary lot layout, we have prepared very preliminary cost estimates for extensions of municipal water and sewer systems and for installation of streets (concrete curb and gutter and Hot Mix Asphalt pavement). Our preliminary estimates are based upon your very preliminary layout and not on any detailed design. Quantities will vary with final design and actual construction. Unit prices are based upon our database of recent similar projects.

The preliminary estimate for construction of water and sewer improvements is in the range of $900,000 to $1,000,000. Engineering cost estimate for design phase and construction phase is estimated in the $130,000 to $150,000 range.

The preliminary estimate for construction of street improvements is in the range of $1,000,000 to $1,200,000. Engineering cost estimate for design phase and construction phase for street improvements is estimated in the $150,000 to $180,000 range.

Our cost estimates are based upon typical municipal project costs including statute requirements for bonds and insurance. Some cost savings may be realized with private contracting methods.

Water and Sewer Infrastructure Preliminary Estimate

Preliminary Construction Cost Estimate	$900,000	to	$1,000,000
Estimated Engineering and Administration	$130,000	to	$150,000
Estimated Contingency	$45,000	to	$50,000
Preliminary Estimated Project Cost	$1,075,000	to	$1,200,000

Streets Preliminary Estimate

Preliminary Construction Cost Estimate	$1,000,000	to	$1,200,000
Estimated Engineering and Administration	$150,000	to	$180,000
Estimated Contingency	$50,000	to	$60,000
Preliminary Estimated Project Cost	$1,200,000	to	$1,440,000

Golden, should you have any questions regarding this preliminary project estimate, please feel free to contact me.

Attached is a short form agreement for the scope of services currently proposed for your review. If you wish, I can either send a signed copy to you by regular mail or I can scan a signed copy here, send it to you by email for your signature, which you would then return to me by whatever method you prefer. When the subdivision design is to your satisfaction, we can than do another agreement for the **Engineering and Administration** as determined by the final design.

Sincerely,
AMERITECH ENGINEERING CORPORATION

Dale Ness

Dale Ness

Capital Impr ents Plan
Watford City, North Dakota

10/3.1.12.11I

Project Description	Total Estimated Project Costs (current Dollars)	Population 2,000	3,000	4,000	5,000	Additional Project Information
Wastewater System Improvements						
Waste Water Treatment Plant Upgrade						Improvements include three phases of improvements to address aging infrastructure, capacity limitations, and projected growth.
Disinfection and Land Acquisition	$116,000	$116,000				Land Purchase in Preparation for Phase I Project and Public Health Protection for Water Irrigation Reuse
Phase I Primary Lagoon Project 2300 to 5000	$2,441,800		$2,441,800			Primary Lagoon Aeration Improvements and Main Lift Station Expansion
Phase II Secondary Lagoon Project 3200 to 5000	$7,554,500			$7,554,500		Secondary Lagoon Expansion, Rehabilitation, and Secondary Booster Station Improvements
Collection System Extensions						
Service Area 1 Population Equivalent = 1365	$1,631,467	$1,631,467				See Collection System Attachment
Service Area 2 Population Equivalent = 2695	$2,910,005	$2,910,005				See Collection System Attachment
Service Area 3 Population Equivalent = 495	$310,880		$310,880			See Collection System Attachment
Service Area 4 Population Equivalent = 935	$489,810			$489,810		See Collection System Attachment
Service Area 5 Population Equivalent = 3455	$600,517				$600,517	See Collection System Attachment
Wastewater System Subtotal	**$16,054,979**	**$4,657,472**	**$2,752,680**	**$8,044,310**	**$600,517**	
Water System Improvements						
Service Extensions						Water Main Extentions to New Service Areas
West Highway 85	$260,000	$260,000				
South Highway 85	$175,000	$175,000				
Reservoir Tieback to Regional System	$270,000		$270,000			
Water Main Loops						Water Main Connections to Address Pressure Problem Areas
4th Avenue and 9th Street	$360,000	Projects as needed to serve development.				
6th Street	$86,000					
Highway 23 East	$370,000					
12th Street and 16th Street Northeast	$445,000					
Water System Subtotal	**$1,966,000**	**$435,000**	**$270,000**	**$0**	**$0**	
Transportation Improvements						
Highway 23 West Truck Route	$5,250,000	DOT Project Funded				Eliminate Highway 23 and Highway 85 Conflict Through City
Transportation Subtotal	**$5,250,000**	**$0**	**$0**	**$0**	**$0**	
Storm Water System Improvements						
Highway 23 West Truck Route	$320,000			$320,000		Wetland Mitigation and Park Development for Potential Truck Route
Storm Water System Subtotal	**$320,000**	**$0**	**$0**	**$320,000**	**$0**	
Total	$18,340,979	$5,092,472	$3,022,680	$8,364,310	$600,517	

1013.1.12.115

Chairman Thoreson, members of the committee, my name is Shawn Kessel and I am the City Administrator for the City of Dickinson and a member of the ND Oil & Gas Producing Counties Executive Board. On behalf of both of those entities, I stand before you today in support of the provisions of HB 1303 to increase the cap on the Oil and Gas Impact Grant Fund from the current $8 million per biennium to the proposed $100 million per biennium and to support the establishment of the Oil & Gas Impact Grant Advisory Committee.

The impact of oil and gas has been both positive and negative for residents in ND, and more specifically, western ND. It brings population increases, revenue growth, and jobs among many other positive things. This growth comes with demands to support it; huge increase truck traffic, infrastructure demands such as waste water treatment, water storage and treatment, street/road extensions and maintenance, and an increase in social problems. The growth affects almost all communities in western ND to varying degrees. I am most familiar with the effects it is having on Dickinson so I will limit my comments to my experience.

The City of Dickinson is not in a large oil producing county at this time but the effects of oil growth are felt nonetheless. As a major hub city our community and the businesses within are relied upon to provide employees, housing, medical care, retail products, recreational opportunities and other accoutrements to our residents and we are happy to try and meet those demands. Our goal of meeting those demands are hampered by the degradation of existing local roads due to a substantial increases in truck traffic, the construction of new streets, the construction of new water and sewer lines, the addition of lift stations and water storage, and the added strain on waste water and water treatment plants.

If the oil impacts continue or grow in intensity the impact costs are expected to run into the tens of millions of dollars. Impacts fall into one of the following categories; Housing and Related Infrastructure, Commercial and Industrial Development, Traffic Management, City Infrastructure, Public Safety and Staffing/Operational Costs. A community our size needs partners to provide for the demands of oil impacts. The City of Dickinson requires private developers to pay at least 50% of the expenses related to new streets, water and sewer lines in their planned developments. We need the State of ND to be a partner with us to capture population gains and provide opportunities for Dickinson and other communities to address their needs, not there wants, but their needs. Increasing the current cap of $8 to $100 million allows the State to be that partner.

The City of Dickinson is also supportive of the establishment of the Oil and Gas Impact Grant Advisory committee and having membership from oil impacted areas. Who better to help determine needs than those who are living through similar situations and can relate to the grants being brought before them.

Thank you for your time today and allowing me to testify on behalf of the City of Dickinson and the ND Oil & Gas Producing Counties Association. I will be happy to address any questions if there are any.

1013.1.12.11K

City of Minot

Office of the Mayor

Bill No. HB1013
House Appropriations Committee

As Mayor of the City of Minot, I would like to express my support of HB 1013. Specifically, I am in support of Section 7 and the increase to the oil and gas impact grant fund from eight million to $100 million dollars per biennium. Section 10 of the legislation details the reimbursement of the $100 million dollars. It makes $35 million available for incorporated cities with a population of ten thousand and more.

Cities such as Minot, Williston, and Dickinson have seen a significant impact to our communities due to the oil and gas activity. The attached exhibit details core infrastructure needs of the City. The highlighted projects on the exhibit are the trunk infrastructure, which are necessary in the next one to three years. One of the projects will address raw sewage issues in a neighborhood on the south end of town. The City of Minot is also aiding surrounding oil-impacted areas to the west by taking sewage from numerous "temporary housing camps." Based on our rate of growth, and by assisting surrounding areas, a major improvement will be necessary to our lagoon/waste water system in the very near future. Some of this is addressed by the Master Lift work necessary in the next one to three years.

The attached list is not an exhaustive list of the City of Minot's infrastructure needs; however, it does demonstrate the impact the recent oil development is having on the City.

The City of Minot supports the DO PASS that came from the Finance and Taxation Committee and is available to provide testimony as this bill moves through the legislative process.

515 2nd Ave. SW • Minot, North Dakota 58701-3739 • (701) 857-4750 • Fax (701) 857-4751
mayor@web.ci.minot.nd.us

City of Minot

Oil Impact Infrastructure Needs Exhibit

SEWER PROJECTS	COST	RANKING
Puppy Dog Phase 3 & 4	$3,500,000	1
Master Lift Station Improvements	$1,000,000	2
NW Regional Lift Station	$2,000,000	3
55th St Regional Lift Station	$3,000,000	4
37th Ave SW Development	$1,300,000	5
North Minot Sewer System	$2,000,000	6
Lagoon/Waste Water System Improvements	$10,000,000	7
Highway 2 West to 54th St	$1,750,000	8
	$24,550,000	

WATER PROJECTS	COST	
13th St SE	$ 500,000	1
37th Ave SE	$ 500,000	2
55th St South of Highway 2	$1,000,000	3
37th Ave SW Development	$1,200,000	4
SW Water Tower	$2,000,000	5
Highway 2 West to 54th St	$1,000,000	6
	$6,200,000	

STREET IMPROVEMENTS	COST	
13th St SE	$ 3,500,000	1
37th Ave SE	$ 4,500,000	2
31st Ave SE	$ 4,500,000	3
6th St SE	$ 750,000	4
20th Ave SW – Frontage Road to 30th St.	$ 3,500,000	5
31st Ave SW – 16th St to 30th St.	$ 4,500,000	6
30th St SW – Bypass to 37th St SW	$ 5,000,000	7
	$26,250,000	

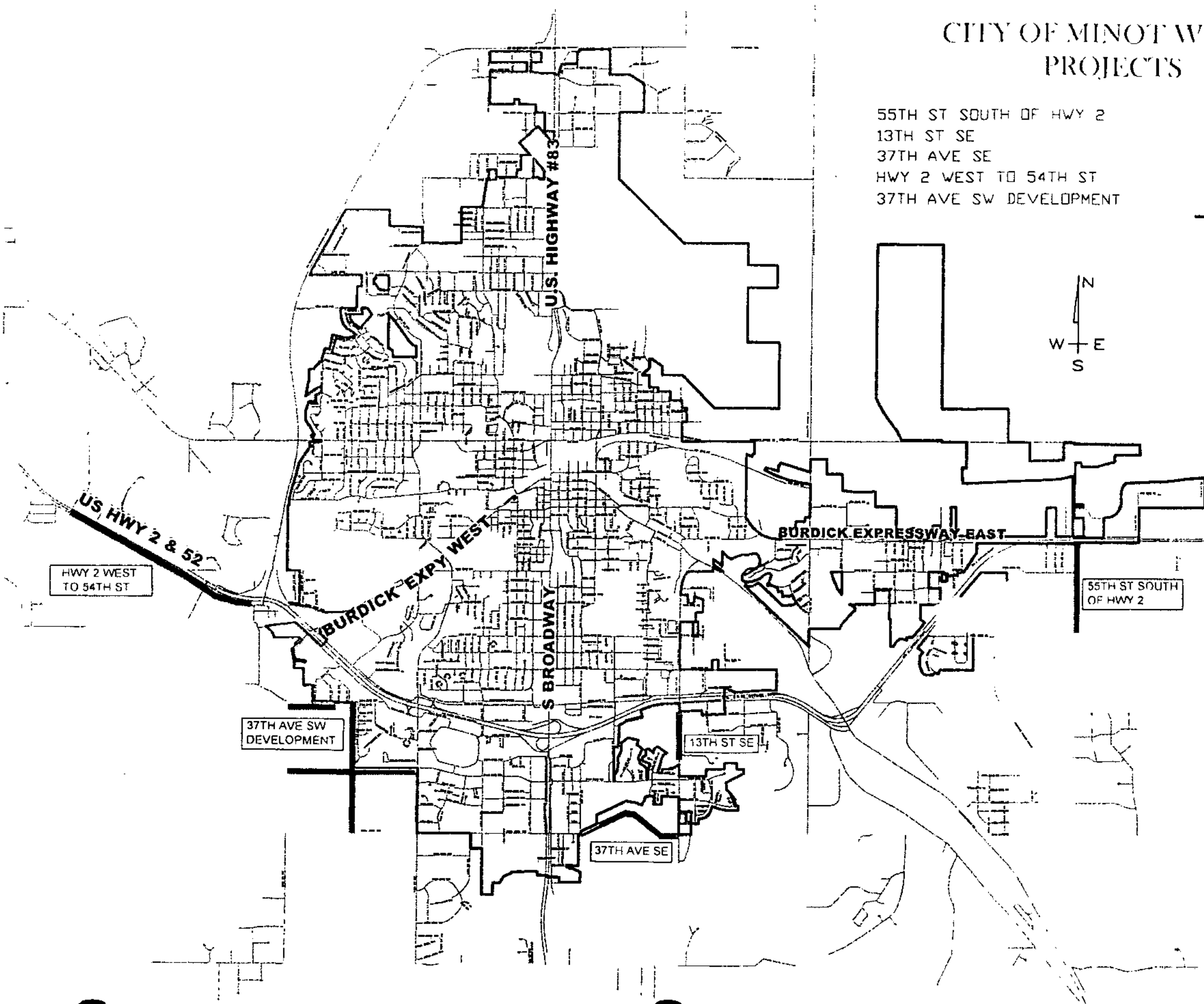
FIRE STATIONS	COST	
SE Minot	$2,500,000	1
NW Minot	$2,500,000	2
	$5,000,000	

AIRPORT	COST	
Airport Parking Lot Expansion	$3,200,000	1
Eastside Terminal Expansion	$1,190,000	2
New Terminal	$15,000,000	3
Major Equipment Replacement	$700,000	4
	$20,090,000	

TOTAL INFRASTRUCTURE NEEDS FROM OIL IMPACT $82,090,000

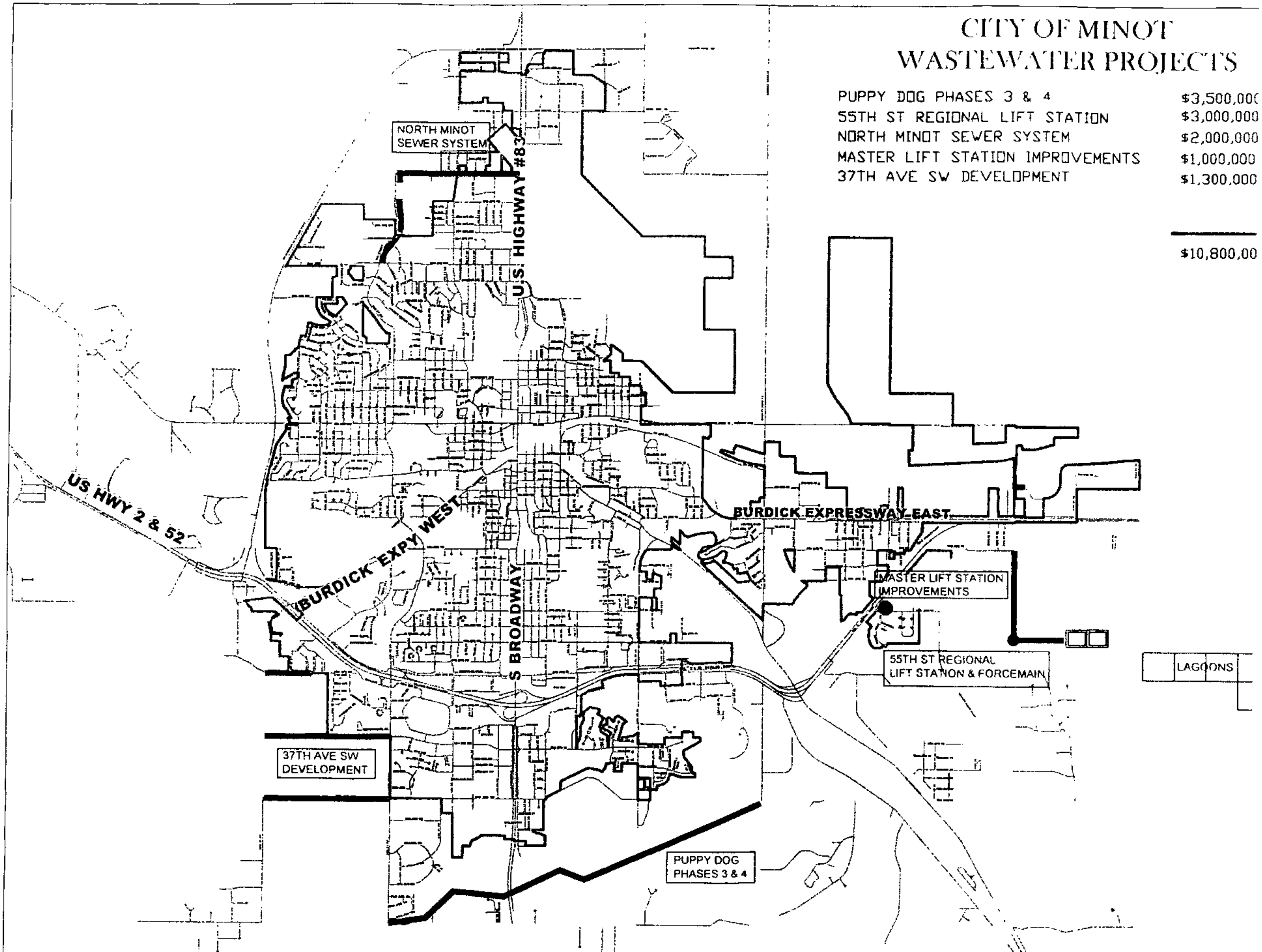
CITY OF MINOT WATER PROJECTS

55TH ST SOUTH OF HWY 2	$1,000,000
13TH ST SE	$ 500,000
37TH AVE SE	$ 500,000
HWY 2 WEST TO 54TH ST	$1,000,000
37TH AVE SW DEVELOPMENT	$1,200,000
	$4,200,000



CITY OF MINOT WASTEWATER PROJECTS

PUPPY DOG PHASES 3 & 4	$3,500,00(
55TH ST REGIONAL LIFT STATION	$3,000,000
NORTH MINOT SEWER SYSTEM	$2,000,000
MASTER LIFT STATION IMPROVEMENTS	$1,000,000
37TH AVE SW DEVELOPMENT	$1,300,000
	$10,800,00



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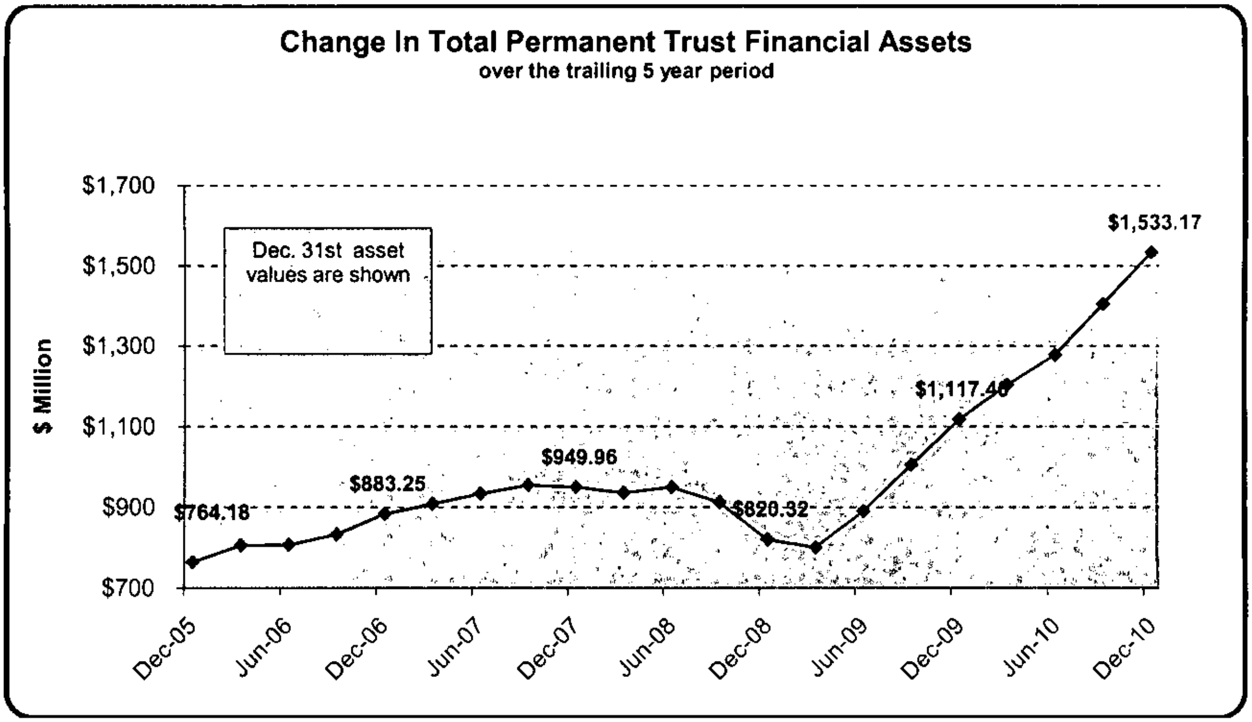
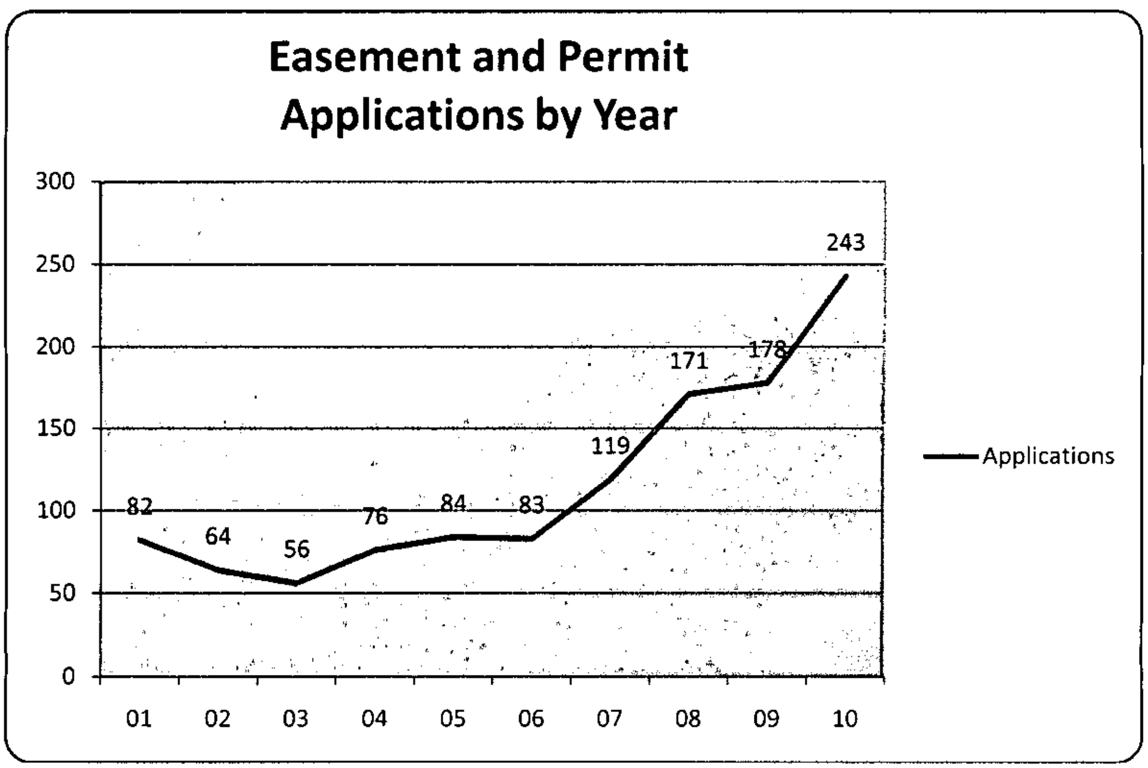
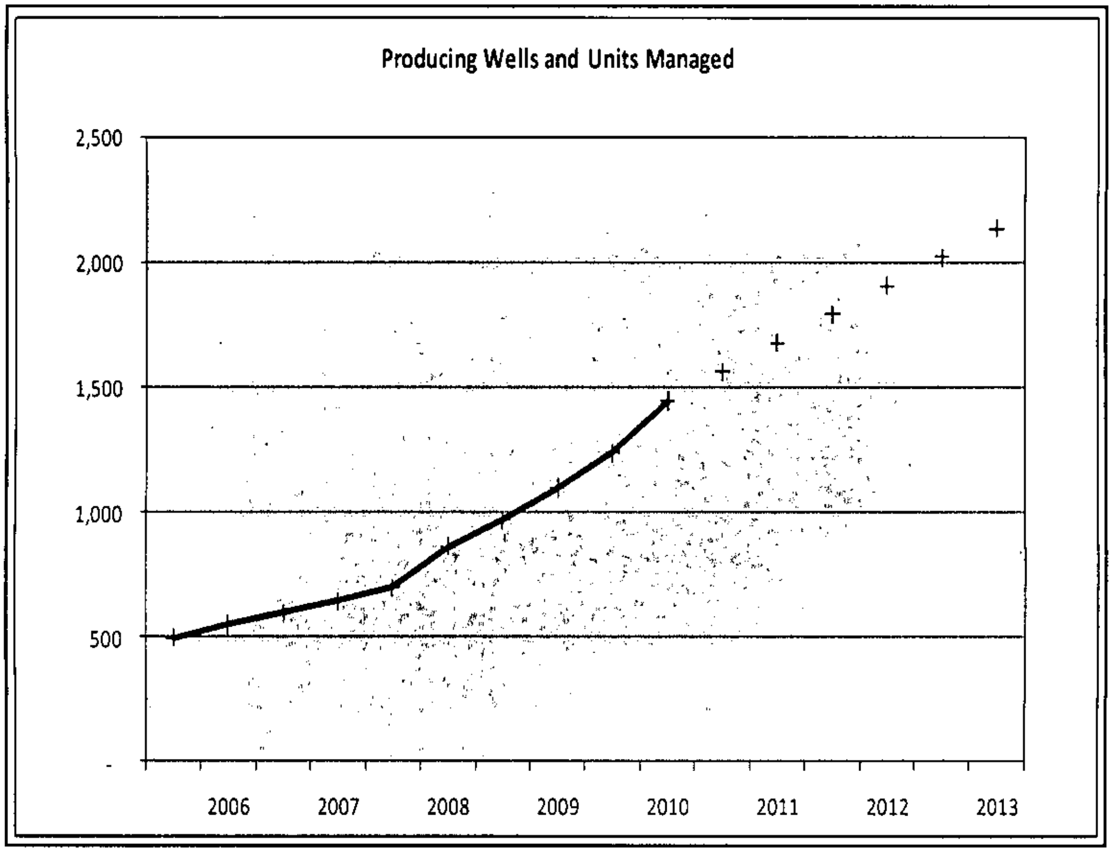
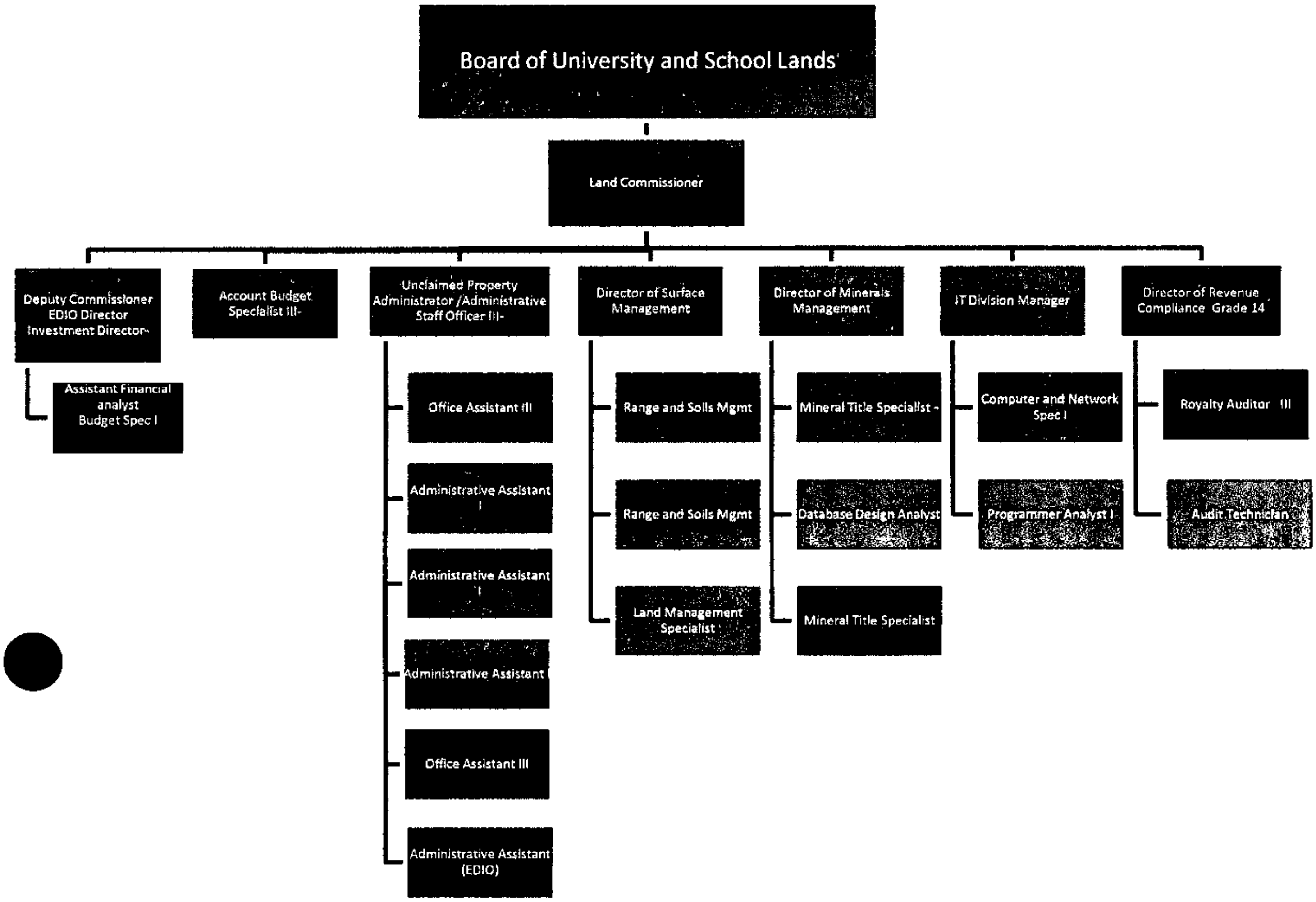

Change In Total Permanent Trust Financial Assets
over the trailing 5 year period
Dec. 31st asset values are shown
$ Million
$1,700
$1,500
$1,300
$1,100
$900
$700
$764.18
$883.25
$949.96
$820.32
$1,117.40
$1,533.17
Dec-05
Jun-06
Dec-06
Jun-07
Dec-07
Jun-08
Dec-08
Jun-09
Dec-09
Jun-10
Dec-10


Easement and Permit Applications by Year
300
250
200
150
100
50
0
82
64
56
76
84
83
119
171
178
243
01
02
03
04
05
06
07
08
09
10
Applications



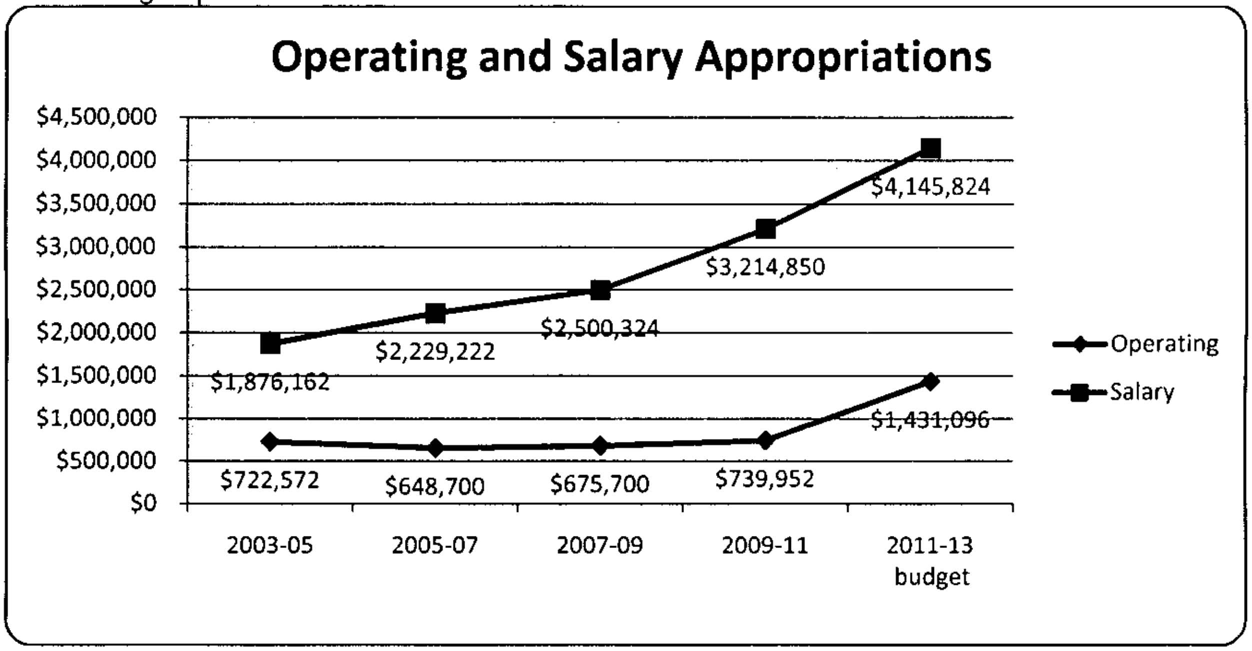
Mineral Bonus Sale Summary

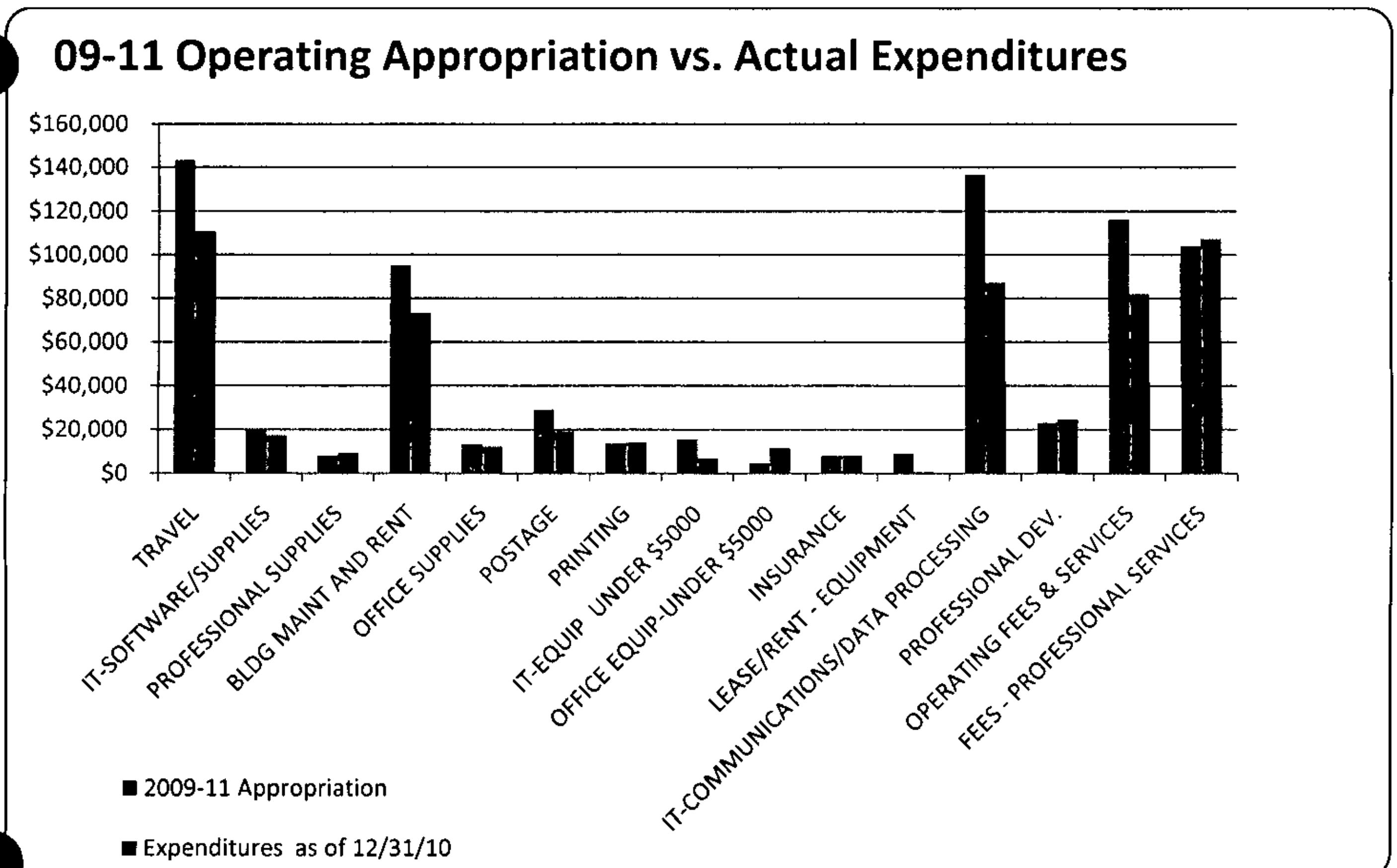
	Mineral Acres	Total Bonus	Bonus/acre
August, '09	41,576	$63,875,488	$1,536
November, '09	58,927	$71,560,099	$1,214
February, '10	40,178	$47,312,555	$1,178
May, '10	53,275	$158,099,212	$2,968
August, '10	41,576	$63,875,488	$1,536
November, '10	29,819	$41,951,532	$1,407



positions authorized in Governor's Budget

currently funded positions to be filled


Operating and Salary Appropriations
$4,500,000
$4,000,000
$3,500,000
$3,000,000
$2,500,000
$2,000,000
$1,500,000
$1,000,000
$500,000
$0
$4,145,824
$3,214,850
$2,500,324
$2,229,222
$1,876,162
$1,431,096
$722,572
$648,700
$675,700
$739,952
2003-05
2005-07
2007-09
2009-11
2011-13 budget
Operating
Salary


09-11 Operating Appropriation vs. Actual Expenditures
$160,000
$140,000
$120,000
$100,000
$80,000
$60,000
$40,000
$20,000
$0
TRAVEL
IT-SOFTWARE/SUPPLIES
PROFESSIONAL SUPPLIES
BLDG MAINT AND RENT
OFFICE SUPPLIES
POSTAGE
PRINTING
IT-EQUIP UNDER $5000
OFFICE EQUIP-UNDER $5000
INSURANCE
LEASE/RENT - EQUIPMENT
IT-COMMUNICATIONS/DATA PROCESSING
PROFESSIONAL DEV.
OPERATING FEES & SERVICES
FEES - PROFESSIONAL SERVICES
2009-11 Appropriation
Expenditures as of 12/31/10

Minerals Management Division

This division is responsible for the management of over 2.5 million mineral acres.

Four oil and gas lease auctions are held each year and leases are awarded to the company or individual offering the highest up-front payment or "bonus" for the lease. Lease terms are for five years (or as long as there is commercial production if a well is drilled); and provide for a 1/6th royalty to the State of any oil and gas produced.

This division also issues coal leases, potash leases, and seismic permits. It monitors mining and reclamation activity, ensures lease compliance, and works with the Surface Division to ensure that mineral development on trust land proceeds in an environmentally sound manner.

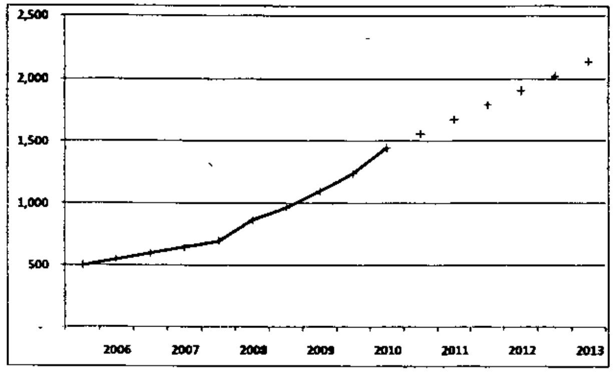
ACTIVITY

- During fiscal year 2010, $295 million of lease bonus money was collected, which is approximately the amount collected during the previous 39 years combined.
- Oil and gas royalties were $56.5 million in calendar year 2009 and $85 million in calendar year 2010.
- The division oversees over 1,500 producing wells, up from approximately 500 just four years ago.
- Department-managed minerals participate in 40% of active and producing oil wells.

FUNCTIONS OF THE DIVISION

- Collect bonus and rental payments.
- Approve assignments of oil and gas leases and pooling agreements.
- Enforce shut-in well policy and offset well policy.
- Monitor statewide drilling activity to track production on state-owned minerals.
- Monitor activities of other governmental agencies to determine effect on state-owned minerals.
- Maintain royalty information including the volume, value, and net paid of all royalties paid to the State.
- Additionally, about 40% of leases sold since 2000 are "new", meaning they've never been leased before and have not gone through a title opinion vetting.

PRODUCING WELLS AND UNITS MANAGED



Energy Development Impact Office

Objective: Mitigate financial hardship to local political subdivisions adversely affected by oil development and exploration

Funding Source: 6.667% of the Oil & Gas Gross Production Tax (up to a maximum of $8 million per biennium)

Criteria for Approving Grants

- The local political subdivision requesting funds must demonstrate that it is experiencing a financial hardship directly from oil activity.
- The project must reduce that impact.
- The applicant must demonstrate financial need.

Grant Allocation Procedure: Administer one grant round per year, as follows:

- Request applications for assistance in February
- Meet with each applicant in April or May
- Make grant allocations in June

Grants are made by the EDIO Director. The Board of University and School Lands is the appellate body.

1018 1.27.11

ND STATE LAND DEPARTMENT

Helping to Fund Education

Managing Agency Of The

Board of University and School Lands

January 2011

GOVERNOR
Jack Dalrymple, Chairman

SECRETARY OF STATE
Al Jaeger, Vice Chairman

ATTORNEY GENERAL
Wayne Stenehjem

STATE TREASURER
Kelly Schmidt

SUPT OF PUBLIC INSTRUCTION
Dr. Wayne Sanstead

1707 N 9th St
PO Box 5523
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Land De[redacted]ment History

The Land B[redacted]nages the Common Schools Trust Fund and 12 [redacted]permanent educational trust funds that are governed by Article IX of the North Dakota Constitution. The trust funds were established at statehood when the Federal Government granted the state 3.2 million acres of land "for the support of common schools" and other public institutions.

Over time, much of this land was sold. However, the 13 educational trust funds still own approximately 707,000 surface acres, 2.5 million mineral acres and $1.5 billion in financial assets. The Common Schools Trust Fund, which benefits K-12 education, is the largest trust with total financial assets of over $1.4 billion on December 31, 2010.

Revenues are generated through the prudent management of trust assets. Surface acres are leased to ranchers and farmers and mineral acres are leased for oil, gas, coal, gravel and scoria exploration and development. Revenues are invested in a diverse portfolio of financial assets, including stocks, bonds, farm loans and other assets.

In addition to its responsibility managing the land, minerals, and financial assets of the trusts; the Land Department is also responsible for the administering the Uniform Unclaimed Property Act, and the Energy Development Impact program.

Unclaimed Property Division

North Dakota's unclaimed property law has been in effect since 1975. "Property" in this case does not mean land but consists of uncashed checks, unused bank accounts, and securities not claimed by the owner. In some cases the property was missed in the probate of an estate, while in others it has simply been lost or forgotten. The division collects these unclaimed funds from banks, insurance companies, hospitals, utilities, retailers, and other entities.

Once the money is reported to this division, efforts are made to "reunite" the property with its owner by promoting free internet searches, publishing statewide newspaper ads, conducting media interviews, displaying a list of owners at trade shows, and preparing direct mailings and e-mail distributions.

Funds held by the Department may be claimed at any time by the owner or the owners' heirs. Money that is not claimed is invested in the common schools trust fund to benefit local public school districts. Currently, approximately $32 million of unclaimed property is held in trust.

Investments Divi[redacted]

The Investment Division [redacted]sponsible for directing, implementing, coordinating and monitoring all aspects of the Land Board's financial investments.

The 13 educational trust funds are permanent and were established to provide funding for education today, and for future generations. The Indian Cultural Education trust is similar in nature to the 13 permanent educational trusts and is in an investment pool with those trusts. The long range investment goals are to have trust assets and distributions increase at a rate equal to or greater than the rate of inflation. The Board has developed an investment allocation plan that includes a well diversified portfolio of stocks, bonds and other financial assets.

- Total permanent trust investment assets grew by $387 million during fiscal year 2010 to approximately $1.28 billion on June 30, 2010.
- Approximately $125 million of fiscal year 2010's trust growth can be attributed to the 14.48% total return posted by the investment portfolio during year; much of the balance of trust growth can be attributed to various oil and gas related sources (oil extraction tax, royalties and bonuses).

Permanent Trust Distributions for the 2011-2013 Biennium

During the 2011-2013 biennium, the 13 educational trust funds will distribute a total of $98.5 million to beneficiaries.

The Common Schools Trust Fund will contribute $46.3 million to K-12 education each year of the biennium, or approximately $351 per pupil. The other 12 trust funds will pay out nearly $3 million per year to the various beneficiaries as shown below.

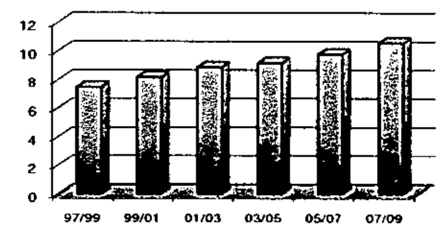
Beneficiary	2011-2013 Distribution	Increase From 09-11
Common Schools (K-12)	$92,514,000	20%
ND State University	1,424,000	16%
University of ND	1,310,000	18%
Youth Correctional Center	528,000	21%
School for the Deaf	454,000	28%
State College of Science	523,429	28%
State Hospital	603,429	26%
Veterans' Home	279,429	1%
Valley City State University	286,000	10%
ND Vision Services	247,429	6%
Mayville State University	184,000	3%
Dakota college at Bottineau	31,429	12%
Dickinson State University	31,429	12%
Minot State University	31,429	12%
Total	**$98,448,000**	**20%**

Surface Managemen[redacted]ion

From 1889 to 1970s, grant land w[redacted]ld any time an application was made; total sales reduced grant land from 3.2 million acres at statehood to 656,000 acres (grant land) today. Land acquired through mortgage foreclosure (most in 1920s and 30s) is 51,000 acres, for total land managed of approximately 707,000 acres.

School trust lands are managed as an asset for the benefit of the schools and institutions. Each tract is classified as to its productivity, income potential and cash value. School trust lands have an estimated value of more than $220 million and produce about $11.5 million/biennium.

Surface Rental $ in Millions



FUNCTIONS OF SURFACE MANAGEMENT

Lease Marketing and Maintenance

- Public lease auctions held 4 out of every 5 years.
- 4,456 leases issued to more than 2000 lessees.
- Over 99% of school trust lands are under lease.
- Minimum bids at public auction calculated using the Fair Market Value method and are based on private market rentals.
- Lease rentals are billed and paid annualy.
- Lease terms limited by statute to a 5-yr maximum.

Natural Resource Management

- 97% of school trust lands are grasslands. Most trust lands are open to public walk in access.
- Improvement projects include grazing systems, clubmoss control, trash cleanup, abandoned well sealing and seeding marginal cropland to grass.
- Invasive plants including Leafy spurge, Canadian thistle, Hounds tongue, and Kentucky bluegrass are actively controlled using chemical and biocontrol techniques.
- Trust lands inspected at least once every 5 years.

Rights-of-Way and Gravel Mining

- A record 231 rights-of-way for routes across trust lands were processed in 2010.
- Construction and reclamation of rights of way and oil/gas wells are monitored.
- Gravel lease royalties are negotiated and leases are issued.

1013.1.27.11C

SUPPLEMENTAL INFORMATION
House Bill 1013

PREPARED FOR:

HOUSE APPROPRIATIONS
GOVERNMENT OPERATIONS COMMITTEE

REPRESENTATIVE BLAIR THORESON, CHAIRMAN

The North Dakota Association of Oil and Gas Producing Counties has been requested to provide some additional information to the testimony provided at a January 12, 2011 hearing. The hearing was for HB 1013, the Commissioner of University and School Lands Department in which there is provision for the Energy Impact Fund to be raised to 100 million dollars. The point that was raised is the amount of monies needed to assist the Cities in funding impacts associated to oil and gas development. We have collected some information for your consideration.

The information was obtained from nine communities under 7,500 in population and three hub cities over 7,500 in population, all in western ND oil impacted areas. The information is taken for studies the Cities have commissioned to help identify the needs and cost associated with those needs. Listed below is the information that has been gathered. The smaller communities are listed first in alphabetical order. The three larger cities are listed in the same manner.

COMMUNITIES UNDER 7,500 POPULATION

Berthold
The City is presently at capacity with the its main lift station and wastewater cells. Additional development for commercial, industrial and housing that is being planned will need the main lift station to be replaced and additional cells added to the wastewater system. The cost of this expansion is estimated at $745,000.

Bottineau
The City upgraded its main lift station in 2009. The existing sewer main from the lift to the area that is suitable for expansion is at capacity. A new trunk line will need to be installed at an estimated cost of $687,400.

Crosby
The City needs to expand current housing, commercial and industrial property developments. The existing water and sewer collection system needs to be expanded. There is also a need for street improvements. The estimated cost for these items is $2,500,000.

Killdeer
The City is in need of water system upgrades in treatment and distribution. The need for housing and commercial expansion also is requiring sewer and street improvements. The estimated cost for these upgrades are estimated at $6,000,000

New Town
The City has invested over $9,000,000 in community infrastructure since 2004. The improvements include new water treatment plant and water main replacement. Other projects completed include expanding the wastewater treatment system, renovation of a lift station and street improvements. The City needs additional street improvements and infrastructure for residential development and the initial phase for a Community Center. The cost of this work is estimated at $7,400,000.
The City is also working on a project that will improve main street. The current plan that is in conjunction with the NDDOT is scheduled for 2012 at a City's cost of $1,200,000.

Parshall
The City is in need of water and sewer collection extensions into areas needed for growth. The present infrastructure is at capacity and new growth will need services. The estimated cost for water, sewer, street and storm water extensions is estimated at $5,000,000.

Stanley
The City's wastewater system is at capacity and they have the funding in place to do this project. They are in need of a lift station and interceptor sewer line for the new industrial park that is being proposed south of Highway 2. The City also needs a main sewer line to a new development area for future housing. The need for frontage roads on both sides of Highway 2 is needed to provide safe travel on Highway 2 thru Stanley. The estimated cost for these projects is $2,900,000

Tioga
The City has significant needs for infrastructure expansion and renovation. Immediate needs in 2011 include a water storage reservoir and piping, estimated at $2,014,000; water main replacement, estimated at $2,435,000; sanitary sewer cleaning/televising, and slip lining, estimated at $2,442,500; and infrastructure for residential developments, estimated at $673,000. The total for these projects is $5,122,000

Watford City
The City has an estimated 1,000 people in temporary housing. Core infrastructure needs to be installed to serve new developments that are being proposed to accommodate new housing and commercial areas. The City needs to right-size sewer lines and water extensions, improve lagoons and add new sewer trunk lines as soon as possible. The estimated cost for these projects is $8,115,152.

As one can see the needs listed above by the nine communities is approximately $38.5 million dollars. There are over 80 communities in the 17 oil and gas producing counties. There will be needs in most of these communities. Whether they will be ready in 2011 or not is not known at this time. All projects will need to be applied for and vetted by the advisory Board and final approval given by the Land Board per HB 1013.

The other thing to note is there are impact project listed in the studies for 2012 and beyond that are not identified above for these smaller cities and towns.

CITIES OVER 7,500 IN POPULATION

Dickinson
The City of Dickinson has identified housing and related infrastructure needs due to rapid population gains. They have infrastructure needs for commercial and industrials development and traffic management issues. The expansion of the residential and commercial property has resulted in a need to expand the Cities infrastructure for waste water treatment, landfill expansion and public works facilities, including a fire station. The cost the projects needed in 2011 are estimated a $71,100,000 and just under that in the next biennium.

Minot
The City of Minot is experiencing rapid growth due to the expanding oil and gas industry just west of the City. The need for sewer and water projects along with street improvements, fire stations and Airport expansion will require over $82,000,000.
The City is in need of sewer and water improvements in 2011. The estimated cost for these projects is $15,000,000.

Williston
The City of Williston is in the heart of the oil and gas development. The impacts to Williston have been to transportation, wastewater, storm water, water , buildings and solid waste. Those needs were presented in the original testimony for over $111,000.000. The needs to provide for core infrastructure are $40,700.00.

Based on the information provided by 11 of the 80 communities in our association the needs will be in excess of $70,000,000. Most of the projects will be started in 2011 pending funding. Supporting studies and documentation can be provided upon request. We tried to give you an idea of what the identified impacts are and the amount of funds required to help with these impacts. The projects only list capital improvements and do not include impacts for emergency services and safety. These needs will also compete for any remaining impact funds.

The impacts and dollars associated with these needs are great. The Advisory Board and Land Board will have challenges in deciding which projects have the highest priority meet the needs for 2011 and 2012 of these Cities impacted by oil and gas development. These projects need to start as soon as funding is available.

1013.1.27.11 D

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ND STATE LAND DEPARTMENT
Helping to Fund Education

Lance D. Gaebe, Commissioner

To: Chairman Thoreson and members of the Government Operations Division

From: Lance Gaebe, Land Commissioner

Cc: Legislative Council and OMB staff

Date: February 2, 2011

RE: HB1013 additional materials requested (second batch)

During the January 27 committee work on the State Land Department appropriation bill HB 1013, the committee requested additional information on several topics regarding the operations of the State Land Department. The requests and the responses are detailed below, with supporting materials attached.

Q: The Committee requested an estimate of the costs of enhancing the budgeted FTE for Energy Development Impact Office to a management level salary.

A: In earlier testimony, the Department requested two changes pertaining to the budgeted FTE for the Energy Development Impact Office. One is to have the administrative and salary appropriation to be 'from' the Oil and Gas Impact Grant Fund rather than being paid by trusts. The second request was to increase the salary for the FTE from an administrative level to a management grade salary; and to increase the authorized operating expense for EDIO to accommodate the quarterly, rather than annual grant rounds, including additional travel and office costs.

The executive budget for the EDIO position is $109,831, which includes $90,189 for wages and benefits for the single FTE and $19,642 for operating.

- In order to recruit a management level professional, $187, 652 needs to be budgeted for compensation;

- Similarly, the operating expense should be expanded to $57,342 to accommodate the additional travel, the increase in transactions and dollars managed, office setup and occupancy, and board member reimbursement.

The Salary and operating will be used for the authorized FTE, but also the share of the support staff and the commissioner's time required to support the EDIO functions, as the trusts cannot be responsible for these costs.

Two additional options that the Committee should consider:

- Authorize the Board of the University and School Lands to expend from the Oil and Gas Impact Grant fund the amounts necessary to run the program under continuing appropriation authority, at least until the procedures and processes are in place and operating costs are known.

- Expand the emergency clause that already includes the policy implementation and the establishment of the advisory board, to also authorize the FTE and associated operating funds upon passage.

Q: Attorney fees charged to the Department?

A: Currently, the State Land Department pays $70.21 per hour to the Attorney General for legal work; for 11-13 budgeting purposes, as was recommended, we estimated $77.23 per hour.

Q: Provide a summary of SLD fund investment performance?

A: A final 2010 summary will be finalized soon, however attached is a report highlighting investment performance as of the 3rd quarter 2010, as it was provided at a recent Land Board meeting. The summary on page 4 reports a one year investment return of 11.02% and a five year average of 3.66%.

Q: Results of the February 1st mineral lease auction.

A: 11,544.06 mineral acres were offered for lease at the February mineral lease auction. The total amount collected was $24,136,126, for a per acre bonus average of $2,089.

Q: The Committee requested information on the number of laptop computers and the Department computer replacement policy.

A: The Department has five laptop computers and 30 desktop computers for its staff and part-time temporary field staff. The portable computers are "checked out" by staff as need for travel or work out of the office. The oldest computers are nearly eight years old and our used by the part-time temporary field men who work from their homes.

The standard replacement schedule is a four year rotation, but those purchases are typically planned late in the fiscal years only if the operating expense budget allows the purchase.

February 1, 2011 sale results:

	Mineral Acres	Total Bonus	Bonus/acre
Billings	80.00	$ 120,000.00	$1,500.00
Bowman	640.00	$ 32,000.00	$50.00
Burke	1,321.42	$ 1,392,367.50	$1,053.69
Divide	1,360.00	$ 1,027,000.00	$755.15
Dunn	88.00	$ 329,600.00	$3,745.45
McHenry	85.70	$ 8,570.00	$100.00
McKenzie	2,868.79	$ 12,993,370.50	$4,529.22
Mountrail	1,076.38	$ 1,333,294.00	$1,238.68
Slope	1,194.84	$ 274,832.40	$230.02
Stark	2,280.03	$ 4,195,770.00	$1,840.23
Williams	548.90	$ 2,416,208.00	$4,401.91
GRAND TOTALS	**11,544.06**	**$24,123,012.40**	**$2,089.65**

The summary of recent sale history:

	Mineral Acres	Total Bonus	Bonus/acre
August, '09	41,576	$63,875,488	$1,536
November, '09	58,927	$71,560,099	$1,214
February, '10	40,178	$47,312,555	$1,178
May, '10	53,275	$158,099,212	$2,968
August, '10	41,576	$63,875,488	$1,536
November, '10	29,819	$41,951,532	$1,407

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PERMANENT EDUCATIONAL TRUST ASSETS

TOTAL TRUST ASSETS

The first section of this report shows combined data for the 13 permanent educational trust funds managed by the Board. Most assets of the trusts are invested in a pool. The trusts own a proportionate share of the investments in the pool and share proportionately in the profits, losses and income generated by those investments.

For the schedule below and for all other schedules, tables and charts that follow in this report, all loans, warrants, loan portfolios and certificate of deposits are valued at cost. All other investments in marketable securities, such as stocks, bonds, mutual funds and cash equivalents are valued at market value.

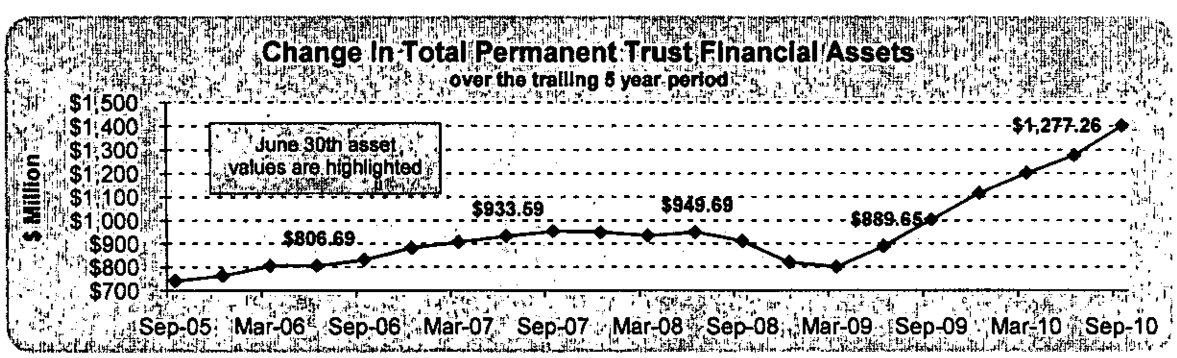
COMPARATIVE ASSET ALLOCATION SCHEDULE							
Date	**Total Assets**	**Large Cap Equities**	**Sm/Mid Cap Equities**	**REITS**	**Convertible Securities**	**International Equities**	**Fixed Income**
6/30/10 Rebalanced	$1,277,264,000	$191,590,000 15.0%	$127,727,000 10.0%	$76,636,000 6.0%	$127,726,000 10.0%	$127,726,000 10.0%	$625,859,000 49.0%
9/30/10 Actual	**$1,404,383,000**	**$214,880,000 15.3%**	**$144,850,000 10.3%**	**$86,024,000 6.1%**	**$139,509,000 9.9%**	**$147,200,000 10.5%**	**$671,920,000 47.9%**
9/30/10 Target	$1,404,383,000	$210,658,000 15.0%	$140,438,000 10.0%	$84,263,000 6.0%	$140,438,000 10.0%	$140,438,000 10.0%	$688,148,000 49.0%

- Total permanent trust assets grew by more than $127 million during the quarter ended September 30, 2010. The more than $1.4 billion of total trust assets at quarter's end easily set another new record for the permanent trusts.

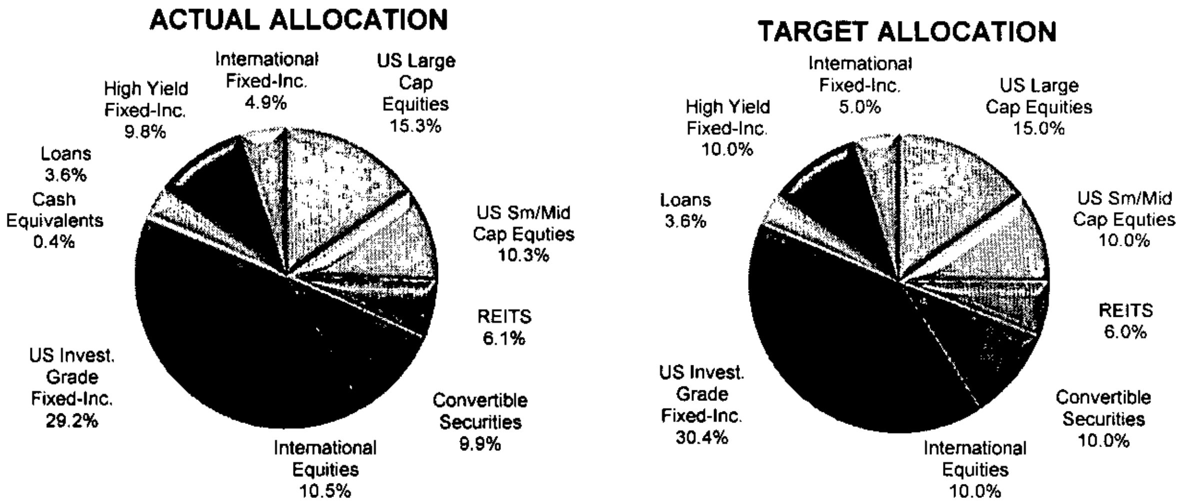
- The 7.25% total return posted by the investment portfolio contributed about $93 million of trust growth during the quarter. The balance of trust growth during the quarter came primarily from oil and gas royalties, bonuses and extraction taxes.

- Total permanent trust assets have now grown by more than $600 million since March 31, 2009. Almost $300 million of the trust growth over that 18 month time frame can be attributed to the 34.64% (unannualized) total return earned by the investment portfolio. Most of the balance of trust growth can be attributed to various oil and gas related sources.

- $7.4 million was distributed from the Common Schools Trust Fund to North Dakota public schools during the quarter ended September 30, 2010. Payments from the Common Schools Trust Fund are paid out to schools from August through April of each school year.



ACTUAL ALLOCATION VS. TARGET ALLOCATION AS OF SEPTEMBER 30, 2010



Asset Class	Actual $ million	Actual %	Target $ million	Target %	Difference $ million	% Diff.
US Large Cap Equities	$ 214.88	15.3%	$ 210.65	15.0%	$ 4.23	0.3%
US Sm/Mid Cap Equities	144.85	10.3%	140.44	10.0%	4.41	0.3%
REITS	86.02	6.1%	84.26	6.0%	1.76	0.1%
Convertible Securities	139.51	9.9%	140.44	10.0%	(0.93)	(0.1%)
International Equities	147.20	10.5%	140.44	10.0%	6.76	0.5%
Total Equities	**$ 732.46**	**52.1%**	**$ 716.23**	**51.0%**	**$ 16.23**	**1.1%**
US Invest. Grade Fixed-Income	409.76	29.2%	427.51	30.4%	(17.75)	(1.2%)
Cash Equivalents	5.24	0.4%	0.00	0.0%	5.24	0.4%
Loans	49.98	3.6%	49.98	3.6%	0.0	0.0%
High Yield Fixed-Income	138.11	9.8%	140.44	10.0%	(2.33)	(0.2%)
International Fixed-Income	68.83	4.9%	70.22	5.0%	1.39	0.1%
Total Fixed-Income	**$ 671.92**	**47.9%**	**$ 688.15**	**49.0%**	**($ 16.23)**	**(1.1%)**
Total Portfolio	**$ 1,404.38**	**100.0%**	**$ 1,404.38**	**100.0%**		

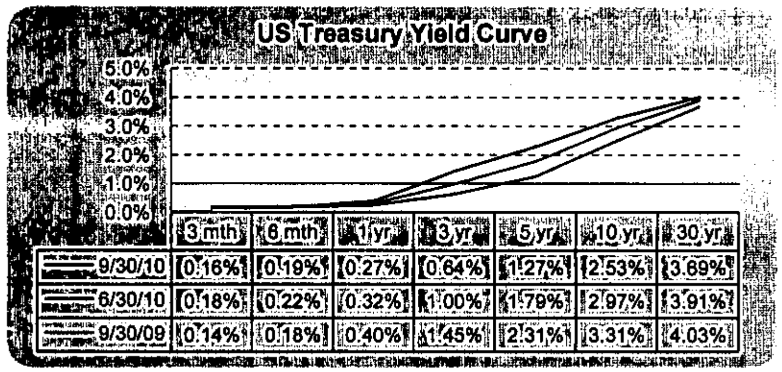
- The actual allocation to the combined equity portfolio was 1.1% more than the target allocation for equities on September 30, 2010. The strong performance of all cap sizes of both domestic equities and international equities during the month of September was the primary reason for this overweight position.
- The underweighting to fixed income was partially taken care of in October, when $8.0 million of free cash flow was invested in various fixed income assets. The portfolio should be fully rebalanced in November with cash generated from our oil and gas lease sale.
- The Board will recall that with the large cash flows we are experiencing, we will normally not sell assets to rebalance from equities to fixed income, or the other way around. Rather we will use new money coming into the trusts to rebalance the portfolio.
- The actual amount of cash equivalents held by the portfolio at the end of the quarter was $5.24 million, or 0.4%. This residual cash is well below the 1% amount have deemed to be acceptable over the past 10 years or so.

FINANACIAL MARKET OVERVIEW

FIXED INCOME MARKETS

- US Treasury rates fell along all maturities of the yield curve during the quarter ended September 30, 2010. Yields for intermediate and longer-term maturities fell far more than yields for maturities of less than one year.

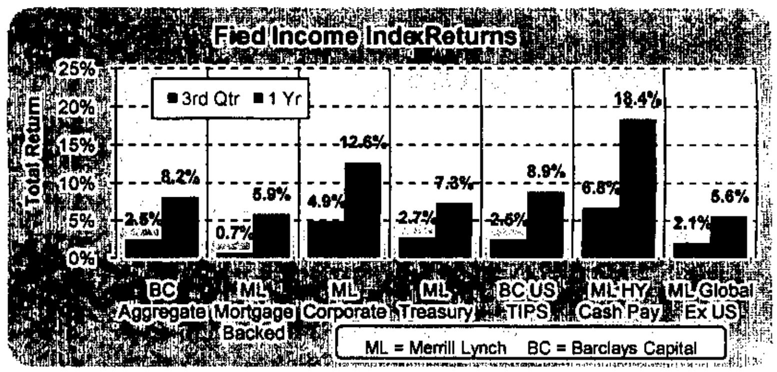
- Although long-term rates are lower than they were a year ago, they are still not as low as rates were during the heart of the credit crisis in late-2008.



- The Fed kept the target fed funds rate in the 0% - 0.25% range. Short-term interest rates have remained at historic lows for close to two years.

- After a quarter of remaining relatively stable, credit spreads once again contracted during the quarter ended September 30, 2010. This resulted in strong quarterly returns for both investment grade and high yield corporate bonds.

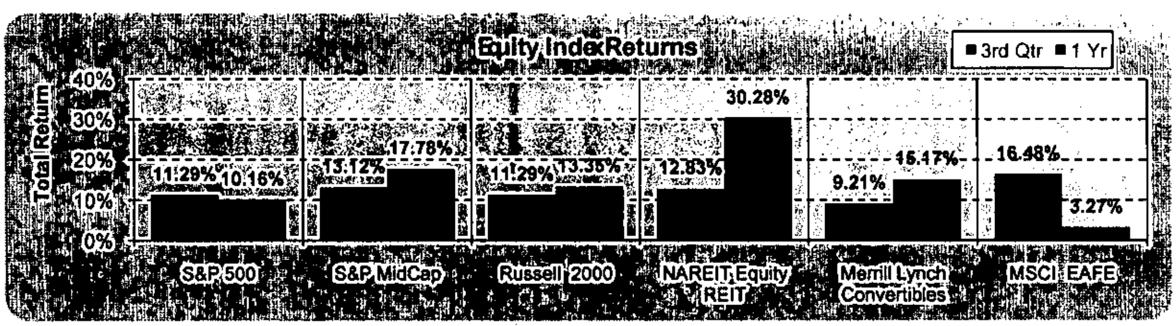
- Investment grade corporate bonds and high yield bonds were also the strongest performing types of fixed income instruments for the trailing year ended September 30, 2010.



EQUITY MARKETS

- During the quarter ended September 30, 2010, large cap international equities, as measured by the MSCI EAFE Index, were the strongest performing equity asset class. Convertible securities were the only equity asset class to not post a double-digit return during the quarter

- For the trailing year ended September 30, 2010, REITs were by far the strongest performing equity asset class, posting a return of over 30%. Although international equities posted strong returns for the quarter, their performance for the trailing year was well behind other equity asset classes.



MANAGER AND PORTFOLIO RETURNS

RETURNS FOR PERIODS ENDED SEPTEMBER 30, 2010							
Asset Class MANAGER Benchmark/Index	9/30/10 Allocation ($ mil.)	% of Total Portfolio	Last Qtr.	Last 1 Year	Last 3 Years	Last 5 Years	Last 10 Years
Large Cap US Equity			-	-	-	-	-
STATE STREET - S&P 500 Index	**$214.88**	**15.3%**	**11.29**	**10.18**	**-**	**-**	**-**
S&P 500 Index			11.29	10.16	(7.16)	0.64	(0.43)
Small//Mid Cap US Equities	**$144.85**	**10.3%**	**10.67**	**14.11**	**-**	**-**	**-**
NORTHERN TRUST	**$86.61**	**6.2%**	**9.58**	**13.08**	**(6.00)**	**1.06**	**4.81**
STATE STREET - Small/Mid Index	**$58.24**	**4.1%**	**12.63**	**15.97**	**-**	**-**	**-**
60% R2000/40% S&P Mid Cap + 200 bp			12.53	17.13	(1.20)	4.51	6.60
Russell Completeness Index			12.54	15.83	(3.85)	2.65	2.00
Real Estate Investment Trusts (REITS)							
DELAWARE INVESTMENT ADVISORS	**$86.02**	**6.1%**	**13.04**	**29.74**	**(5.51)**	**2.05**	**-**
NAREIT Equity REIT Index			12.83	30.27	(6.07)	1.87	10.83
Convertible Securities							
TRUST COMPANY OF THE WEST	**$139.51**	**9.9%**	**7.71**	**10.98**	**(4.76)**	**0.74**	**(0.96)**
Merrill Lynch All US Convertibles Index			9.21	15.17	0.26	4.30	2.59
TOTAL DOMESTIC EQUITIES	**$585.26**	**41.6%**	**10.47**	**14.30**	**-**	**-**	**-**
International Equities							
STATE STREET - International Alpha	**$147.20**	**10.5%**	**16.48**	**2.82**	**(11.63)**	**-**	**-**
MSCI EAFE Index			16.48	3.27	(9.51)	1.97	2.56
TOTAL EQUITIES	**$732.46**	**52.1%**	**11.66**	**12.20**	**(8.37)**	**0.04**	**1.60**
US Investment Grade Fixed Income	**$415.00**	**29.6%**	**2.30**	**8.44**	**-**	**-**	**-**
BND - Project Notes	**$4.72**	**0.4%**	**3.52**	**8.85**	**8.41**	**7.56**	**6.60**
PAYDEN & RYGEL - Long Term	**$136.03**	**9.7%**	**2.97**	**11.03**	**7.79**	**6.53**	**6.98**
PAYDEN & RYGEL - GNMA/Short Bond	**$156.36**	**11.1%**	**1.44**	**5.58**	**6.14**	**5.36**	**-**
NORTHERN TRUST - TIPS	**$112.65**	**8.0%**	**2.69**	**10.19**	**7.13**	**5.63**	**-**
PAYDEN & RYGEL - Cash	**$5.24**	**0.4%**	**0.05**	**0.09**	**1.28**	**2.76**	**2.78**
Barclay's Capital US Aggregate Index			2.49	8.17	7.42	6.20	6.41
Barclay's Capital TIPS			2.47	8.88	6.90	5.48	-
6 Month T-Bill			0.07	0.20	1.61	2.92	2.77
Loans	**$49.98**	**3.6%**	**1.56**	**6.49**	**-**	**-**	**-**
BND - Farm Loan Pool	**$49.19**	**3.5%**	**1.55**	**6.44**	**6.95**	**7.26**	**7.56**
LAND DEPARTMENT - DD Loans	**$0.79**	**0.1%**	**2.18**	**9.00**	**9.00**	**9.00**	**9.00**
US High Yield Fixed Income							
LAZARD ASSET MANAGEMENT	**$138.11**	**9.8%**	**5.59**	**13.57**	**6.96**	**7.00**	**-**
Merrill Lynch US High Yield Cash Pay Index			6.75	18.43	8.45	8.18	-
Merrill Lynch BB/B Index			6.88	17.04	7.44	7.42	-
TOTAL DOMESTIC FIXED INCOME	**$603.09**	**43.0%**	**2.97**	**9.50**	**-**	**-**	**-**
International Invest. Grade Fixed Income							
FIRST INT'L ADVISORS (Evergreen)	**$68.83**	**4.9%**	**2.82**	**9.13**	**7.34**	**5.65**	**-**
Merrill Lynch Broad Global (Ex-US) Index - Hedged			2.07	5.59	5.69	4.74	-
TOTAL FIXED INCOME	**$671.92**	**47.9%**	**2.96**	**9.45**	**7.18**	**6.29**	**6.48**
TOTAL PORTFOLIO	**$1,404.38**	**100.0%**	**7.25**	**11.02**	**(0.14)**	**3.66**	**4.50**

All return figures for periods of 1 year or greater have been annualized. All returns are net of fees.

ND STATE LAND DEPARTMENT
Helping to Fund Education

EQUITY PORTFOLIO REVIEW

- The combined equity portfolio posted a total return of 11.66% during the quarter ended September 30, 2010, more than offsetting the large loss posted during the 2nd quarter of 2010. The portfolio posted a return of 12.2% over the trailing year ended September 30, 2010.

- The equity portfolio has earned an unannualized 34.64% over the past 18 months, since hitting bottom in March 2009 during the recession. Although the equity portfolio is still down an annualized 8.37% over the past three years, it has posted a small positive return over the past 5 years.

- During the quarter ended September 30, 2010, one active equity manager outperformed its benchmark and one matched its benchmark. The other two active managers underperformed their benchmarks. For the trailing year ended September 30, 2010, all four active managers underperformed their benchmarks.

Northern Trust – Small/Mid Cap

- Although this portfolio has underperformed its benchmark for all periods shown in the table on page 4, its performance compares favorably over longer time periods, if the 200 basis point "hurdle" over the combined indexes is considered.

- During the quarter, Wall Street was removed as a mid cap growth manager for the portfolio and Wells Capital Management was added. This change was driven primarily by management changes at Wells, not poor performance.

- Poor performance by the portfolio's small cap managers was the primary driver of the portfolio's underperformance during the quarter.

Delaware Investment Advisors

- Delaware has either outperformed or underperformed its benchmark by a small margin for all periods shown in the table on page 4.

- Although this portfolio has posted strong returns since the stock market bottomed out in early 2009, Delaware still believes that net asset values and other indicators point to strong absolute returns going forward.

Trust Company of the West (TCW)

- TCW has underperformed the benchmark Merrill Lynch All US Convertibles Index for all periods shown in the table on page 4.

- Once again, quality and size were the primary reason for the underperformance, as smaller, lower quality companies outperformed the larger cap, higher quality converts held in the portfolio. The Commissioner and staff met with TCW in October to discuss either changing our guidelines to more closely reflect the index or possibly changing the index we use to more closely reflect the quality focus of our portfolio.

- Although TCW has underperformed the convertible securities index over time, our portfolio has earned large cap equity like returns over the past 15 years with much less volatility than the S&P 500 Index.

State Street Global Advisors (SSGA) – International Alpha

- SSGA essentially matched the return of the MSCI EAFE Index for the quarter, but has underperformed the index for the one and three-year periods ended September 30, 2010, and since inception.

- Under weightings in Japanese utilities and financials sectors helped performance during the quarter, as did stock selection in the materials and industrial sectors of Europe. Poor stock selection in the Japanese transportation sector hurt performance, as did holdings in European drug makers Sanofi-Aventis and AstraZeneca.

FIXED INCOME PORTFOLIO REVIEW

- The combined fixed income portfolio posted a total return of 2.96% for the quarter ended September 30, 2010 and a return of 9.45% for the trailing year there ended.

- Since inception of our asset allocation plan in mid-1995, the return earned by our fixed income portfolio has essentially matched the return of our equity portfolio, at approximately 6.8%. With interest rates now near historic lows, going forward we cannot expect the fixed income portfolio to post the returns we have seen over the past 10 or 15 years.

BND - Project Notes

- This portfolio fell to less than $5.0 million in September. It will continue to shrink going forward, as we pull principal pay downs from the account and reinvest them in other fixed income portfolios. Now that the investment portfolio is being managed on a total return basis, the purpose for which this portfolio was established, long term, consistent, income generation, no longer exists.

Payden & Rygel – Long-Term

- Payden & Rygel once again outperformed the Barclay's Capital Aggregate Index during the quarter ended September 30, 2010. The continued strong performance of corporate bonds was the primary reason.

- The 2.6% of the portfolio currently invested in below investment grade non-agency mortgages was a big factor in the portfolio outperformance over the trailing year ended September 30, 2010.

Payden & Rygel – Cash

- Payden & Rygel underperformed the benchmark for this account by a small margin for the quarter ended September 30, 2010, and for the trailing 1, 3 and 5-year periods there ended. They have outperformed the index by a small margin for the trailing 10-years, and since inception of the account in 1995.

Bank of North Dakota (BND) – Farm Loan Pool

- For the first time in over 2 years, the balance of outstanding loans in the farm loan pool declined during the quarter. As interest rates have continued to fall, more borrowers have opted for BND's variable rate loans or fixed rate loans from other lenders, at lower rates than we offer.

- The Land Board has long established interest rate floors for our 10 year adjustable rate (6.5%) and 25 year fixed rate (6.75%) farm loans. The Commissioner will be looking at these floors in the coming months to determine if they still make sense in the current market environment.

- A property was sold at a sheriff's sale on August 31, 2010. Based on the value of the property versus the amount out on loan, it is expected that this property will be redeemed within the one year period provided for by law.

Lazard

- Lazard underperformed both indexes to which they are benchmarked during the quarter ended September 30, 2010. They have also lagged both indexes for all other periods shown in the table on page 4.

- Portfolio performance was hurt during the quarter by Lazard's underweight positions in bank, finance and insurance related sectors, and by the portfolio's shorter duration. However, most of the underperformance over the past year is a result of lower quality securities outperforming the higher quality securities found in this portfolio by a large margin.

First International Advisors (formerly Evergreen)

- First International Advisors continued to perform well during the quarter ended September 30, 2010 and has outperformed its benchmark index for all periods shown in the table on page 4.

OTHER TRUSTS MANAGED BY THE LAND BOARD

The Capitol Building Trust was created for the construction and maintenance of "public buildings at the capital". **The Land and Minerals Trust** was created to account for all income derived from the sale, lease and management of sovereign lands and minerals formerly managed by the State Treasurer and the Bank of North Dakota. Because the entire balance of both of these trusts can be appropriated by the legislature each biennium, trust assets are invested in conservative, short-term fixed income securities, such as short-term investment funds, U.S. T-Bills and BND CDs, which tend to have maturities of 2 years or less.

	9/30/10 Asset Balances	Current Yield
Capitol Building Trust	$2,952,000	1.12%
Land & Minerals Trust	$ 198,439,000	0.62%

- The Land and Minerals Trust Fund grew by approximately $55 million during the quarter ended September 30, 2010, driven primarily by lease bonuses from August's oil and gas lease sale.
- On September 30, 2010, the Land Board classified over $51 million of the Land and Minerals Trust Fund as a "Designated Fund Balance". This was done to indicate that these funds should not be transferred out of the Land and Minerals Trust Fund until potential title disputes related to leases involving the State's sovereign lands have been resolved.

The Coal Development Trust Fund is a permanent fund, from which the Land Board issues loans to energy impacted counties, cities and school districts as provided in NDCC Section 57-62-03, and loans to school districts pursuant to NDCC Chapter 15-60. The Land Board is responsible for investing all funds that have not been loaned to political subdivisions. Because the legislature has control over how and when these funds will be loaned, fund assets are invested in conservative fixed income investments, including U.S. Treasuries, corporate bonds, and asset-backed securities, that tend to have maturities in the 1 to 5 year range. The income earned by this fund is transferred to the General Fund each year.

	9/30/10 Asset Balances	Current Yield
Coal Development Trust Fund		
Coal Warrants	$ 4,669,000	4.17%
School Construction Loans	$ 29,105,000	2.21%
Marketable Securities	$ 29,790,000	N/A - see returns below
Total	$ 63,564,000	

Payden and Rygel – Coal

- Payden & Rygel has outperformed the benchmark for this account for the quarter ended September 30, 2010, and for the trailing one-year period there ended. They have underperformed the benchmark for the trailing 3, 5, and 10-year periods ended September 30, 2010.
- Payden and Rygel continued to make progress reversing the substantial underperformance experienced by this portfolio from late-2007 through the end of 2008, when the corporate and mortgage securities held in this portfolio experienced huge underperformance versus Treasury securities.

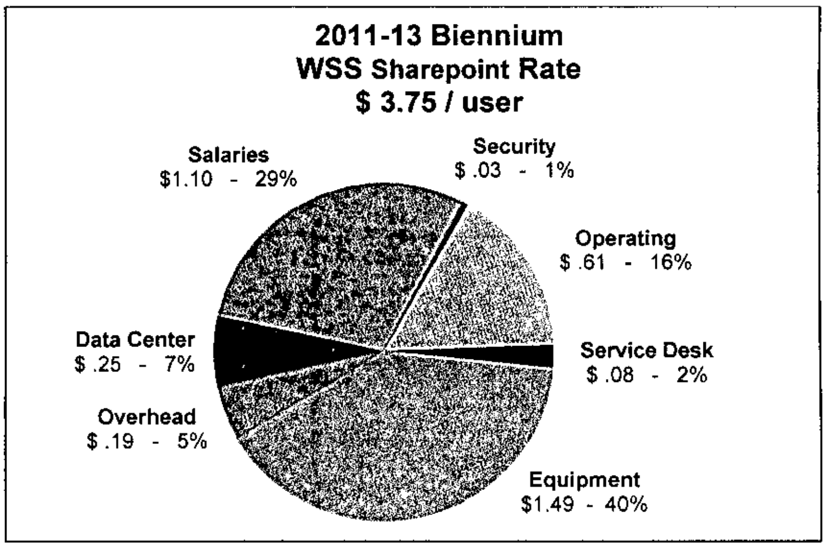
	9/30/10 Asset Balance	Last Qtr.	Last 1 Year	Last 3 Years	Last 5 Years	Last 10 Years
Payden & Rygel Coal Dev.	$29.79	0.85	2.86	3.56	3.98	4.16
ML 1-3 Year Treasury Index		0.62	2.53	4.07	4.35	4.21
All return figures for periods of 1 year or greater have been annualized. Returns are net of fees						

ND STATE LAND DEPARTMENT
Helping to Fund Education

1013.2.7.11A

Information Technology Department
House Appropriations Government Operations Division
Question from Land Department Hearing
February 7, 2011

Windows SharePoint Services (WSS) $3.75 / User:



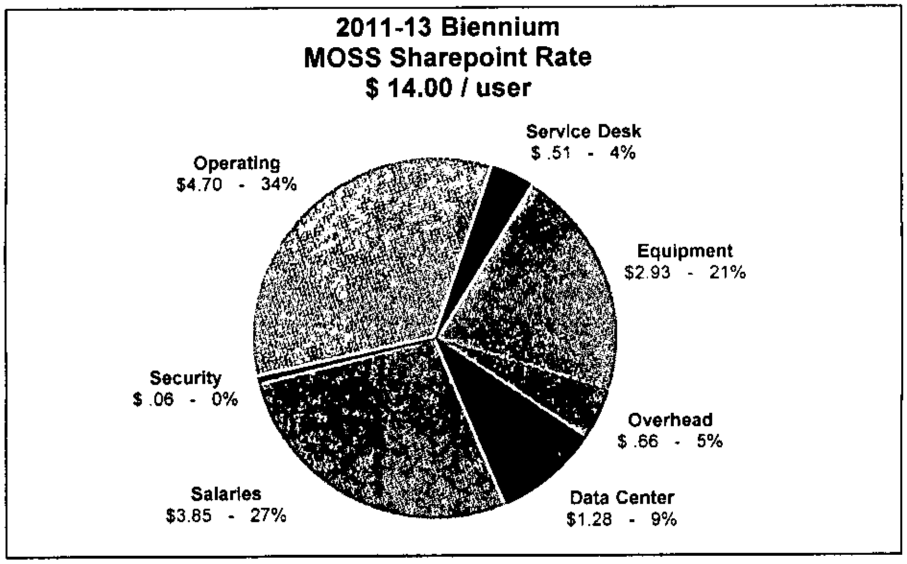
Features of the Product:

- Core Collaboration Features
    - Allows for shared calendars
    - Allows for shared lists (task lists, etc.)
    - Allows for shared contacts
- Basic Document Management
    - Version control
    - Electronic file check in/check out capabilities
    - File indexing (eliminates storing a single file multiple times)
- Workflow
    - One out of the box workflow called Three-State – allows for moving a file from draft, to current, to an archive state)
- Used for creating Blogs
- Used for creating Wikis

Current Users: 521

Estimated Users for 2011-13 : 800

Microsoft Office SharePoint Server (MOSS) $14.00 / User:



Features of the Product:
Includes all WSS features above as well as...

- Enterprise Portal Functionality
  - Create personalized content portals (MySites)
  - Aggregate, organize content at top level site
  - Improved site management
- Enterprise Search
  - Index SharePoint content as well as other content for easy search and retrieval from one location.
    - File servers and external content such as web sites
    - Internal data from business applications
  - People Search capability
- Enterprise Content Management
  - Incorporates information management policies
  - Web content authoring/approval/publishing
  - Enhanced workflow - Four Additional Out of the box workflows (Approval, Collect Feedback, Collect Signatures, Disposition Approval)
- InfoPath Forms Services
  - Allows form publishing and online form submission
- Business Intelligence
  - Excel services and Dashboards
    - Key Performance Indicators based on internal SharePoint data

Current Users: 476

Estimated Users for 2011-13 : Over 1,000 as multiple agencies will be developing applications with public exposure (Ex. State Expenditure Searchable Database).

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ND STATE LAND DEPARTMENT
Helping to Fund Education

Lance D. Gaebe, Commissioner

TESTIMONY OF LANCE D. GAEBE
STATE LAND COMMISSIONER
North Dakota State Land Department

IN SUPPORT OF HOUSE BILL 1013

SENATE APPROPRIATIONS COMMITTEE
March 8, 2011

Chairman Holmberg, and members of the Senate Appropriations Committee, I am Lance Gaebe, Secretary for the Board of University and School Lands, and Commissioner for the State Land Department.

I am here to testify in support of the Land Department's requested total special funds appropriation found in HB 1013.

The primary responsibility of the Board of University and School Lands and the Land Department is to manage the Common Schools Trust Fund and 12 other permanent educational trust funds that are governed by Article IX of the North Dakota Constitution. These trust funds were established at statehood when the Federal Government granted the state 3.2 million acres of land "for the support of common schools" and other public institutions. The State Constitution and statute provide that the Land Board shall manage the land, minerals and proceeds of these trust funds for exclusive benefit of beneficiaries. Other prominent roles within the Department are the Unclaimed Property Division, which serves as the repository for financial accounts, cash assets, and securities that have been forgotten or abandoned by the rightful owner; and the Energy Development Impact Office, which administers coal impact loans and the oil and gas impact grant program. The Department has 21.75 authorized FTEs for these responsibilities.

Total financial assets managed by the Land Board more than doubled in the past 21 months, growing from $900 million in March 2009 to $1.823 billion in December 2010.

The two most significant changes from the current biennium budget proposed in HB 1013 are the addition of three FTEs and the substantial increase of the Energy Development Impact Grants line from $8 million to $100 million. The new positions are necessary due to the increasing workload involved in managing the oil and gas mineral leasing and production activity, managing the financial assets and transactions of the trusts, and implementing an expanded oil and gas impact grant program. The increase in the energy impact grants included in the Governor's Budget is in response to growing infrastructure and impact needs in the oil producing communities and counties.

MISSION OF THE STATE LAND DEPARTMENT

Support for Education

The chief mission of the Land Department is managing permanent trust assets to fund education and other governmental functions. The Land Department manages 707,402 surface acres, which are leased to ranchers and farmers across the state. It oversees 2.5 million mineral acres, which are offered for oil, gas, coal, gravel and subsurface mineral leasing. Revenues from all sources are deposited in trust funds and are invested in a diversified portfolio of financial assets.

According to Article IX of North Dakota's Constitution, distributions from the permanent trust funds must be ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. Equal amounts must be distributed during each year of the biennium. Distributions from the other trust funds managed by the Land Board are made in accordance with legislative appropriations.

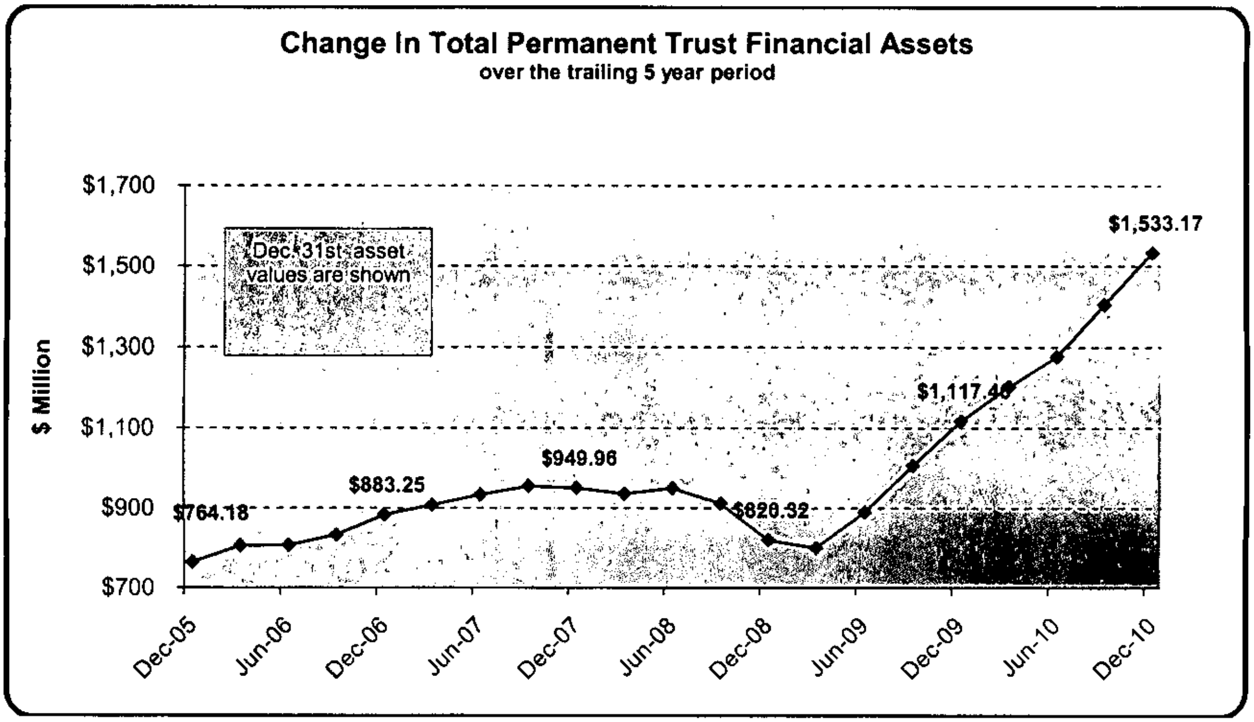
The following is a list of distributions that will occur from the various permanent trust funds in the 2011-2013 biennium. Distributions from the Common Schools Trust fund are projected to be $15.3 million more (19.9%) than distributions for the current biennium. The 11 other permanent trusts will receive increases over the current biennium:

Trust Fund	Actual 2009-2011 Distributions	Actual 2011-2013 Distributions	Increase in Distributions	Percentage Increase in Distributions
Common Schools	$ 77,178,000	$ 92,514,000	$ 15,336,000	19.9%
NDSU	1,238,000	1,424,000	186,000	15.0%
School for the Blind	206,000	216,000	10,000	4.9%
School for the Deaf	360,000	454,000	94,000	26.1%
State Hospital	456,000	572,000	116,000	25.4%
Ellendale*	196,000	220,000	24,000	12.2%
Valley City	260,000	286,000	26,000	10.0%
Mayville	178,000	184,000	6,000	3.4%
Industrial School	438,000	528,000	90,000	20.5%
School of Science	388,000	492,000	104,000	26.8%
School of Mines	428,000	560,000	132,000	30.8%
Veteran's Home	248,000	248,000	0	0%
UND	692,000	750,000	58,000	8.4%
TOTAL	$ 82,266,000	$ 98,448,000	$ 16,182,000	19.7%

* *The Ellendale State College Trust is split equally between seven beneficiaries: Dickinson State University, Minot State University, Dakota College at Bottineau, Veteran's Home, School for the Blind, State Hospital, and State College of Science.*

The Board also manages the Indian Cultural Education Trust, Lands and Minerals Trust Fund, Coal Development Trust Fund, and the Capitol Building Fund.

As of December 31, 2010, the Board managed $1.8 billion in total financial assets, including $1.53 billion within the permanent trusts.

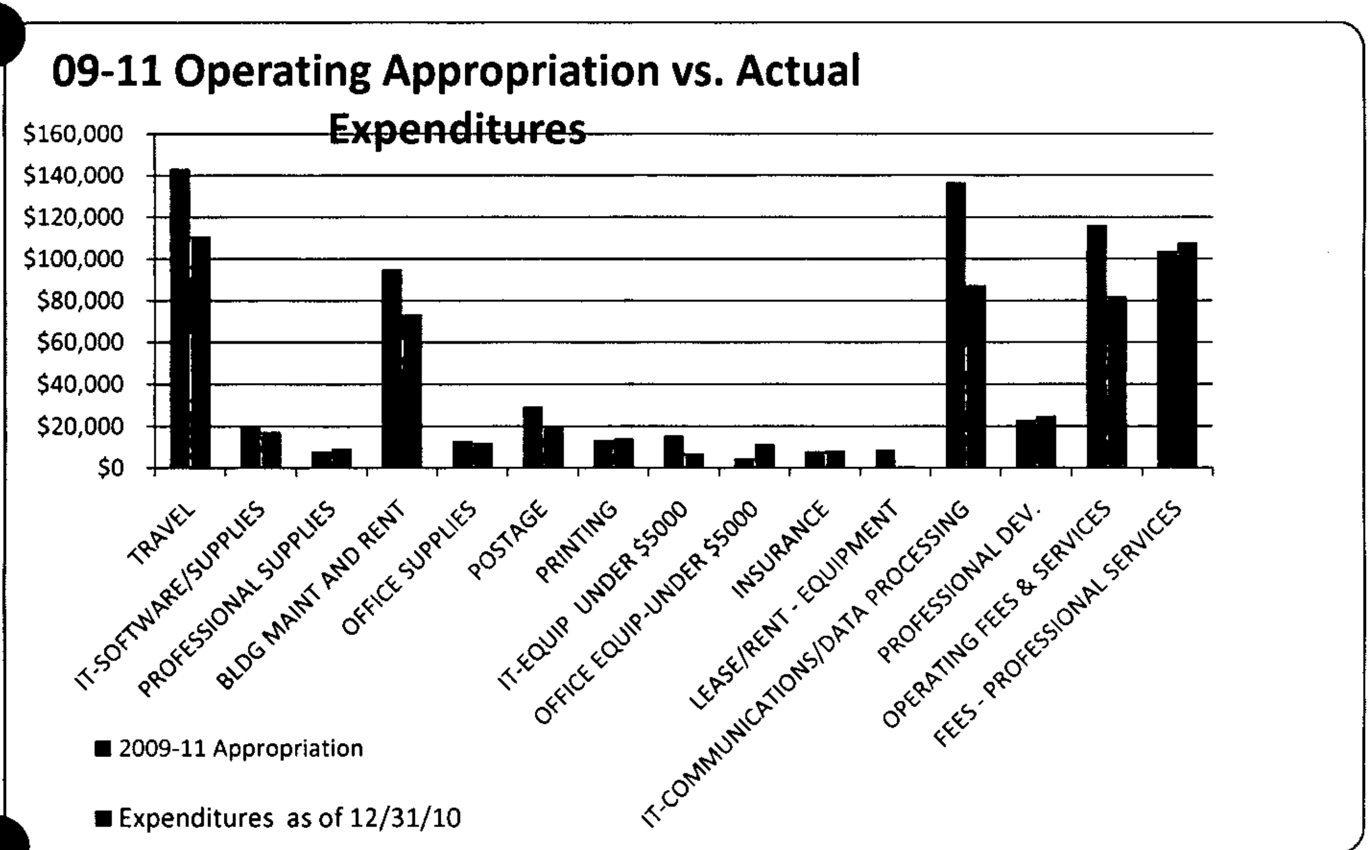


2009-11 Appropriation and Spending

During the current biennium, the Department's expenditures in the salary line are running behind the pace of the appropriated authority, largely because of hard to fill vacancies. However, our operating expenses are exceeding the pace of the 2009-2011 appropriation. At the close of the calendar year, operating expenditures for the Department exceeded 75% of the $739,952 appropriated requiring the Board to transfer $50,000 from the contingencies line item to operations.

Much of the extra expense is the result of the growth in minerals activity, which has affected all divisions within the Department. The growth has been rapid in terms of both the growth in trust assets and growth in the Department's workload.

Overall operating expenditures have increased because of the growth in energy activity, which has increased expenditures for travel, professional services, and office operation costs. Several expenditures within the operating line have, or will, exceed the biennial appropriation.



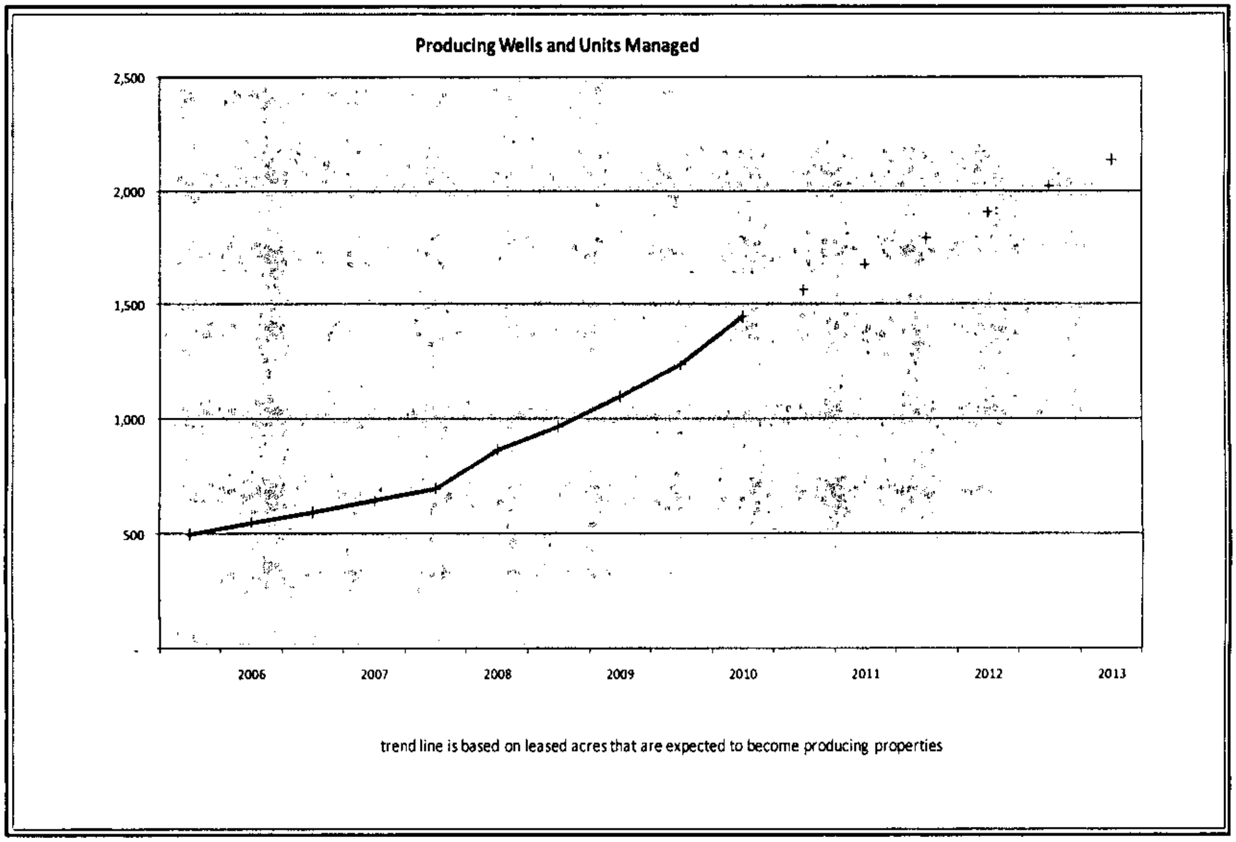
During fiscal year 2010, $295 million in lease bonuses were collected, this is approximately the amount collected during the previous 39 years combined.

Mineral Bonus Sale Summary

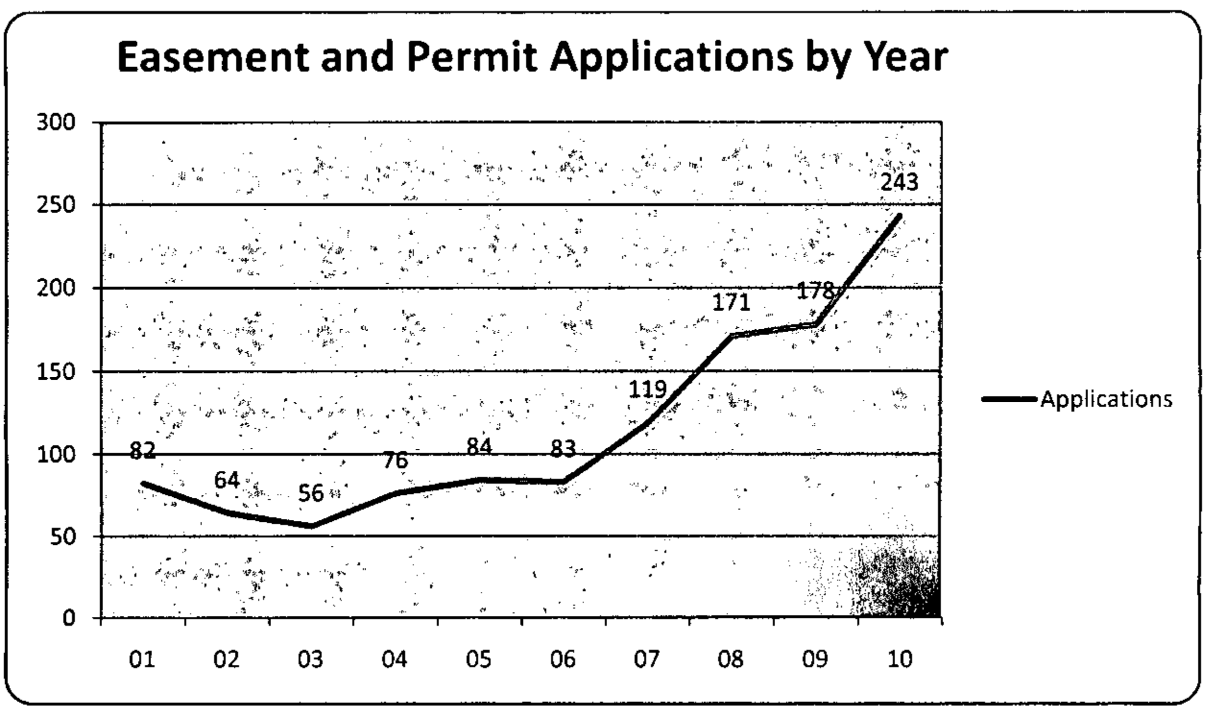
	Mineral Acres	Total Bonus	Bonus/acre
August, '09	36,173	$18,126,110	$501
November, '09	58,927	$71,560,099	$1,214
February, '10	40,178	$47,312,555	$1,178
May, '10	53,275	$158,099,212	$2,968
August, '10	41,576	$63,875,488	$1,536
November, '10	29,819	$41,951,532	$1,407
February, '11	11,544	$24,123,012	$2,090

Oil and gas royalties were $56.5 million in calendar year 2009 and $85.2 million in 2010. The Department processed 151 oil and gas lease assignments in 2009 and 227 in 2010.

The Department is responsible for managing almost 1,500 producing properties today, up from approximately 549 at the end of 2006. The number of royalty reports received has grown at a similar pace.



The Department's Surface Management Division processed a record 231 rights-of-way applications in 2010, most dealing with the energy sector construction of roads, pipelines, well sites or electricity distribution.



Meanwhile, unclaimed property postings grew from just under 30,000 names in 2004 to 61,311 currently; during this time, 14,000 claims were also paid. The current year's report has more than 8,000 new names that all will be published statewide, throughout the summer.

PROPOSED 2011-2013 BUDGET

Staff

Our budget request seeks additional FTEs to help with the growing workload in the minerals, financial management, unclaimed property compliance and investment areas of the Department.

The Land Department's revenues have multiplied in recent years, increasing workload in terms of dollars received and number of transactions being processed. Three additional FTEs are included within Governor Dalrymple's budget recommendation and within HB 1013:

1. One position is to assist with royalty audits and the administration of mineral leases.

2. One accounting FTE intended to assist the Department's Investment Director who is currently responsible for all aspects of the investment program, in addition to his Deputy Commissioner and Energy Development Impact Office role. An assistant will help with base level operations and investment functions so that the Investment Director can focus his efforts on higher level investment functions.

3. One FTE is for administrative support for the Energy Development Impact Office. This is to support the expanded oil and gas impact grant program proposed by the Governor.

Three additional positions were included in the Department's budget request, but are not included in HB 1013:

1. An unclaimed property auditor; a position previously utilized within the Department but reassigned to the minerals area to provide assistance during the its growth.
2. An assistant budget analyst/accountant to assist our sole accountant with basic accounting responsibilities in order to allow her time to undertake more analytical financial management.
3. An additional administrative support position.

The leases purchased at our highly publicized mineral auctions will translate into new wells coming on line in numbers that were not anticipated a few years ago. The Department has responsibility for management of a portion of approximately 40% of Bakken and Three Forks wells, both producing and those being drilled.

The dramatic growth in bonuses and royalties will require new systems and employees to help the Land Board and the Department better fulfill its fiduciary responsibilities to trust beneficiaries. The workload increases have occurred across the Department because of the energy activity.

Operations
The Governor's Budget recommends an increase of the Department operations expenses line for the anticipated inflation and continued growth of expenditures such as professional services, advertising, information technology, legal fees, temporary salaries and building occupancy costs. The contingency line also increases by $50,000 to allow for potential costs related to oil and gas mineral ownership disputes. If additional positions are provided to the Department over and above the Governor's recommendation, additional operating funds would also be needed.

Energy Development Impact Office

As the Energy Development Impact Office (EDIO) is currently structured, the Director has the responsibility for making the annual grant decisions and the Land Board is the appellate. The Director of the Energy Development Impact Office is currently a 25% FTE position. The division utilizes an additional one-third of an FTE for administrative support.

HB 1013 greatly expands the oil and gas impact grant program from the current authority to grant up to $8 million to $100 million in a biennium to oil and gas development affected political subdivisions. The bill changes the name to the Energy Infrastructure and Impact Office (EIIO); with the director making recommendations to the Board of University and School Lands who will award grants quarterly. Ryan Bernstein, Governor Dalrymple's Deputy Chief of Staff, will follow me today to explain more of the details pertaining to the $100 million budget for energy impacts.

There is one adjustment regarding the FTE authorized for EIIO that I would like to suggest. I believe that the responsibilities to draft policies, undertake quarterly, rather than annual grant rounds, and providing recommendations will require a professional level employee, not an office assistant, as is authorized in the bill. The budget for EIIO should be expanded to allow for a management level salary. Similarly, the increase in grant rounds and anticipated extra site visits and office occupancy will likely cost more than has been historically allocated for the EDIO. Please consider increasing the operating expense for EDIO to cover the cost of this expanded role.

All collective operating expenses and salaries within the Department are paid by the trusts on a prorated basis, except for the EDIO expenses and salaries, which are paid from the Oil and Gas Impact Grant Fund.

The Salary and operating appropriation will be for the authorized FTE, but also the share of the support staff and the commissioner's time required to support the EIIO functions. The trusts cannot be responsible for these costs.

Two additional options that the Committee could consider:

- Authorize the Board of the University and School Lands to expend from the Oil and Gas Impact Grant fund the amounts necessary to run the program under continuing appropriation authority, at least until the procedures and processes are in place and operating costs are known.

- Expand the emergency clause that already includes the policy implementation, to also authorize the FTE and associated operating funds upon passage.

CONCLUSION

Though I have only worked at the Department for a few months, it is clear that the workload has increased dramatically and that more help is needed. I look forward to working with the committee to explain how the tasks have grown within this important Department and how the broadened budget and requested positions will allow the Department to continue funding education in the state.

The Board's responsibility to preserve the trusts and maintain income stability for the trust beneficiaries continues to be met. All permanent and other trust funds remain in sound financial condition despite recent turmoil in the financial markets. Land is prudently managed providing for a fair market return of grazing lease income. Mineral leasing and development activity continues to be very active with large bonuses being collected, and as development occurs, production will enhance the trusts with royalties received.

Significant growth will continue to occur for the benefit of trust fund beneficiaries as mineral and energy development grows. Unclaimed property collections continue to accumulate assets held for owners and unclaimed property administration is efficient in the processing of a record number of claim applications. The future for the trusts is very bright. I respectfully request your consideration to provide the Department the authority to manage the assets under the control of the Land Board as efficiently and effectively as possible.

Testimony
House Bill 1013
Senate Appropriations
Tuesday, March 8, 2011; 8:30 a.m.

Good morning. My name is Ryan Bernstein, and I am the Governor's Deputy Chief of Staff and Legal Counsel. I am here to testify in support of HB 1013 particularly Sections that relate to the oil impact grant. Sections 5 through 11.

House Bill 1013 increases the Oil and Gas impact fund from $8 million per biennium to $100 million to help address the impacts being felt in the oil and gas producing counties. This bill is one of a package of bills promoted by Governor Dalrymple to help address the impacts on local infrastructure by the oil development.

The Governor has proposed $229 million for state roads and $149 million for county and township roads in oil and gas counties. This $100 million would supplement that money and be used to fill gaps that were not addressed by the state, county and township road funds and the Gross Production Tax formula.

The Engrossed Bill requires the energy infrastructure and impact office director (formally the energy development impact director) to recommend to the Board of University and School Lands, no less than once each calendar quarter, grants to counties, cities, school districts, and other political subdivisions in oil and gas development impact areas that have needs. His recommendation needs to provide that 35% of the monies available go to cities with a population of ten thousand or more with no more than 60% going to any one city. He shall also make recommendations of 65% of the monies to counties, school districts, and other political subdivisions impacted by oil and gas development.

The original HB 1013 created an oil and gas impact grant advisory committee to help with the recommendations. It was comprised of the commissioner of university and school lands, the energy infrastructure and impact office director, director of the division of energy of the department of commerce, the director of the department of transportation, a member representing cities with a population of ten thousand or more, one member representing cities with a population of less than ten thousand, and two members representing the oil and gas producing counties.

The Engrossed Bill removes that advisory committee but provides that the State Land Board may create an advisory committee to assist the board in making its grant award determinations. It is the Governor's intent that an advisory board similar to the one originally proposed will be created to recommend grant awards. We believe it is important that locals have input into the grant recommendations because they are the ones closest to the needs.

The intent of this legislation is to supplement other infrastructure bills that have been proposed by Governor Dalrymple. While the Department of Transportation budget bill may be more specifically directed at roads, this $100 million dollars can be used for any project that has been impacted by oil and gas development. This impact grant money could be used for city streets, county and township projects, sewers, emergency response services, schools, and land and infrastructure improvements that will facilitate the development of housing.

The final decision on the awards will be made by the members of the Board of University and School Lands, which is comprised of the Governor, Attorney General, Secretary of State, Superintendant of the Department of Public Instruction, and State Treasurer.

We believe it is important to implement the program as quickly as possible to help the schools and political subdivisions start to plan and outline the projects that can be addressed by this fund. Therefore, the bill has an emergency clause to make sure the program is up and running to help with projects this construction season.

We urge the committee to support HB 1013.

Testimony to the Senate Appropriations Committee
Prepared March 8, 2011
Regarding HB 1013

Chairman Holmberg and members of the Appropriations Committee. My name is Jim Arthaud and I am a Billings County Commissioner. I also sit on the Oil and Gas Association's Board of directors. We are here today to express our strong support for HB 1013. Before I begin, I would like to thank the legislature for their efforts in the past and today for focusing on the unique needs facing the western part of our State.

As you know, the western part of our State has seen an unprecedented explosion of growth due to increased oil and gas production. This growth has been exceedingly beneficial for all North Dakotans. However, this growth has also come with a price, which is being shouldered by those living in the west. I have personally seen previous oil booms but those pale in comparison to what is happening now. We are now approaching nearly 400,000 barrels of oil being produced daily! All of that production has taken a toll on our infrastructure. Quite frankly, our infrastructure is broke and we can no longer keep pace and we need legislative help.

Normally, political subdivision's can help ease growing pains associated with growth by capturing the additional values on property. However, in the case of oil development, much of that value cannot be captured since the industry is taxed through the production and extraction tax, which is in lieu of property taxes. Therefore, we have limited options other than continue to ask the legislature to adjust funding formulas.

HB 1013 is one such option that will help us. After last session the legislature agreed to some formula changes which were very helpful. However, the legislature was clear with the political subdivisions receiving the Gross Production Tax Revenue that they were expected to spend the money in a strategic way. The legislature was also clear they would institute oversight over the way this money was spent by creating a reporting mechanism which would be reviewed during the following session.

Under this understanding, the political subdivisions in the energy impacted areas sought direction and input from all sources including the legislative branch, the executive branch, local political subdivisions, industry and ordinary citizens impacted by the oil boom. Numerous public town hall meetings were held throughout the region and countless hours were spent between government officials to find some solutions to this pressing problem. It was quickly recognized this development had such a fast paced movement and long term potential that it was important to not simply put dollars into infrastructure in a haphazard manner but a long term plan was required.

With that as our goal we engaged the Upper Great Plains Transportation Institute to develop a strategic plan to ensure road infrastructure met this long range planning. UGPTI conducted a road by road analysis of the entire region overlying well locations, pipeline corridors, rail locations and other distribution points. The purpose was not to determine what percentage of dollars the state, county, city or township roads needed. The purpose was to drill down and decide the exact roads and infrastructure that were needed to continue this remarkable industrial revolution that was happening in the west.

The ultimate result of this effort was to go back to the legislature in 2011 and seek funding based on the strategic plan laid out by the UGPTI study. Currently, two agency bills, HB 1012 and this bill, HB 1013, embrace the strategic concepts created during the interim.

What HB 1013 does is increase the amount of money available to help offset Oil Impacted areas by increasing the number of dollars that flow into the oil and gas impact fund. This fund has been in operation for a number of years and has a tried and true track record. This fund also has the flexibility to adjust funding in a rapidly changing environment. This rapid response is critical to ensure the resources can be matched to where they are needed the most within counties, cities, townships, and school districts.

Thank you for your attention to this matter and we respectfully ask this committee to give a do pass recommendation to HB 1013.

Capital Improvements Plan Project Description	Total Estimated Project Costs (current Dollars)	Year 2011	 2012	 2013
				Transportation Improve
Highway 23 West Truck Route - not included in Total	$5,250,000			DOT Project Funded
City Street Improvements				
6th Avenue	$600,000			
7th Avenue	$600,000			$655,636
Highway 23 Frontage Road	$375,000	$375,000		
2nd Steet SE	$130,000		$137,917	
9th Street	$325,000	$325,000		
10th Street	$375,000	$375,000		
Park Avenue SW	$235,000		$249,312	
Elevator Road	$550,000		$583,495	
4th Avenue NW	$68,000			
4th Avenue SE	$75,000			
5th Avenue SE	$75,000			
6th Street NE	$62,500			
6th Street NW	$75,000			
Transportation Subtotal	**$3,545,500**	**$1,075,000**	**$970,724**	**$655,636**
Waste Water Treatment				
Disinfection	$50,000	$50,000		
Phase I Primary Lagoon Project	$1,574,000	$180,000	$1,343,000	
Phase II Booster Station Project	$340,000		$53,045	$316,891
Phase II Secondary Lagoon Project	$4,870,000			
Collection System Extensions				
Trunkline System Improvements				
Growth Area 1	$1,232,335	$481,520		
Growth Area 2	$2,140,970	$687,960		$1,587,743
Growth Area 3	$0			
Growth Area 4	$386,100			$421,902
Trunkline Improvements	$167,960		$178,190	
Growth Area 5	$600,600	$423,150		
Wastewater System Subtotal	**$11,361,965**	**$1,822,630**	**$1,574,235**	**$2,326,536**
Water Main Extensions				
West Highway 85	$260,000	$260,000		
South Highway 85	$175,000	$175,000		
Reservoir Tieback to Regional System	$270,000			$295,036
New Pump Station	$300,000	$300,000		
Water Main Loops				
4th Avenue and 9th Street	$360,000		$381,924	
6th Street	$86,000			$93,975
Highway 23 East	$370,000			
12th Street and 16th Street Northeast	$445,000			
Water System Subtotal	**$2,266,000**	**$735,000**	**$381,924**	**$389,011**
				Storm Water System Impro
Highway 23 West Truck Route	$320,000			
Storm Water System Subtotal	**$320,000**	**$0**	**$0**	**$0**
Total	$17,493,465	$3,632,630	$2,926,883	$3,371,183

			Watford City, North Dakota
	14	2015	Additional Project Information
vements			
nded			Eliminate Highway 23 and Highway 85 Conflict Through City
			Oil Impacted Streets
		$695,564	12th Street to 16th Street NE
			12th Street to 16th Street NE
			Bulk Sales Depot to WireCo Oilfield Services
			4th Avenue SE to 2nd Avenue SE
			Highway 85 to Park Avenue West
			Highway 85 to Park Avenue West
			900 Block
			Alternate Truck Route
			Access to Permenant and Temporary Workforce Housing
	$76,535		6th Street NW to Reservoirs
	$84,413		1000 Block
	$84,413		1000 Block
	$70,344		4th Avenue NE to end of existing road
	$84,413		Park Avenue W to 4th Avenue NW
	$400,118	**$695,564**	
			Improvements include three phases of improvements to address aging infrastructure, capacity limitations, and projected growth.
			Public Health Protection for Water Irrigation Reuse
	$51,000		Primary Lagoon Phased Aeration Improvements and Main Lift Station Expansion
91			Secondary Booster Station Improvements
	$651,428	$4,218,572	Secondary Lagoon Expansion and Rehabilitation Improvements
	$845,049		See CIP Exhibit E
3			See CIP Exhibit F
			No Trunkline System
2			See CIP Exhibit G
			See CIP Exhibit G
	$199,721		See CIP Exhibit H
6	**$1,747,198**	**$4,218,572**	
			Water Main to New Service Areas
			See CIP Exhibit I
			See CIP Exhibit I
			See CIP Exhibit I
			New Pressue Zone around Storage Tanks
			Water Main Connections to Address Pressure Problem Areas
			See CIP Exhibit I
			See CIP Exhibit I
		$428,931	See CIP Exhibit I
	,851		See CIP Exhibit I
	$500,851	**$428,931**	
provements			
	$320,000		Wetland Mitigation and Park Development for Potential Truck Route
	$320,000	**$0**	
	$2,968,168	$5,343,068	

CAPITAL IMPROVEMENTS PLAN
Watford City, North Dakota

FIGURE 3.1

4

House Bill 1013

Senate Appropriations Committee

Senator Ray Holmberg, Chairman

March 8, 2011

Good morning Senator Holmberg and members of the Appropriations Committee.

My name is Lyn James. I am the President of the City Commission in Bowman. I also serve as the President of the North Dakota League of Cities, and am speaking as a city representative for the Association of Oil and Gas Producing Counties. We truly appreciate the efforts put forth in this legislation.

The unprecedented infusion of grant money is critical for infrastructure projects necessary to accommodate the needs in impacted cities. It is important to elected city officials to know that there might be a light at the end of the tunnel and that our Legislators understand the urgent need that is out there. House Bill 1013 allows for the establishment of an Advisory Board with local representation. The local leaders live and breathe the trials and tribulations of oil impact each and every day, and could offer first-hand information and input as to the priorities of the impacted areas. They could provide insight as to which types of projects prove to be the most urgent and worthy of funding. Impacts continue, grow and change as the exploration moves to production, and as the field moves throughout western North Dakota, and because of that I expect the needs will continue to grow as well.

5

The cities appreciate the inclusion of an emergency clause to help get the details worked out and the grant process started. Even though the actual dollars would not necessarily be available early on, it would be beneficial for the cities to be able to apply for the grants and know whether or not their project requests would be funded so that they could begin the bid process, and maybe even take that grant award information to the bank for interim financing if need be in order to get started on the actual projects. We all know how short our construction season is here in North Dakota, so time is surely of the essence.

I would like to share some information gathered by the Executive Board of the North Dakota Association of Oil and Gas Producing Counties that will illustrate the cities' urgent needs for assistance with infrastructure in their communities.

Berthold is presently at capacity with its main lift station and wastewater cells. Additional development for commercial, industrial and housing that is being planned will need the main lift station to be replaced and additional cells added to the wastewater system, at a cost of $745,000.00

Bottineau upgraded its main lift station in 2009. The existing sewer main from the lift to the area that is suitable for expansion is at capacity. A new trunk line will need to be installed at an estimated cost of $687,000.00

Crosby needs to expand current housing, commercial and industrial property developments. The existing water and sewer collection system needs to be expanded. There is also a need for street improvements. The estimated cost for these items is $2,500,000.00.

Killdeer is in need of water system upgrades in treatment and distribution. The need for housing and commercial expansion is also requiring water, sewer and street improvements. The estimated cost for these projects is $6,000,000.00.

New Town has invested over $9,000,000.00 in community infrastructure since 2004. The improvements include new water treatment plant and water main replacement. Other projects completed include expanding the wastewater treatment system, renovation of a lift station and street improvements. The city needs additional street improvements and infrastructure for residential development. The cost of this work is estimated at $3,900,000.00. New Town is also working on a project that will improve transportation through the city on main street. The current plan is in conjunction with the ND DOT and is scheduled for 2012. The city's share of that project is $1,200,000.00.

Parshall is in need of water and sewer collection extensions into areas needed for growth. The present infrastructure is at capacity and new growth will require services. The estimated cost for water, sewer, street and storm water extensions is estimated at $5,000,000.00.

Stanley's wastewater system is at capacity and they have the funding in place to do this project. They are in need of a lift station and interceptor sewer line for the new industrial park that is being proposed south of Highway 2. The city also needs a main sewer line to a new development area for housing. The need for frontage roads on both sides of Highway 2 is needed to provide safe travel on Highway 2 through Stanley. The estimated cost for these projects is $2,900,000.00.

Tioga has significant needs for infrastructure expansion and upgrades. Immediate needs in 2011 include a water storage reservoir and piping, estimated at $2,014,000.00; water main upgrades, estimated at $2,435,000.00; sanitary sewer cleaning/televising and slip lining, estimated at $2,442,500.00; and infrastructure for residential developments estimated at $673,000.00. The total for these projects is $5,122,000.00.

Watford City has an estimated 1,000 people living in temporary housing. Core infrastructure needs to be installed to serve new developments that are being proposed to accommodate new housing and commercial areas. The city needs to right-size sewer lines and water extensions, improve lagoons and add new sewer trunk lines as soon as possible. The estimated cost for these projects is $8,115,000.00.

As you can see, the needs I have stated in these nine communities are approximately $35,000,000.00. There are over 80 communities in the 17 oil and gas producing counties. There will eventually be needs in most of these communities. Whether or not they will be ready in 2011 is not known at this time. All projects will need to be applied for and vetted by the proposed Advisory Board and final approval given by the Land Board per House Bill 1013, based on the merit of each project. Please note that there are impact projects slated for 2012 and beyond that I have not identified today.

Dickinson has identified housing and related infrastructure needs due to rapid population gains. They have infrastructure needs for commercial and industrial development as well as traffic management issues. The expansion of the residential and commercial property has resulted in a need to expand the city's infrastructure for waste water treatment, landfill expansion and public works facilities, including a fire station. The cost of the projects needed in 2011 are estimated at $71,100,000.00, and just under that amount again in the next biennium.

Minot is experiencing rapid growth due to the expanding oil and gas industry just west of the city. The need for sewer and water projects along with street improvements, fire stations and airport expansion will require over $82,000,000.00. Minot is in need of sewer and water improvements in 2011. The estimated cost for these projects is $15,000,000.00.

Williston is in the heart of the oil and gas development. The impacts to Williston have been to transportation, wastewater, storm water, solid waste, water and buildings. Those needs total over $111,000,000.00, with core infrastructure needs totaling $40,700,000.00.

Based on this information provided by 11 of the 80 communities who belong to the ND Association of Oil and Gas Counties, the immediate and most urgent needs will be in excess of $70,000,000.00. Most projects will be started in 2011, pending funding. Supporting studies and documentation can be provided upon request. These projects only involve capital improvements, and do not include impacts for emergency services and safety. These needs will also be competing for this funding.

The impacts and dollars associated with these needs obviously are great. The Advisory Board and Land Board will certainly be challenged to meet the needs for 2011 and 2012 in the cities impacted by oil and gas development. They will have quite a task in deciding which projects have the highest priorities.

I would like to thank you for your time and attention to these very important and urgent oil issues at hand.

Respectfully submitted,

Lyn James

President, Bowman City Commission

President, North Dakota League of Cities

City Representative for Association of Oil and Gas Producing Counties

NORTH DAKOTA PETROLEUM COUNCIL

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House Bill 1013

Senate Appropriations Committee

March 8, 2011

Chairman Holmberg and Members of the Committee. My name is Ron Ness and I am the president of the North Dakota Petroleum Council. The North Dakota Petroleum Council represents 280 companies involved in all aspects of the oil and gas industry and has been representing the industry since 1952. Our members produced nearly 98% of the 113 million barrels of oil produced in North Dakota in 2010. We also represent 47 of the top 50 oil producers in the state and numerous companies involved in water transportation. I appear before you today in support of HB 1013.

North Dakota Petroleum Council Key Issue for 2010

#1 Invest in Infrastructure

An oil boom creates many challenges for western communities and the distribution of revenues, although the distribution formula was improved greatly in 2009, substantial funding is needed to address growing impacts. The impacts created by big equipment needed to produce the Bakken and the growing population are stressing local communities. We need to provide assistance in planning to develop the infrastructure to handle the big equipment on targeted roads. The activity is not going away quickly and these wells will produce oil for decades. These counties and cities need to be winners in this oil boom. The rest of the state has been receiving revenues for water, education, tax relief and other benefits without the impacts.

6

The Petroleum Council supports substantial investment in western counties and cities through the oil impact fund and continued improvements to the oil distribution formula.

The oil industry produced a record 113 million barrels of oil in 2010. This amount of oil production does not come without impacts, it is critical that we invest in the communities where the activity is occurring. This investment will pay big dividends for the state as the infrastructure will allow the Bakken to be fully developed and for the state to reap the tremendous economic benefits. The industry is expected to pay more than $2 billion in oil and gas production taxes next biennium. A substantial portion of these revenues must be reinvested to address the impacts and prepare for the incredible growth potential related to the Bakken.

Many of the public services in western communities like fire, ambulance, and community infrastructure, are being stressed beyond their capacity. Industry is trying to help in certain areas by providing resources for these entities. Our companies have made significant contributions to assist local government and have done substantial work on county and township roads and are trying to work with policy makers to plan ahead. We urge the state to step-up by supporting HB 1013 and return some of the tax dollars for these critical needs.

North Dakota's oil industry stands in support of HB 1013.