Prepared by the Legislative Council staff for House Appropriations
February 22, 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~~<u>infrastructure and</u> 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~~<u>infrastructure and</u> impact office - Appointment of director.

There is hereby created an energy ~~development~~<u>infrastructure and</u> 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 sixty 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 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.