

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/20/2015**

Amendment to: HB 1031

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

|                | 2013-2015 Biennium |             | 2015-2017 Biennium |             | 2017-2019 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    | \$0         |                    |             |
| Expenditures   |                    |             |                    |             |                    |             |
| Appropriations |                    |             |                    |             |                    |             |

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

|                  | 2013-2015 Biennium | 2015-2017 Biennium | 2017-2019 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
| Cities           |                    |                    |                    |
| School Districts |                    |                    |                    |
| Townships        |                    |                    |                    |

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

HB 1031 second engrossment allocates a portion of the oil and gas gross production tax to the state highway fund.

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

Section 1 of HB 1031 second engrossment allocates \$75 million from one percent of the oil and gas gross production tax to the state highway fund.

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

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

If enacted, HB 1031 second engrossment would reduce revenues in the strategic investment and improvements fund and increase revenues in the state highway fund by \$75 million in the 2015-17 biennium. Both of these are "other funds" for purposes of 1A above.

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

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

**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 02/20/2015

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/19/2014**

Amendment to: HB 1031

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

|                | 2013-2015 Biennium |             | 2015-2017 Biennium |             | 2017-2019 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
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| Expenditures   |                    |             |                    |             |                    |             |
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|------------------|--------------------|--------------------|--------------------|
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| Cities           |                    |                    |                    |
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| Townships        |                    |                    |                    |

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HB 1031 allocates a portion of the oil and gas gross production tax to the state highway fund.

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

Section 2 of HB 1031 allocates \$75 million from one percent of the oil and gas gross production tax to the state highway fund.

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

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

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**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 12/26/2014

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/19/2014**

Bill/Resolution No.: HB 1031

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

|                | 2013-2015 Biennium |             | 2015-2017 Biennium |             | 2017-2019 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    | \$0         |                    |             |
| Expenditures   |                    |             |                    |             |                    |             |
| Appropriations |                    |             |                    |             |                    |             |

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|------------------|--------------------|--------------------|--------------------|
| Counties         |                    |                    |                    |
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| School Districts |                    |                    |                    |
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HB 1031 allocates a portion of the oil and gas gross production tax to the state highway fund.

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Section 2 of HB 1031 allocates \$75 million from one percent of the oil and gas gross production tax to the state highway fund.

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

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**Name:** Kathryn L. Strombeck

**Agency:** Office of Tax Commissioner

**Telephone:** 328-3402

**Date Prepared:** 12/26/2014

**2015 HOUSE TRANSPORTATION**

**HB 1031**

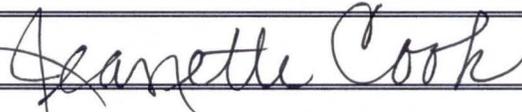
# 2015 HOUSE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Fort Totten Room, State Capitol

HB 1031  
1/15/2015  
#22017

Subcommittee  
Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A bill relating to oil and gas production tax funding for the state highway fund; and to provide an effective date.

## Minutes:

Attachment #1, 2

**Chairman Dan Ruby** opened the hearing on HB 1031.

**Representative Todd Porter, District 34:** Introduced bill. When looking at the whole big picture of energy development and the whole big picture of infrastructure and moving product in Western North Dakota, we felt that it was important to start saving money to do the same thing on I-94 at Belfield going north on Hwy 85, as we did with Highway 2. We should start a special fund and allocate the funds into that special fund to build it up to the point so when it becomes absolutely necessary; we have the money in the bank to do it. Many feel that it already is necessary. This bill isn't a mandate to do it, but the start of a fund in order to do it. We have also done this in water development; where we have allocated the funds and started building the funds. We have also done it with NW Water Supply, going up to Minot. We have money in the bank to do that if we ever clear the court system. We have money in the bank for the diversion from the Missouri River or Lake Audubon to the Sheyenne Reservoir, to make sure that we drought proof the Red River Valley. There is also money for the Fargo diversion and flood protection plan. Those were smart preemptive moves on our part. This bill uses a portion of the production tax, to put into a fund to be available for special road projects based upon legislative appropriation and legislative initiative. It wouldn't be money that is just available for Department of Transportation to spend. It would have to come back through a master plan and be appropriated for that project. It would give us the ability to have the money in the bank, so that when the big need is there, we have the money to pay for the project.

**Chairman Dan Ruby:** Would this money be there until the project is completed?

**Representative Todd Porter:** This is a permanent fund based on the production. The most notable project that we heard about was to four-lane Hwy 85 from Belfield to Williston. That doesn't mean that this will be the first project. The projects will be brought in according to priority, and we will have the funds to do them.

**Vice Chairman Lisa Meier:** When your committee discussed this, what kind of timeline did you talk about?

**Representative Todd Porter:** There really wasn't a timeline. It is more based on what we did with water. This project will rely on the Department of Transportation to bring the big projects forward. This is just a jump start on those projects, so that we have the funding to do them. Some of these projects are between three and five million dollars per mile.

**Chairman Dan Ruby:** In the past the Department of Transportation has come out opposed to bills that compel them to work on a certain project. They want to stick with the STIP. Most of those proposals don't show a separate funding source. This is different in that aspect, correct?

**Representative Todd Porter:** That is correct.

**Chairman Dan Ruby:** Did they voice any concerns about this in the interim committee?

**Representative Todd Porter:** They didn't really voice any concerns at that time. This is money that is outside of their budget. It is more or less a savings account for those big priorities.

**Representative Rick C. Becker:** My understanding was that the Strategic Investment Fund was designed to do what this new fund would also be doing. That fund is big and full. Do I have a misunderstanding?

**Representative Todd Porter:** That fund inside the STIP fund would have a potential use for this type of project. It wasn't felt that with all of the local infrastructure needs that a big state project like this would be inside of that fund. Typically this fund is emptied each biennium. When the 2017 biennium is over, the STIP fund money will be spent. This money will still be there.

**Representative Kathy Hawken:** It's specifying in here the priority is Highway 85. Why is 85 in here? Why is it that specific?

**Representative Todd Porter:** It's that specific because that is the biggest project with the biggest need right now. In eight years when the project is paid for and the fund still exists, then the antiquated language could be taken out.

**Representative Kathy Hawken:** I would assume the Department of Transportation knows this is a priority. I am somewhat concerned about starting one more fund. We have a tendency as a legislature to hide money. The fund would not be ongoing if it was for Highway 85. My concern is the perpetuity of this, right now.

**Representative Todd Porter:** This fund is outside the Department of Transportation. When the project is finished, the legislative body will need to meet and remove that part of the code.

**Representative Kathy Hawken:** I could not find the percentage for that fund.

**Representative Todd Porter:** You might have to get Mr. Tim Dawson to answer that.

**Representative Robert Frantzvog:** Once this project is started and a certain amount is being put in each biennium, would there be such a thing as allowing the state to incur debt and use this money to pay down the debt? For example, the state could borrow \$20 million dollars to do a project, and then use this money to pay down the debt?

**Representative Todd Porter:** They certainly could if we added that in the future. Currently, it is not in this bill, so it would not allow it.

**Rep. Mark Owens:** You made sound like this fund would be low level on the funding formula. It looks like it is the third most important thing in the formula. Is the intent to have it lower than this?

**Representative Todd Porter:** That might be a good question for Mr. Dawson on how it fits in there.

**Chairman Dan Ruby:** We will hold this bill for further clarification.

(20:38)

**Cal Klewin, Executive Director of the Theodore Roosevelt Expressway Association,** provided written testimony. Please see attachment #1. We strongly support that the legislature step up and support funding for projects like Hwy 85.

**Representative Mike Schatz,** presented verbal testimony in support of HB 1031.

**Representative Mike Schatz:** Besides being on the committee, I worked for Missouri Basin for a year and one-half. I drove up and down Hwy 85 almost every day in a huge water truck. I learned a lot. There is a section that 13 people were killed on. When it gets icy and foggy, and then a car load of kids pull out in front of you, it is a horrible experience. Things like that happen all the time. There is a ton of traffic on that road. There is an urgent need for a four-lane highway on Hwy 85. I think that having a fund to do the project and do it right, is a good idea.

**Chairman Dan Ruby:** Is it frustrating that in some aspects people want trucks to slow down, but then also want them to get out of the way because they are too slow.

**Representative Mike Schatz:** Yes, it is an issue. When you drive a 90 foot truck, passing you is not easy. It is scary what people will do in the fog, even when they **cannot** see ahead of you.

**Representative Robert Frantzvog:** Do you know if there's been a priority list that has been established for roads in the west?

**Representative Mike Schatz:** I'm sure there is a priority list. I'm not aware of it. The Department of Transportation could probably tell you.

**Representative Kathy Hawken:** The Governor put Surge Money in his budget that was requested by western legislators. Did they think of putting aside some of that money for this project?

**Representative Mike Schatz:** The Governor had a bill that was called Jump Start. The Western legislators have proposed a Surge Bill, so that we have money for county infrastructure and county roads.

**Representative Kathy Hawken:** Mr. Chairman, I would appreciate getting some sort of breakdown of the oil taxes. I would like to know how much we are spinning off for special funds. I don't disagree with this idea, Hwy 85 needs to be redone, but I would like it better if it were specified when that fund was done, we would redo another one.

**Chairman Dan Ruby:** Absolutely. The state treasurer was here earlier, so maybe she could help us.

**Representative Chris Olson:** I'm curious why we're trying to preempt the planning process of the Department of Transportation and not let them follow the course that they get from the Upper Great Plains Transportation Institute? Were they consulted as it pertains to the planning process that they are working towards right now? Do you know?

**Representative Mike Schatz:** The idea is to get money in the bank for this project. When you say "environmental study" that means time. Unfortunately, it is too much time for our needs out west. I can't answer for them.

**Representative Chris Olson:** We might want to question where construction needs to begin on Hwy 85. What the Department of Transportation thinks the timeline is. It sounds like we're trying to fund part of their budget before they make the request.

**Representative Mike Schatz:** I know where I would begin, at the Long X Bridge. Of course that is a very expensive project. I'm not sure exactly where they would start.

**Representative Chris Olson:** I think if we're trying to strategically sock away money in anticipation of what the Department of Transportation needs, we should probably have them in on the conversation. I am curious of what they think of this.

**Representative Mike Schatz:** I believe they have been in on the process.

**Chairman Dan Ruby:** The Department of Transportation is here to testify.

**Gaylon Baker, Economic Development in Dickinson and Theodore Roosevelt Expressway Board of Directors:** From our perspective there are a couple of primary issues on Hwy 85. We believe that it is an economic lifeline as well as the safety issues. It and Interstate 94 are the arteries from which all of the equipment flows from the southern states into western North Dakota. We are considered a part of the Rocky Mountain Play. Those young workers are mobile within that play. We in North Dakota are fortunate. We are at the front end of developing fracking technology and developing fracking expertise. That means that our young people are the ones that have that expertise more than anyone

else in the country. These young people are being called upon to go back and forth from Wyoming to Colorado and so on. We are very concerned about their safety as they travel up and down that road. It is very dangerous. There are no passing opportunities. You can engineer a good roadway, but you can't engineer people's behavior. The road is not designed for the amount of traffic, especially the amount of truck traffic, that is on it right now. I sure hope you will support the funding for Hwy 85 in this bill.

**Representative Gary Sukut:** Presented verbal testimony in support of HB 1031.

**Representative Gary Sukut:** I have been involved in transportation projects all my life. A little bit of history of Hwy 2, and the four-laning of Hwy 2 when it started in the 70's. To complete the project the state bonded to finish the four-lane. There were state monies put into that project to complete it. At this point in time without the four-laning of Hwy 2, we would have many, many more tragic accidents on that highway. The other part of that plan to complete transportation in the state was the four-laning of Hwy 85. Once that is completed we will have one of the best Interstate transportation systems in the country. This includes I-94, I-29, Hwy 2, Hwy 83, and the only one that is left to do is Hwy 85. There has been testimony given relating to the safety factors on Hwy 85, and we continue to have a lot of accidents still on Hwy 85. We are still killing people on Hwy 85. A lot has changed. When all of this started, we did not have a lot of traffic in this state. This bill puts \$75 million each biennium into a saving account which is going to enable us to move forward on Hwy 85, as we get through all of the other "stuff". Having dollars put aside to make this happen makes a lot of sense. I support the bill, and hope the committee will support it as well.

**Chairman Dan Ruby:** Anyone else here to speak in support of HB 1031? Any opposition? I know we have some neutral testimony.

There was no further support for HB 1031.  
There was no opposition for HB 1031.

(42:35)

**Ron Henke, Deputy Director for Engineering for the Department of Transportation,** provided neutral written testimony and an interpretation of what the bill means. See attachment #2.

(46:01)

**Chairman Dan Ruby:** Questions from the committee?

**Representative Chris Olson:** It seems this bill is sort of a pre-appropriation that we would be putting into place to sock away this money for this specific purpose going forward. Is that a fair way to characterize it?

**Ron Henke:** I think the person who introduced the bill intended it as a set aside fund. The way they introduced it, we would need to come back to the legislative body to use it.

**Chairman Dan Ruby:** But the bill doesn't say that. I know there is legislative intent, but we also have to look at what the law says.

**Ron Henke:** That is correct.

**Chairman Dan Ruby:** Would you consider these funds to be additional to your normal funds that you would put into your plans to four-lane Hwy 85? Would you step it up, or would you just use these funds in replacement of the funds you would normally use?

**Ron Henke:** It appears this bill is giving additional funds to the department.

**Chairman Dan Ruby:** It would be additional to help speed it up?

**Ron Henke:** Yes.

**Representative Rick C. Becker:** Is it the intent of the Department of Transportation that over the course of implementation of this plan that this section of highway would become four-laned, even without this bill passing?

**Ron Henke:** We're doing the environmental study now, and that environmental study takes a look at four-laning that stretch of highway. As we get the study complete and get clearance, the intent is to will start to work on that stretch of highway when funds are available.

**Chairman Dan Ruby:** You gave us information this morning on the crash reports, would that give statistics on that Hwy 85 compared to other highways in the state? Would it also provide traffic counts? Could you provide that for us?

**Ron Henke:** We can get you a map that shows the traffic counts on all the highways throughout North Dakota.

**Chairman Dan Ruby:** It would be good to get an updated version of that.

**Ron Henke:** The document we handed out this morning had the crash statistics.

**Chairman Dan Ruby:** Did you bring additional copies?

**Ron Henke:** I asked that they be brought down for committee members.

There was no further testimony on HB 1031.

**The hearing was closed on HB 1031.**

# 2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee  
Fort Totten Room, State Capitol

HB 1031  
1/16/2015  
#22416

Subcommittee  
 Conference Committee

Committee Clerk Signature

*Jeanette Cook*

## Explanation or reason for introduction of bill/resolution:

A bill relating to oil and gas production tax funding for the state highway fund; and to provide an effective date.

## Minutes:

Attachment #1 (5 pages)

**Chairman Dan Ruby** opened committee discussion. He stated that we will get more information from the Treasurer's Office on HB 1031.

**Ryan Score, Finance Director from the Office of State Treasurer**, introduced himself to the committee.

**Representative Lois Delmore** asked if the committee could have copies of the slide show that is being presented. Copies were made for the committee. It is also accessible on the Treasurer's website.

**Chairman Dan Ruby:** Today Ryan will cover any questions that we have on the flow of the money into or out of the buckets, and also how the money from the production tax as it goes into those buckets. He will also give us information on how to access this on the website. The data on the website could be very useful for future information, as well.

**Ryan Score:** HB 1031 creates a new section of the 1% funding.

(4 minutes)

**Ryan Score** presented a slide show giving information that helps to understand the Legacy Fund and how it pertains to HB 1031. See attachment # 1 and listen to audio of presentation.

(11:22)

**Representative Lois Delmore:** What can the money in the Strategic Investment and Improvement Fund actually be used for?

**Ryan Score:** On the right side of our website, [www.nd.gov/ndtreas/](http://www.nd.gov/ndtreas/), "State Revenue Funds" shows what the major funds are available for. It will show what the Strategic

Investment and Improvement Fund can be used for. It will also show the balance of the fund.

**Vice Chairman Lisa Meier:** Is there also information on the website about the interest that these accounts are bearing off?

**Ryan Score:** We do not list the earnings for each fund on the website, but we do provide links.

**Chairman Dan Ruby:** How soon will all of this be updated for December 31<sup>st</sup>?

**Ryan Score:** Basically we wait for Land and "Rio", to link to for their quarterly reports. Generally they are within a month from the quarter. Most of the other funds are within the General Fund Cash Account, so we have that fund balance daily. We don't update them daily, just quarterly.

One thing to note on the SIIF (Strategic Investment Improvement Fund) bucket is that when the unobligated balance of that fund is over \$300,000,000 then anything that is directed to that fund, 25% is redirected to Legacy. During the last biennium it was about \$150,000,000 that was deposited into Legacy because of that clause. Through this biennium we are already at least \$20,000,000 more than that already with six months to go.

**Chairman Dan Ruby:** So, is it actually putting more into Legacy than was passed by the people?

**Ryan Score:** Absolutely, more than 30% is going into Legacy because of that clause.

**Vice Chairman Lisa Meier:** What is the current amount in the Legacy Fund?

**Ryan Score:** Currently there are deposits of almost 2.8 billion dollars. With this month's deposits it will be up to 2.85 billion. It will soon be over 3 billion soon.

**Chairman Dan Ruby:** Could you explain the issue of the two different dates that are on the bill and what that means, and what is included in the bill as far as the formula?

**Ryan Score:** In the bill it shows two different sections where it puts the same language in. Section 2 has 57.5115 and it has effective date through June 30 of 2015. That is current law and is in place now. This 57.5115 code, which is the oil and gas gross production distribution, is in code that way because they put a sunset on it in HB 1358 during last session. It created this formula with a sunset, so that if nothing was done it would end, and they would go back to the old formula effective next biennium. (July 1, 2015) That is why it is in here in two different spots. It is in here under the new formula, and it is also in the old formula in case they decide not to keep the new formula they could roll back, and you would still see this funding into the Highway 85 corridor funding into highways. That is why there are two sections of code for that.

(19:51)

**Chairman Dan Ruby:** So the significance of that is without this change they don't have a bill to remove the sunset. This is sort of a catch-all to make sure that this formula stays in place.

**Ryan Score:** Yes, it is. If this was passed and nothing else was passed, this would still get funded by falling back into the old formula.

**Chairman Dan Ruby:** We understand more now about what buckets will be affected. Basically in your handout, we are looking at the one that shows the Gross Production Tax. It goes down and it would be into the Oil and Gas Impact Fund?

**Ryan Score:** Basically, it is right after that. It is a little tricky. The new one and the Oil and Gas Impact have specific dollar amounts, whereas the Outdoor Heritage Fund and the Abandoned Well have percentages. So, the way that it is interpreted is that we take those percentages every time, but if there is not a percentage, then we take what is left and apply it to the first one. What happens is that we take the percentages out; apply them to those funds, and then whatever is left will hit the Oil and Gas Impact Fund each month until it hits the cap. Then it will roll into the \$75,000,000 into the Department of Transportation money. After that it will go into the General Fund.

**Chairman Dan Ruby:** We now have a better idea of how the fund is going to be supplied. Then we have the other question, if we think that funds should be earmarked for certain areas. It is a policy decision that we will work on.

The discussion on HB 1031 was closed.

(22 minutes)

**Ryan Score** explained more about the information to be found on the website.  
[www.nd.gov/treasurer](http://www.nd.gov/treasurer)

**Chairman Dan Ruby:** Legislators can easily find the numbers by looking them up on this site.

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Fort Totten Room, State Capitol

HB 1031  
1/23/2015  
#22455

Subcommittee  
Conference Committee

Committee Clerk Signature

*Joanette Cook*

## Explanation or reason for introduction of bill/resolution:

A bill relating to oil and gas production tax funding for the state highway fund; and to provide an effective date.

## Minutes:

**Chairman Dan Ruby** opened the committee for discussion on HB 1031.

**Chairman Dan Ruby:** We received some information from the Treasurer's office on the different buckets that the Oil and Gas Production Tax goes into. This would be an offshoot from the Oil and Gas Impact Fund. It would direct \$75 million into that fund to be used for specific areas, oil impacted corridors, with a high emphasis on four-laning Hyw 85. I did not know that there was a sunset on it, when we put that formula of the percentage of the overall road related funds that go into the Highway Distribution Fund, and then when we put the percentage, or formula, for each of those entities that get the money. It took the Treasurer's Office, according to Kelly Schmidt, over \$100,000 to make the changes and work out the disbursement to get it correctly to all of the parties that are involved.

I was told by the Treasurer's Office that the reason you see the language on Page 2, line 26, saying this is in effect for taxable events occurring through June 30<sup>th</sup> of 2015, and then on Page 7, line 1, saying effective for taxable events occurring after June 30<sup>th</sup> of 2015, is because that is another way of continuing the formula and getting rid of the sunset. Depending on what we want to do with the bill that will have to be fixed in Appropriations or left in this bill and passed on to make sure it continues. Representative Delzer said that maybe we want to take another look at the formula in another session and just move the sunset clause further down the road. Any session we could take a look at the formula without a sunset clause. It works pretty well.

**Representative Lois Delmore:** I wonder if we didn't make the policy, and appropriations put a time table on the bill. They may have wanted to see how it worked down the road.

**Representative Robin Weisz:** There were many that didn't like the formula change because it put the townships and transit in as a percentage. My guess is that they did want

to revisit it. I think the formula works. I hope that we keep the bill alive and make sure the sunset goes away.

**Representative Chris Olson:** Does anyone currently know how many funds we have in the state?

**Chairman Dan Ruby:** You can go see many of the funds on the Treasurer's website, many are listed, and there are over 100 more.

**Representative Chris Olson:** I am curious as to why we need to keep socking away money into these funds, especially right now when we have a down turn in revenue. It seems like the General Fund is the right place for the Legislature to be keeping money, so we can dispose of it in future legislatures as we see fit.

**Chairman Dan Ruby:** I can guarantee that this won't be socked away. They would be using it every time.

**Representative Robin Weisz:** It isn't that the funds are being "socked away". Depending upon the agency and what is being done, there has to be a fund to put the money into. Then the treasurer can take the receipts and put the money in, so the money from that fund is spent by whatever agency that has the appropriation authorization to spend it. There is a Highway Fund and the Highway Trust Fund for example. There is nothing socked away. Those are just MECHANISMS. The Federal Funds come into the Highway Fund. Depending on how things are prorated, the Department of Transportation then transfers those into the Highway Transportation Fund, and then the counties and cities get their share. These funds don't reflect what you might think of, such as the Legacy Fund or the Common Trust Fund. When the Treasurer receives the money, it has to be put somewhere. There isn't just a checking account. Each agency has to have a fund for the money to be deposited into. The gas tax, for example, goes into the Highway Transportation Fund, since it is dedicated to roads. The Treasurer has to put it somewhere. Then the Department of Transportation has the authorization to use those funds according to the formulas, and they have to distribute it.

**Chairman Dan Ruby:** When we put money into the formula or the State Highway Fund, then we have a tracking of how it is used. If we set up a separate fund, such as this bill proposes, then that is directed to the Department of Transportation and doesn't necessarily go into the same channels of tracking. We have to go through other steps within the Department of Transportation to find the percent by which they were disbursed, since they weren't disbursed by the Treasurer's Office.

**Representative Chris Olson:** I guess, I am trying to figure out why this is a good idea.

**Chairman Dan Ruby:** That is why we are having continued discussions on the bill today.

**Representative Robin Weisz:** There is a reason to do it this way. Citizens of North Dakota have always supported having specific allocation of dollars for roads through gas and excise taxes. The last six years we have enjoyed having excess General Fund money that **could** go into roads, but that has **not always** been the case. We have fought and

struggled to get money for infrastructure. For more than one session we fought for the excise tax to go into the Road Fund, since it is vehicles. If it is dedicated to go into this fund, it can't be spent on other things. It will go to infrastructure. If we put \$75 million in here, the Governor can't spend it in his proposed budget. The Legislature could come in next session and change that, having dedicated funds aren't necessarily a bad idea, especially when you are looking at something that is as critical and huge as our road infrastructure.

**Vice Chairman Lisa Meier:** What Representative Robin Weisz just said does bring a different perspective, and his thoughts are a different breath into this bill. I can certainly understand when you look at it that way, why we might want to pass the bill.

**Representative Gary Sukut:** These are oil dollars that are going back into Hwy 85. This is where we are still killing people almost on a daily basis. The constituents out west are saying that the oil has created these problems and all of the infrastructure needs, and that it is right and proper that we steer as many of those dollars into fixing the problems. I think that is the right thing to do. The bill takes the \$75 million, oil dollars, to puts it back into the infrastructure with the priority being Hwy 85. I surely hope that we will support this bill.

**Representative Gary Paur:** We basically have two bills here, right? One reenacts what we already have, and the other specifies \$75 million for Hwy 85, correct?

**Chairman Dan Ruby:** Yes, and possibly three. One sets up the funding, and that continues even if the corridor stuff doesn't. You could have a bill that directs \$75 million to those certain oil impact corridors. You could also have the \$75 million that is being extracted out, and the other part is extending the formula.

**Representative Rick C. Becker:** If we set up a segregated part of a fund that exists and put money specifically from a certain revenue source to go into that portion of the fund for a specific highway, shouldn't we do the same thing and have another segregated part that money goes into for the highway that we were talking about earlier, from Minot to the border? Then another put money into another segregated fund for another specific project? I understand the idea of saying we need a lot highway work. Maybe it is a good idea to put some of this production tax into the Highway Fund instead of having it spent on all sorts of arguably good programs? Then the language that specifies it to one highway would say, let's specify a whole bunch for a whole bunch of different projects.

**Chairman Dan Ruby:** I think that the Department of Transportation will be much more receptive to some of these priorities if we go ahead and throw some money into something that they can have access to that will help with the budgets. Unfortunately, it is possible that if we do something like this, Appropriations will reduce what they were going to give the Department of Transportation as well. There are several battles to work on. I do know that there is a lot of concern about what the oil prices will do. Either way, I will have to take it down to Appropriations. No?

**Representative Robin Weisz:** Inaudible.

**Representative Robert Frantzvog:** If you look Page 1 of the bill, #1 says that "except for investment income as provided in subsection 3 - then it adds - and oil and gas production tax from section 57-51-15, the funds must be applied in the following order of priority:" The first one is the cost of maintaining the state highway system. It is first. Then the cost of construction and reconstruction of highways, but it doesn't identify a specific highway. Then letter c says that, "Any portion of the highway fund not allocated as provided in subdivisions a and b may be expended for the construction of state highways without federal aid..." There is nothing in here that says that it is dedicated to Hwy 85. There is nothing in here that says that they can't incur debt and use the \$75 million every biennium to pay down that debt, just as there was debt on Hwy 2. It is not specifically identified.

**Representative Robin Weisz:** I'm not sure that is correct, because they have added a provision in Subsection 3, and that goes to the Special Roads Fund. The investment income splits off, then oil and gas production from Section 57-51-15. Any of that money that goes in there is accepted under a, b, and c. Then under #4 we tell it where we want to go with it. Investment income does not go into that Highway Fund to be used for a, b, and c. That is split off to the Special Roads Fund. Then the Oil and Gas Production Tax from Section 51 is also split off and doesn't go in there. In Section 4 it tells us what we are going to use it for, and what the priority is. It doesn't require that it has to be used on Hwy 85, but it strongly recommends it. I like the bill, but don't like saying that it has to go out west to the oil impact counties.

**Representative Robert Frantzvog:** I don't think that it is that specific yet. It just says it is a priority, not an absolute must. I think that if they want to change it, they can change it. If they want to incur debt and use the \$75 million dollars every two years to pay down the debt, they have the option of doing it. They could incur debt to finish the road. It will take a long time to finish this road, and the people in the west are not going to stand for that. There is nothing in here that says that they can't go in and incur debt to build the road, and then use the \$75 million to pay for the debt.

**Chairman Dan Ruby:** You are right that Hwy 85 is encouraged to be a priority, but all of it must be used separately in any manner to provide for major improvements and construction projects of highway corridors impacted by energy development.

**Representative Robert Frantzvog:** I'm all for getting that road done. I am all for incurring debt to get the road done. I think that this leaves some open...

**Representative Gary Paur:** Would it be workable to remove any underlined parts of this bill, which would, if the amendment passed, still have the ability to adopt the bill without the \$75 million dollars specified. If it didn't pass we could adopt the whole bill as it stands.

**Chairman Dan Ruby:** Would your proposal be to just remove the sunset on the existing formula?

**Representative Gary Paur:** It would give us the option.

**Chairman Dan Ruby:** You could get one ready. We would have time to do it. That is a possibility.

**Representative Gary Paur:** Could the intern draw up that amendment?

**Chairman Dan Ruby:** Yes.

**Representative Mike Schatz:** I am in favor of this bill. The first thing that we owe the people of North Dakota is **safety**. That is number one. If you look at where the deaths are, the deaths are between Minot and Williston and between Williston and Belfield. We have to fix this. I think this is doing the responsible thing. We are putting the money away, and when the environmental studies are done, it can be built. This road has to get fixed because it is **very dangerous**.

**Representative Chris Olson:** Would this bill allow for the money from that fund to be used to finance a larger bond? Then they could go and take out a bond to jump start the construction. This could be used to pay the principle and interest on that bond, whether it would be a 10 or 20 year bond.

**Representative Robin Weisz:** We do not bond. We pay as we go; that has always been the policy.

**Representative Robin Weisz:** Where is the sunset?

**Chairman Dan Ruby:** It continues the language with a new effective date. That is what the Treasurer's Office told me.

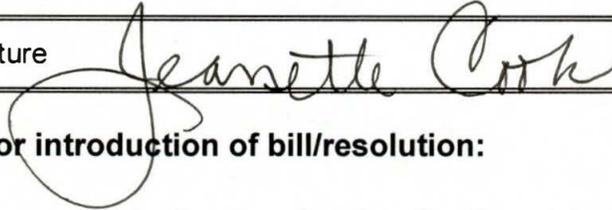
# 2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee  
Fort Totten Room, State Capitol

HB 1031  
1/30/2015  
#22904

Subcommittee  
Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A bill relating to oil and gas production tax funding for the state highway fund; and to provide an effective date.

Minutes:

**Chairman Dan Ruby** opened discussion on HB 1031.

**Chairman Dan Ruby** explained that the bill does three things.

1. First, it sets up a separate bucket of money (\$75 million each biennium) out of the Oil and Gas Production Tax bucket. It is not affected by the trigger for the extraction tax.
2. Then, it narrowly directs the money to go towards major improvement construction projects impacted by energy development with the priority of four-laning Hwy 85.
3. Lastly, it removes the sunset on the formula that we use to distribute the funds to the different entities in the Highway Distribution Fund.

**Representative Robin Weisz:** Do we have another vehicle that we can use to take care of the sunset clause? I would like to make sure that our committee says that we like the formula.

**Chairman Dan Ruby:** We don't, with any of the bills that we have now. It is important. Earlier you commented that this will not have to go to Appropriations, I have been told by leadership that it **will** have to go to Appropriations.

**Representative Kathy Hawken:** What if we just left the bill with that section (sunset clause)? I am all for four-laning Hwy 85, but I don't want to see it being done this way.

**Representative Gary Paur:** I tried to some work on this bill. I had an amendment made out that takes all the underlined portions out, getting rid of the \$75 million. Challis checked with Samantha Kramer, and she said that if you take it out, you might as well kill the bill because it doesn't remove the sunset clause. So, I went to Tim Dawson who wrote the bill, and he said the same thing.

**Chairman Dan Ruby** asked Challis to come to the podium to give some explanation of information he found about the sunset clause in the bill.

**Challis William, student intern:** The way that I understand this, two of the sections say the same thing.

**Chairman Dan Ruby:** It repeats, but one is making sure that it is already pulling the \$75 million out of this biennium's bucket. Then it says it will continue on.

**Challis Williams:** Right.

**Chairman Dan Ruby:** The Treasurer's Office interpreted it to say that also it continues the whole formula. I don't know where the sunset came from. Normally we see, "and repeal of the sunset clause."

**Representative Robin Weisz:** This is two completely two separate things. The only thing sunseting is the formula for the Gross Production Tax. **It has nothing to do with our Highway Distribution Fund.** What they want to do with the Gross Production Tax probably isn't the role of the Transportation Committee. It is just in front of us because the \$75 million got slipped into that formula on how we divvy it up to the counties and the cities. That will go away after June 30, 2015.

**Chairman Dan Ruby:** I thought that the Treasurer's Office made it sound like it did have to do with the Highway Distribution Fund.

**Representative Robin Weisz:** The language is similar, but none of it has any bearing on the formula for the Highway Distribution Fund. That is why we didn't remember a sunset. I think that it doesn't matter what we do with this bill. That is up to Appropriations.

**Representative Gary Sukut:** We are interested in seeing the sunset clause go away for planning purposes. Coming to the legislature every two years trying to figure out where we at with dollars is making things extremely difficult. HB 1176 is the Gross Production tax bill. It has changes in it, and the effort will be made to make sure there is not a sunset clause.

**Chairman Dan Ruby:** That may have been my misinterpretation of what they said. I might have thought that they were talking about the Highway Distribution Formula, when they were really talking about the formula for the Gross Production Tax.

**Representative Gary Sukut:** The \$75 million is important to those that are traveling up and down Hwy 85. I would like to let this bill go forward and let appropriations work with it.

**Representative Robin Weisz:** Actually, it doesn't even sunset. There is just a **different** allocation if it occurs after June 30, 2015.

**Challis Williams:** It is not so much a sunset, but they do change the formula.

**Rep. Mark Owens:** So, the only reason they are both listed in the bill is to keep the \$75 million going past June 30, 2015, they had to list the other section.

**Vice Chairman Lisa Meier moved a DO NOT PASS on HB 1031.  
Representative Kathy Hawken seconded the motion.**

**Representative Mike Schatz:** I am going to resist the motion. We NEED to get Hwy 85 done, but if we don't put money away it won't happen. I bet the \$75 million wouldn't even cover four-laning the bridge that crosses the Little Missouri River at Long X Bridge. That is just one bridge! There is 60 miles south of that yet.

I seriously feel that our responsibility of the legislature as a group is the **safety of people**. This will make people a lot safer. I like the bill, and think we should keep it.

**Representative Robin Weisz:** I will resist the motion too. The traffic counts on I-94 peaks at around 9,400. HWY 85 has some peaks of 17,000. I do have issues with making this money specifically for Hwy 85, but I have always supported dedicating funds to transportation. I think that they will do 85 if there is money. We have to start dedicating money, the gas tax and registrations will not fund transportation forever. I like the idea of dedicating some of that money 100% to roads.

**Representative Kathy Hawken:** We are on the same page as far as funding, but the way that we are taking it out I don't like. We are putting it above a lot of other things. This comes out before it goes into the Legacy Fund. Is that correct?

**Representative Gary Sukut:** It does not come out before the legacy fund. The Legacy Fund is 30% that comes right off the top. This will come out of the 5% Gross Production Tax which is split into two buckets. There is the 1% side and the 4% side; this coming out of the 1% side.

**Chairman Dan Ruby** reviewed the handout from the Treasurer's Office.

**Representative Robert Frantzvog:** We don't have another bill to replace this. It is the best thing we have right now. I think we should pass it and at least send a message that we are supporting this process. I think we should move forward with it.

**Rep. Mark Owens:** I want to clarify that this **is** taken out before the Legacy Fund. We designed the distribution in such a way that cities and counties were held harmless in the beginning. On the back end the 30% still came out and went into Legacy Fund. They still counted the 30% off the top, but didn't pay it until later. I don't like earmarking it either, but the biggest problem is that there is no sunset on it.

**Representative Rick C. Becker:** I don't like the way that it is earmarked for a specific highway, however that is what the bill does, so I will go along with the motion. I don't like the idea that it also doesn't have a sunset when it deals with a specific roadway. I don't like the idea that we can change it later.

**Representative Kathy Hawken:** I don't want us to lose the whole bill; we do need Hwy 85 done. I just don't like the way the bill is written with the ongoing appropriation. I'm not sure how we could amend it. We just need a bill that says, "Pave 85". Is there a way to fix it?

**Representative Robin Weisz:** If we want to fix it, we need to eliminate the earmarking. This would be a dedicated source of \$75 million that goes to highways. **That is not much money.**

**Chairman Dan Ruby:** Will that lose support of the western legislators who want the money earmarked?

**Representative Robin Weisz:** If you want a Hwy 85 bill, it won't go anywhere. I agree that Hwy 85 is a HUGE issue. There is no reason to save the bill, unless you want to save the \$75 million for highways.

**Chairman Dan Ruby:** I will support the DO NOT PASS because I know it will get "wacked". But, if this committee passes it out, Vice Chairman Lisa Meier and I will both go down and make a strong case to dedicate that money to highways in general or for Hwy 85.

Discussion ended on HB 1031.

**A roll call vote was taken for a DO NOT PASS on HB 1031. Aye 6 Nay 6 Absent 2  
The motion failed.**

The bill will be held for further action.

# 2015 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee  
Fort Totten Room, State Capitol

HB 1031  
2/5/2015  
#23353

Subcommittee  
Conference Committee

Committee Clerk Signature

*Jeanette Cook*

## Explanation or reason for introduction of bill/resolution:

A bill relating to oil and gas production tax funding for the state highway fund; and to provide an effective date.

## Minutes:

Attachment #1-2

**Chairman Dan Ruby** brought HB1031 before the committee. He reviewed the bill for the committee.

**Representative Robin Weisz:** I don't think that the bill has any hope of passing unless we take Hwy 85 out. There appears to be some support for the \$75 million, which would be a consistent amount going forward. I have seen the traffic counts on Hwy 85, and I definitely support the 85, but don't think it will have a chance with that language in it. I recommend taking out the 85 section if we move forward with the bill. (Page 2 Subsection 4)

Discussion.

**Chairman Dan Ruby:** I have talked to our leadership. They do not want to see another bucket or earmark. Any motion on the bill that is a DO PASS, I am going to request that it be rereferred to Appropriations because they will pull it off the floor.

**Representative Mike Schatz** provided the committee with two state maps. One shows the 2014 crash report on major highways in North Dakota and the other truck traffic on major highways. See attachments #1-2.

**Representative Mike Schatz:** These maps show that Hwy 85 is the MOST DANGEROUS highway in the state. It is because it is **two lanes**. The Long X Bridge needs to be rebuilt. It will be a 4 lane bridge across the Little Missouri River; it will be a massive undertaking. They don't want to put more money in a bucket, but how will they build bridges? We live with this on a day-to-day basis. It is dangerous! I think this is what we have to do to make people SAFE. Horrible accidents happen on this highway.

**Representative Mike Schatz** moved a DO PASS ON HB1031 and rereferred to Appropriations.

**Representative Gary Sukut** seconded the motion.

**Representative Chris Olson:** I share leadership's reluctance to create yet another bucket. Is that really the only way that we get safety taken care of in North Dakota is by the legislature deciding where the priorities are? Is the Department of Transportation really that incompetent that we need to provide them with that kind of micro-management? Don't they take care of this kind of thing?

**Chairman Dan Ruby:** Some do not feel that the Department of Transportation put Hwy 85 on a high priority as soon as they should have. The Department of Transportation is balancing the needs of the whole state within the confinements of their funding. So, if we are going to direct them, then we need to give them the funding to do it. We do have to look out for the funds across the state, as well.

**Representative Robin Weisz:** I take exception to the NEW bucket idea. We are NOT creating a new bucket; it is going into the Highway Fund. We have two buckets: the Highway Fund and the Highway Trust Fund. They have been there for a long time, and they have been very important because some of the years, roads wouldn't have gotten anything. I argue that we should add more to this particular bucket, but I don't like to dictate to the Department of Transportation.

**Representative Gary Sukut:** We are working in totally different times than we ever have worked before. It is a different world, and the needs are different and more pressing. We are ultimately having to do things that we have not traditionally not done in the past in order to address the needs. These dollars, the \$75 million, are coming out of the Gross Production Oil Tax, and the problems that we are experiencing now, especially on Hwy 85, are because of the oil production. Representative Mike Schatz is correct; we are killing people out there. We may have to step out of the bucket a bit to nudge this thing on. If we don't, we are just going to continue marching down the same path that we have been marching down. I think this is a very important bill. We need to send it forward and continue the argument. It may not be what we want to hear in the end, but I think we need to have the fight.

**Chairman Dan Ruby:** I am willing to support the bill without the Subsection about Hwy 85. Without that off the bill, I will oppose the motion, but I have come to the conclusion... to put money in a fund that we have tried to get money into for quite a while.

**Representative Kathy Hawken:** We are the policy committee. If we think this should happen, then that is what we should send out, because we think 85 should be paved (four laned). Even if that was removed, so people would feel more comfortable, I don't think that there is any question as to what the legislative intent is.

**Rep. Mark Owens:** If we put something in special for 85 and segregate that, I can see myself getting asked to put in a bill next time for the 47<sup>th</sup> Interchange in Grand Forks and the 42<sup>nd</sup> issue with the railroads. Even with legislative intent, it starts precedence.

**Representative Robin Weisz:** What if we took the language out on Page 4, but at the end we add a statement of intent that says: Fixing the safety and traffic issues on 85 should be a priority for the Department of Transportation. We would credit the Highway Fund with \$75 million. We eliminate Section 4 completely. Then add the statement at the end. I think it should be on the bill.

**Representative Mike Schatz:** I would like to see what it says, before I agree with that. This is different than an intersection; it is an entire highway, just like Hwy 83 and Hwy 2. I know that we don't want to go road by road, but this is DIFFERENT. I would like to see what it says. If it has some teeth in it I would withdraw my motion.

**Vice Chairman Lisa Meier:** If we did take out lines 19-23 on Page 2 and then add the intent for Hwy 85, it would have a lot better chance of passing through the assembly than in its current form.

**Representative Mike Schatz:** One of the first things we NEED to do is to build a bridge across the Little Missouri River. Long-X Bridge has been hit 15 times, and then the traffic is tied up all day. It is a mess; they have to go around on Hwy 22 and Hwy 200. You can't believe the traffic jams that occur. If we are going to tell the Department of Transportation to do something, **priority number one** would be to get a four lane bridge across the Little Missouri River; then build south and make it all safe. Could that be added to the intent?

**A roll call vote was taken: Aye 6 Nay 6 Absent 2**  
**The motion failed.**

**Rep. Mark Owens:** I voted no because I believe it is deader than a doornail right now, but I don't know what to do to fix it.

**Representative Chris Olson:** Why don't we like to bond in this state? We have the money. There are more creative ways to use our money and leverage some low interest rates.

**Chairman Dan Ruby:** I believe we are still paying the bond off on Hwy 2.

**Representative Chris Olson:** In this environment where we have a cash crunch, but still have some development that we need to do, we don't need to put all that cash out and lock it up to get something done. If it needs to get done, we can borrow and pay it back in the future.

**Representative Robin Weisz:** We have bonded exactly two transportation projects: Hwy 2 and the Memorial Bridge. The bridge was the last bond that was done. It saved us about \$20 million, but people are still mad that we bonded. We have bonded lots of building projects, but for whatever reason bonding for roads has been off limits in North Dakota. I don't disagree that bonding is a great way to maximize the dollars when it comes to infrastructure and increasing costs. I just know that will never get talked about in Appropriations.

**Representative Chris Olson:** When you have this big boom where suddenly there is all this traffic that wasn't there before, that is a phenomenon of something that will continue to be that way in the future. Those revenues are going to be coming from all of that future traffic. So, bonding for infrastructure seems like one of the best things that you could possibly do. There are things that we could do with the bank of North Dakota, with the Oil and Gas Tax Revenues, and making direct appropriations to secure a bond specifically and use this Oil and Gas Tax to go against these infrastructure projects. If we bond it out ourselves or ... It is a better idea. I think it would be more palatable than a \$75 million hit in this biennium when we have already lost so much revenue. There is no way we are going to get this through.

**Representative Kathy Hawken:** If we can keep it alive, then there would be some time to set that idea out there and let it simmer a bit. We **know** that we need to do the bridge, like YESTERDAY and really need to do more than that. With bonding there might be a possibility to do that. **No one** in the chamber doesn't know that we need to do 85.

Discussion on amendments.

**Chairman Dan Ruby:** It would say: "Oil and Gas Production Tax deposited in the State Highway Fund under Section 57-51-15 with a consideration to expanding to four lanes United States Highway 85. These monies are not subject to Section 54-44.1-11.

**Representative Rick C. Becker moved the above amendment. (15.0114.01001)**  
**Representative Gary Sukut seconded the motion.**

**A voice vote was taken. The motion carried.**

**Representative Mike Schatz move a DO PASS on HB 1031 as amended and rereferred to Appropriations.**  
**Representative Gary Sukut seconded the motion.**

**A roll call vote was taken: Aye 11 Nay 2 Absent 1**  
**The motion passed.**

**Representative Gary Sukut will carry HB 1031.**

February 5, 2015

*AK*  
*2-5-15*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1031

Page 2, line 20, remove "accounted for separately to be used in any manner to provide for major"

Page 2, remove line 21

Page 2, line 22, replace "with a priority" with "used"

Page 2, line 22, after the first "for" insert "consideration in expanding to"

Page 2, line 22, remove the second "for"

Renumber accordingly

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1031**

House Transportation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Vice Chairman Lisa Meier    Seconded By Representative Kathy Hawken

| Representatives     | Yes | No | Representatives                | Yes | No |
|---------------------|-----|----|--------------------------------|-----|----|
| Chairman Ruby       | X   |    | Rep. Delmore                   |     | X  |
| Vice Chairman Meier | X   |    | Rep. Hanson                    |     | X  |
| Rep. Rick Becker    | X   |    | Rep. Nelson                    | A   |    |
| Rep. Frantzvog      |     | X  |                                |     |    |
| Rep. Hawken         | X   |    |                                |     |    |
| Rep. Olson          | A   |    |                                |     |    |
| Rep. Owens          | X   |    |                                |     |    |
| Rep. Paur           | X   |    |                                |     |    |
| Rep. Schatz         |     | X  | <b>MOTION FAILED</b>           |     |    |
| Rep. Sukut          |     | X  |                                |     |    |
| Rep. Weisz          |     | X  | <b>HELD FOR FURTHER ACTION</b> |     |    |
|                     |     |    |                                |     |    |
|                     |     |    |                                |     |    |
|                     |     |    |                                |     |    |

Total (Yes) 6 No 6

Absent 2

Floor Assignment \_\_\_\_\_

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

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1031**

House Transportation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Representative Mike Schatz Seconded By Representative Gary Sukut

| Representatives     | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman Ruby       |     | X  | Rep. Delmore    | X   |    |
| Vice Chairman Meier |     | X  | Rep. Hanson     | X   |    |
| Rep. Rick Becker    |     | X  | Rep. Nelson     | A   |    |
| Rep. Frantzvog      | A   |    |                 |     |    |
| Rep. Hawken         |     | X  |                 |     |    |
| Rep. Olson          |     | X  |                 |     |    |
| Rep. Owens          |     | X  |                 |     |    |
| Rep. Paur           | X   |    | MOTION FAILED   |     |    |
| Rep. Schatz         | X   |    |                 |     |    |
| Rep. Sukut          | X   |    |                 |     |    |
| Rep. Weisz          | X   |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |

Total (Yes) 6 No 6

Absent 2

Floor Assignment \_\_\_\_\_

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

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1031**

House Transportation Committee

Subcommittee

Amendment LC# or Description: 15.0114.01001

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Representative Rick C. Becker    Seconded By Representative Gary Sukut

| Representatives     | Yes | No | Representatives       | Yes | No |
|---------------------|-----|----|-----------------------|-----|----|
| Chairman Ruby       |     |    | Rep. Delmore          |     |    |
| Vice Chairman Meier |     |    | Rep. Hanson           |     |    |
| Rep. Rick Becker    |     |    | Rep. Nelson           |     |    |
| Rep. Frantzvog      |     |    |                       |     |    |
| Rep. Hawken         |     |    |                       |     |    |
| Rep. Olson          |     |    |                       |     |    |
| Rep. Owens          |     |    | <b>VOICE VOTE</b>     |     |    |
| Rep. Paur           |     |    | <b>MOTION CARRIED</b> |     |    |
| Rep. Schatz         |     |    |                       |     |    |
| Rep. Sukut          |     |    |                       |     |    |
| Rep. Weisz          |     |    |                       |     |    |
|                     |     |    |                       |     |    |
|                     |     |    |                       |     |    |

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1031**

House Transportation Committee

Subcommittee

Amendment LC# or Description: 15.0114.01001

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Representative Mike Schatz Seconded By Representative Gary Sukut

| Representatives     | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| Chairman Ruby       | X   |    | Rep. Delmore    | X   |    |
| Vice Chairman Meier | X   |    | Rep. Hanson     | X   |    |
| Rep. Rick Becker    |     | X  | Rep. Nelson     | X   |    |
| Rep. Frantzvog      | A   |    |                 |     |    |
| Rep. Hawken         | X   |    |                 |     |    |
| Rep. Olson          |     | X  |                 |     |    |
| Rep. Owens          | X   |    |                 |     |    |
| Rep. Paur           | X   |    |                 |     |    |
| Rep. Schatz         | X   |    |                 |     |    |
| Rep. Sukut          | X   |    |                 |     |    |
| Rep. Weisz          | X   |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |
|                     |     |    |                 |     |    |

Total (Yes) 11 No 2

Absent 1

Floor Assignment Representative Gary Sukut

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

**REPORT OF STANDING COMMITTEE**

**HB 1031: Transportation Committee (Rep. Ruby, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1031 was placed on the Sixth order on the calendar.

Page 2, line 20, remove "accounted for separately to be used in any manner to provide for major"

Page 2, remove line 21

Page 2, line 22, replace "with a priority" with "used"

Page 2, line 22, after the first "for" insert "consideration in expanding to"

Page 2, line 22, remove the second "for"

Renumber accordingly

**2015 HOUSE APPROPRIATIONS**

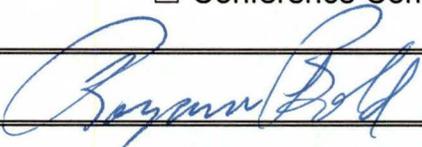
**HB 1031**

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

HB 1031  
2/11/2015  
23694

- Subcommittee  
 Conference Committee

  
\_\_\_\_\_

**Explanation or reason for introduction of bill/resolution:**

Relating to oil and gas production tax funding for the state highway fund; and to provide an effective date.

**Minutes:**

\_\_\_\_\_

**Chairman Jeff Delzer** called the meeting to order.

**Representative Dan Ruby, District 38, Minot:** spoke as Chairman of the Transportation Committee (originating committee of the bill); referred to the language in the bill; dealing with an earmark for oil impact corridors and special priority for Highway 85,

**Chairman Jeff Delzer**

The way I read it, it says that's the only thing, it can be used for is four lane and highway 85.

**Ruby:** after Highway 85 is done, \$75M would come from that fund and go into the state highways fund. With the gas tax and registration tax; they've been pretty stagnant. We are tapping into general funds quite often. It's to move dedicated funds into the highway funds for the future.

**Chairman Jeff Delzer**

Did you have discussion about effects of doing this to the silos or the amount of money that state has with the formula questions?

**Ruby:** talked about a lot of that and we talked about how this might displace money that was put into the DOT budget.

**Chairman Jeff Delzer**

Are the highways more important than anything that the general funds, fund?  
What if two years we are short in what we need to fund K-11 education?

**Ruby:** haven't seen a reduction in K-12 since I've been here.

**Chairman Jeff Delzer**

You would be taking that authority away from Appropriations committee. You'd have to change the language then in 2 years.

**Ruby:** yes we would have to change that. This is revenue that I didn't think would strap the state

**Representative Silbernagel**

Was there any conversation about setting a precedent as directing the DOT on specific projects?

**Ruby:** That was the focus of our discussion. We think it's a high priority already of theirs anyway.

**Representative Nelson**

The sheer number isn't that high, that's the 60/40 split, then that has consequences to revenue generated on the production tax side of things. Although this doesn't specify that after U.S. Highway 85 is completed, that the money would have to be spent in the oil producing areas of the state. So there would be no accountability on the western side of the ledger because of the language in here as I see it. I am concerned about doing this in practice because of that.

**Ruby:** That's why we took the corridor language out of that. Put in the state highway dollars that they would be able to use those dollars to maintain other roads in the state.

**Chairman Jeff Delzer**

We will have questions on whether or not the policy should be to set it aside. Or whether or not we want to tell the department to use this money toward 85?

**Ruby:** Highway 85 is on everyone's radar to be finished.

**Representative Nelson:** When we mention it in legislation that sets it apart. Was there an effort to remove that?

**Ruby:** yes there was. I'm not comfortable with that either.

# 2015 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

HB 1031  
2/17/2015  
Job # 24008

- Subcommittee  
 Conference Committee

*Steph Schneider*

### Explanation or reason for introduction of bill/resolution:

Relating to oil and gas production tax funding for the state highway fund; and to provide an effective date.

### Minutes:

Attachments 0

Chairman Jeff Delzer

Two things that concern me about this bill:

One is the fact that it should always be up to the Appropriations Committee to decide how much should go to transportation. We always want to be supportive of roads, but it should be up to the Legislature to decide how much of that is available.

Second, if our present situation stays or becomes more concerning with our revenue, we could be in a position where we have some real challenges funding everything that we've funded. I do not plan to support it.

Representative Skarphol

To my recollection, Highway 2 is the only highway that we've ever said that the Department of Transportation had to do.

Chairman Jeff Delzer

I don't believe we ever passed that. The Governor told the Department they needed to go ahead with Highway 2.

Representative Skarphol

We authorized the bonding of it.

Chairman Jeff Delzer

We did do that. Bonding would be a separate issue.

Vice Chairman Keith Kempenich

We asked the highway patrol for numbers on overweight/overwidth permits; there were over 72,000 last year on highway 85.

We have a bridge issue on that road that I would like to see resolved, that would help move this along.

Chairman Jeff Delzer

I don't know that it would, that's part of the 450; they have to do all of the environmental work on 85 before they can even consider the Long X Bridge. I still don't think it's right for us to prioritize the Department of Transportation's (DOT) work.

Representative Glassheim

Is this bucket in different bills as well?

Chairman Jeff Delzer

No, I'm not aware of any other bill that moves money into the Highway Fund directly. This does not put it in a bucket system, this money would be taken out before any of the buckets would be filled. It would take it away from the bucket system or silo system.

Representative Nelson

I move that we remove the language that designates highway 85 as the recipient of that money, in section 1, subsection 2.

Representative Kreidt

Second.

Discussion:

None.

Voice vote taken.

Chairman Jeff Delzer

Motion carries.

Representative Nelson

I'll make a Do pass as amended.

Representative Glassheim

Second.

Discussion:

Chairman Jeff Delzer

I don't plan to support it for the reasons stated earlier.

Vote: Yes 3, No 19, Absent 1.

Representative Jeff Delzer

Motion fails, does any care to make a motion.

House Appropriations Committee

HB 1031

2/17/2015

Page 3

Representative Vigessa

I move a Do Not Pass as amended.

Representative Thoreson

Second

Discussion

None.

Vote

Yes 22, No 0, Absent 1

Carrier

Representative Vigessa

15.0114.02001  
Title.03000

Prepared by the Legislative Council staff for  
House Appropriations Committee  
February 17, 2015

SK  
2/18/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1031

Page 1, line 1, replace "sections 24-02-37 and" with "section"

Page 1, remove lines 5 through 24

Page 2, remove lines 1 through 21

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment removes section 1 of the bill which prioritizes the use of oil and gas production taxes deposited in the highway fund.





Date: 2/17

Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1031

House Appropriations Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: *Entered as amended*

Adopt Amendment  
 Do Pass  Do Not Pass  
 As Amended  
 Place on Consent Calendar

Other Actions:  Reconsider  \_\_\_\_\_

Without Committee Recommendation  
 Rerefer to Appropriations

Motion Made By: Vigessal Seconded By: Thoreson

| Representatives               | Yes | No | Absent | Representatives            | Yes | No | Absent | Representatives           | Yes | No | Absent |
|-------------------------------|-----|----|--------|----------------------------|-----|----|--------|---------------------------|-----|----|--------|
| Chairman Jeff Delzer          | ✓   |    |        | Representative Nelson      | ✓   |    |        | Representative Boe        | ✓   |    |        |
| Vice Chairman Keith Kempenich | ✓   |    |        | Representative Pollert     | ✓   |    |        | Representative Glasheim   | ✓   |    |        |
| Representative Bellew         | ✓   |    |        | Representative Sanford     | ✓   |    |        | Representative Guggisberg | ✓   |    |        |
| Representative Brandenburg    | ✓   |    |        | Representative Schmidt     | ✓   |    |        | Representative Hogan      | ✓   |    |        |
| Representative Boehning       | ✓   |    |        | Representative Silbernagel | ✓   |    |        | Representative Holman     | ✓   |    |        |
| Representative Dosch          | ✓   |    |        | Representative Skarphol    | ✓   |    |        |                           |     |    |        |
| Representative Kreidt         | ✓   |    |        | Representative Streyle     |     |    |        |                           |     |    |        |
| Representative Martinson      | ✓   |    |        | Representative Thoreson    | ✓   |    |        |                           |     |    |        |
| Representative Monson         | ✓   |    |        | Representative Vigessaa    | ✓   |    |        |                           |     |    |        |

Totals

|             |           |
|-------------|-----------|
| (Yes)       | <u>22</u> |
| No          | <u>0</u>  |
| Absent      | <u>1</u>  |
| Grand Total | <u>23</u> |

Floor Assignment: Vigessa

If the vote is on an amendment, briefly Indicate Intent: \_\_\_\_\_

15.0114.02000

**REPORT OF STANDING COMMITTEE**

**HB 1031, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1031 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections 24-02-37 and" with "section"

Page 1, remove lines 5 through 24

Page 2, remove lines 1 through 21

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment removes section 1 of the bill which prioritizes the use of oil and gas production taxes deposited in the highway fund.

**2015 TESTIMONY**

**HB 1031**



H B 1031  
1-15-15  
# 1

Chairman, Ruby

Good morning. I am Cal Klewin, Executive Director of the **Theodore Roosevelt Expressway Association**.

The **Theodore Roosevelt Expressway** (Highway 85) is a Federally-Designated High Priority Corridor on the National Highway System. It runs from Rapid City, SD, to Canada through western North Dakota to the Port of Raymond in Montana. On the southern end, it connects to the Heartland Expressway, which connects Rapid City, SD, to Denver, CO. The Heartland Expressway then links to the Ports-to-Plains Trade Corridor, which connects Denver, CO, to Laredo, TX. These three corridors are collectively known as the Ports-to-Plains Alliance.

The **Theodore Roosevelt Expressway**--separately and as part of the Ports-to-Plains Alliance--is critical to the economy and quality of life of North Dakota, of the Great Plains region, and of the Nation. The TRE serves as a major North South corridor for North Dakota's energy, agriculture, tourism and manufacturing economic sectors.

I know this Committee is fully aware of the immediate transportation infrastructure needs in our state. Today, you have House Bill 1031 before you. HB 1031 can offer funding to help modernize North Dakota's surface transportation system. HB 1031 can contribute to the current and future prosperity of North Dakota and our Nation with a safe and efficient transportation system for industry, business and the traveling public.

**Therefore, the Theodore Roosevelt Expressway Association and the Ports to Plains Alliance supports House Bill 1031.**

That concludes my testimony, I will try to answer any questions you may have.

Thank You,

Cal Klewin

Executive Director

**Theodore Roosevelt Expressway Association**

HB 1031  
1-15-15  
# 2  
log 2

**HOUSE TRANSPORTATION COMMITTEE**  
**January 15, 2015 - 9:15 a.m. - Fort Totten Room**

**North Dakota Department of Transportation**  
**Ron Henke, P.E., Deputy Director for Engineering**

**HB 1031**

---

Good morning Mr. Chairman and members of the committee. I'm Ron Henke, Deputy Director for Engineering for the North Dakota Department of Transportation (DOT). I'm here to provide information related to HB 1031.

The Department is responsible for the construction, reconstruction, rehabilitation, preservation and maintenance of 8,563 roadway miles on the state highway system. A combination of factors is used in selecting projects including: system condition, maintenance costs, roadway capacity, load carrying capacity, preservation needs, safety and public input. The final selection of projects makes up the annual Statewide Transportation Improvement Program (STIP).

As the Department develops the STIP, we work hard to ensure the resources made available to the Department maximize the expenditures of our funding and allow us to provide a transportation system that safely moves people and goods.

Previous revenues provided to the Department from the general fund have been instrumental in allowing the Department to start to address the many roadway needs in western North Dakota. We were able to make improvements in several area:

- Constructing bypasses around Watford City, Alexander, and New Town, and get under construction a west bypass around Williston.
- Widen and increase the load carrying capacity on various roadways.
- 4-laning the first two segments of US 85 between Watford City and Williston with the remaining portion under contract.

These improvements are a result of the processes we have in place to select projects.

The Department recently put together a cost estimate to 4-Lane the remainder of US 85 from Watford City to the South Dakota border. In order to do this, we needed to make some assumptions on a time frame for budgetary purposes so we assumed it would be complete by 2021. As you can see, the chart shows that to 4-Lane US 85 from the South Dakota border to the Watford City and to 4-Lane US 2 from Williston to the Montana Border it is estimated to cost just over \$2.8 billion (after adjusting for inflation).

This bill provides up to \$75 million per biennium to the Department. We would also like to share that presently we have a project under contract to do the environmental document from I-94 to Watford City.

| <b>US 85 4-Lane Cost Estimate</b>   |                                |                |                                    |                 |   |   |
|---|--------------------------------|----------------|------------------------------------|-----------------|---|---|
| <b>Location</b>   | <b>Length</b>                  | <b>Cost</b>    | <b>Cost Adjusted for Inflation</b> | <b>Millions</b> | <b>Cost Assumptions</b>   | <b>Anticipated Year of Construction</b> |
| 4-Lane US 85<br>SD Border to I-94   | 75 Miles                       | \$825          | \$1,636                            | M               | Today's cost based on \$11 M/mile including Structures  | 2019-2021                               |
| 4-Lane US 85<br>I-94 to Watford City<br>Excluding Grassy Butte to N of Park | 67 Miles Total<br>50 Miles Net | \$414          | \$627                              | M               | Today's cost based on \$8 M/mile for 50 Miles Net, plus \$14 M for an Antelope Crossing and 12 Cattle passes  | 2017-2018                               |
| 4-Lane US 85<br>Grassy Butte to North of Park                               | 17 Miles                       | \$321          | \$403                              | M               | Today's cost Based on \$15 M/mile thru the Park Area, plus \$35 M for Long X Bridge Plus \$31 M for two Mule Deer/Bighorn Sheep Crossings, one Antelope Crossing and 36 Cattle passes | 2016                                    |
| 4-Lane US 2<br>Existing 4-Lane to Montana Border                            | 12 Miles                       | \$120          | \$151                              | M               | Today's cost Based on \$10 M/mile including structures  | 2016                                    |
|   |                                | <b>\$1,680</b> | <b>\$2,817</b>                     | <b>M</b>        | <b>Total Cost SB Border to Watford City</b>   |   |

As we understand HB 1031, up to \$75 million a biennium would be provided to the Department to use on highway corridors impacted by energy development. The law suggests we make 4-laning Highway 85 a priority, but it does not direct the Department to proceed with Highway 85 improvements. The bill appears to be providing resources to the Department for energy development impacts and those resources could be used where the Department can justify energy impacts have occurred.

This concludes my testimony and I would be happy to answer any questions that the committee may have. Thank You.

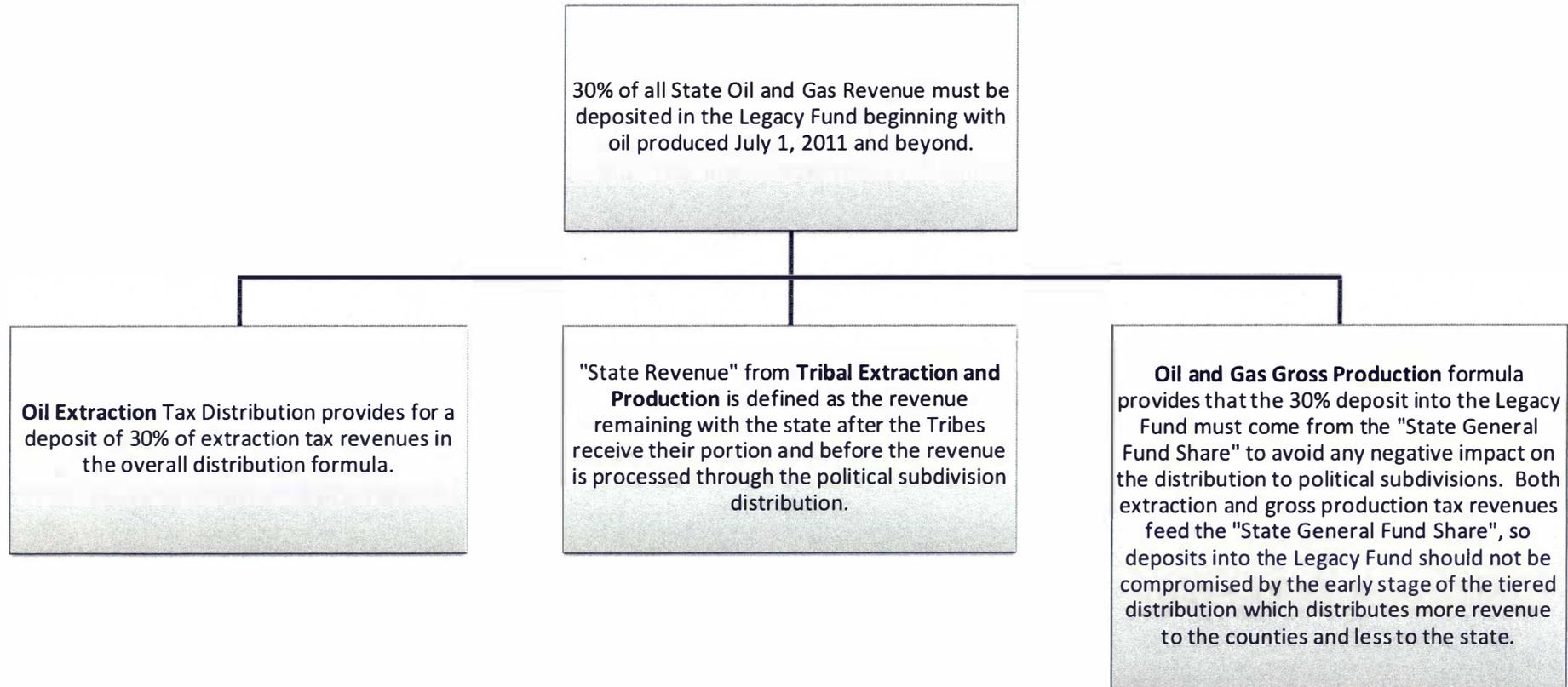
HB 1031  
1-16-15

10/5

Office of State Treasurer  
Kelly L. Schmidt  
Phone: 701-328-2643

Website: [www.nd.gov/ndtreas/](http://www.nd.gov/ndtreas/) North Dakota Legacy Fund

#1

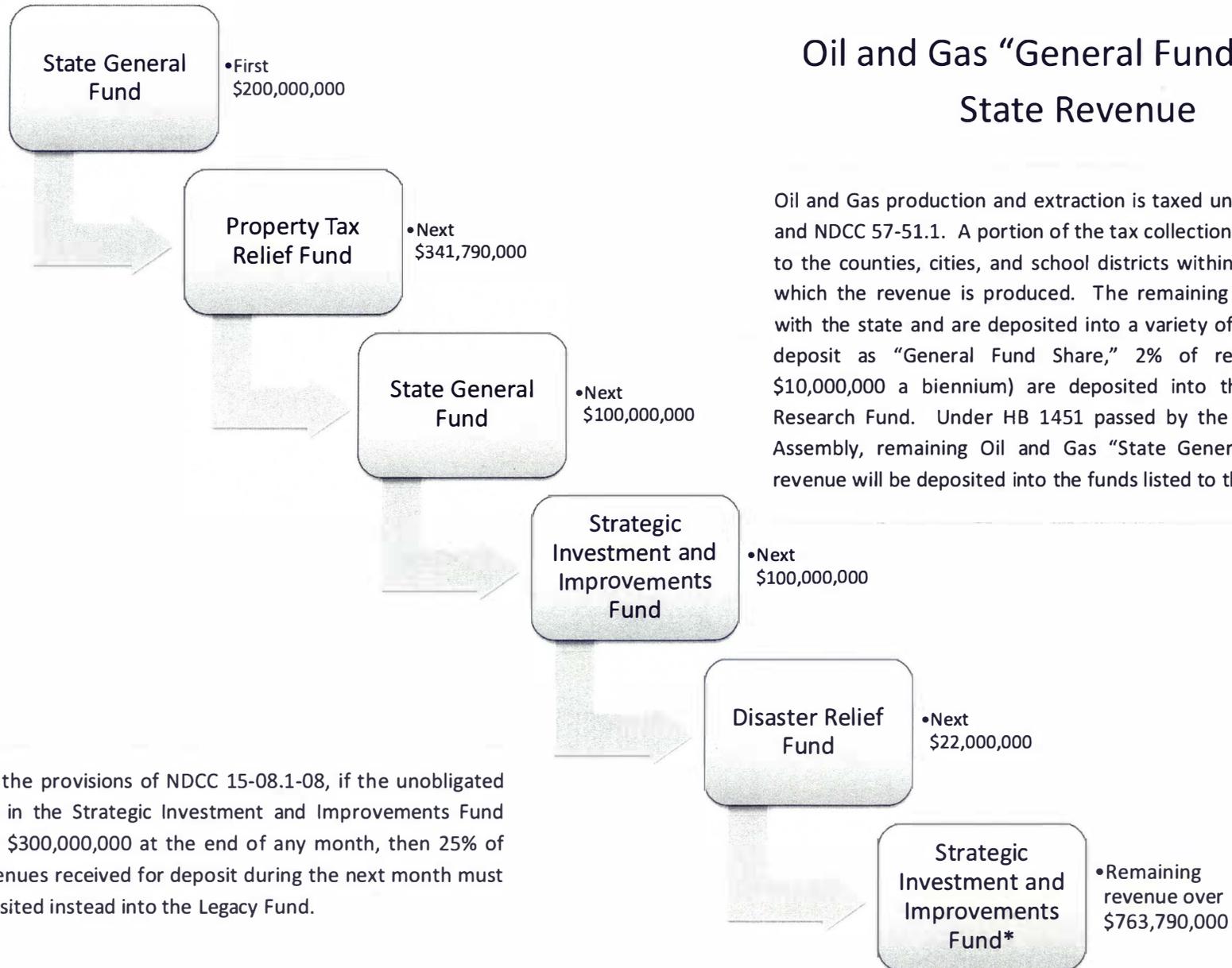


Office of State Treasurer  
Kelly L. Schmidt  
Phone: 701-328-2643  
Website: [www.nd.gov/ndtreas/](http://www.nd.gov/ndtreas/)

North Dakota Oil and Gas Revenue “General Fund Share” Deposit Flow

## Oil and Gas “General Fund Share” State Revenue

Oil and Gas production and extraction is taxed under NDCC 57-51 and NDCC 57-51.1. A portion of the tax collections are distributed to the counties, cities, and school districts within the counties in which the revenue is produced. The remaining collections stay with the state and are deposited into a variety of funds. Prior to deposit as “General Fund Share,” 2% of revenues (up to \$10,000,000 a biennium) are deposited into the Oil and Gas Research Fund. Under HB 1451 passed by the 62<sup>nd</sup> Legislative Assembly, remaining Oil and Gas “State General Fund Share” revenue will be deposited into the funds listed to the left.



\*Under the provisions of NDCC 15-08.1-08, if the unobligated balance in the Strategic Investment and Improvements Fund exceeds \$300,000,000 at the end of any month, then 25% of any revenues received for deposit during the next month must be deposited instead into the Legacy Fund.

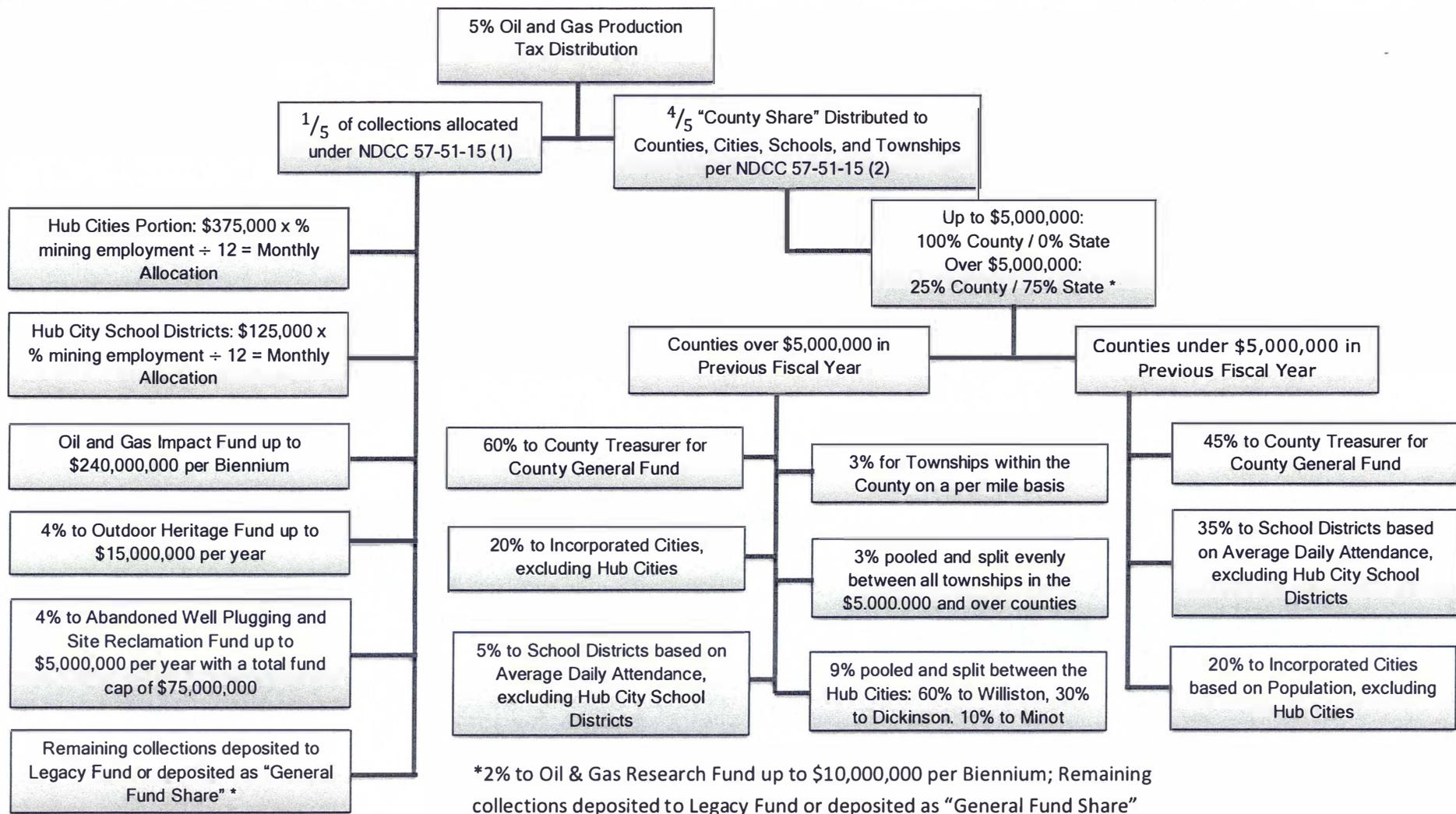
HB1031  
1-16-15

*This is the portion of the fund that would be changed.*

3 of 5

Office of State Treasurer  
Kelly L. Schmidt  
Phone: 701-328-2643  
Website: www.nd.gov/ndtreas/

North Dakota  
Oil and Gas Gross Production Distribution 2013-15 Biennium



#B1031  
1-16-15

4 of 5

Office of State Treasurer  
Kelly L. Schmidt

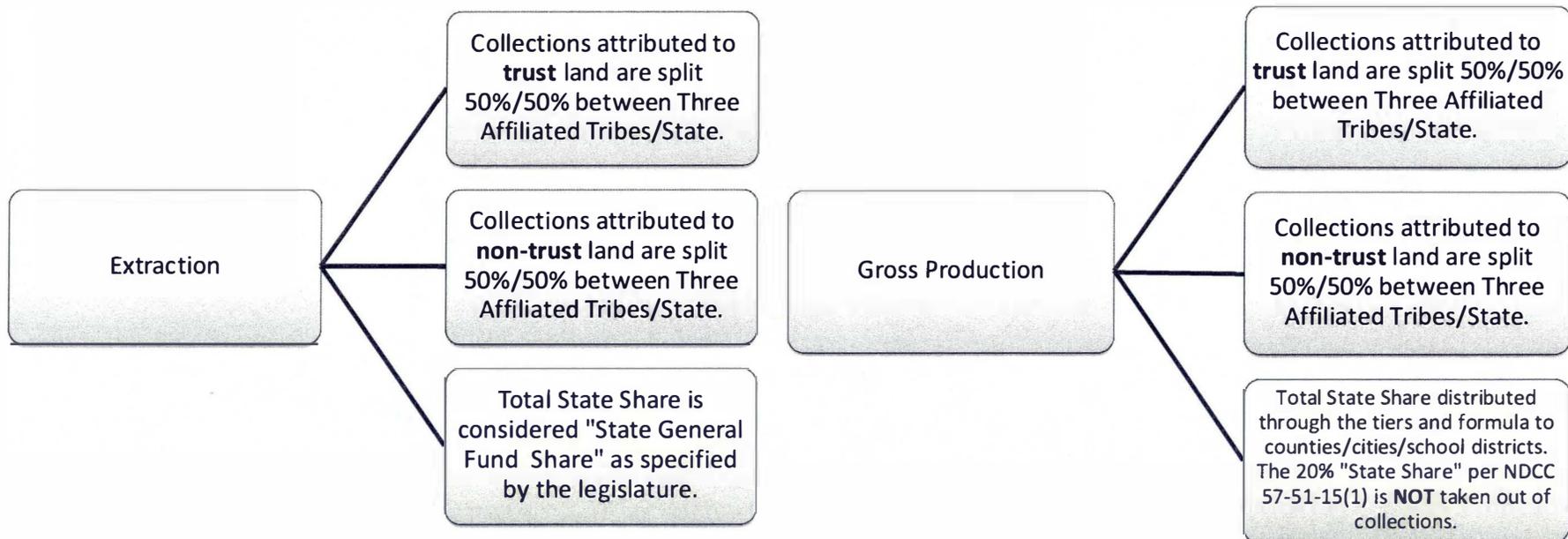
Phone: 701-328-2643

Website: [www.nd.gov/ndtreas/](http://www.nd.gov/ndtreas/)

North Dakota

Tribal Oil Extraction/Gross Production Tax Distribution FY 2014 and Beyond

Tribal Oil and Gas Production and Extraction is taxed and distributed according to a compact between the Three Affiliated Tribes and the State and is codified in NDCC 57-51.2

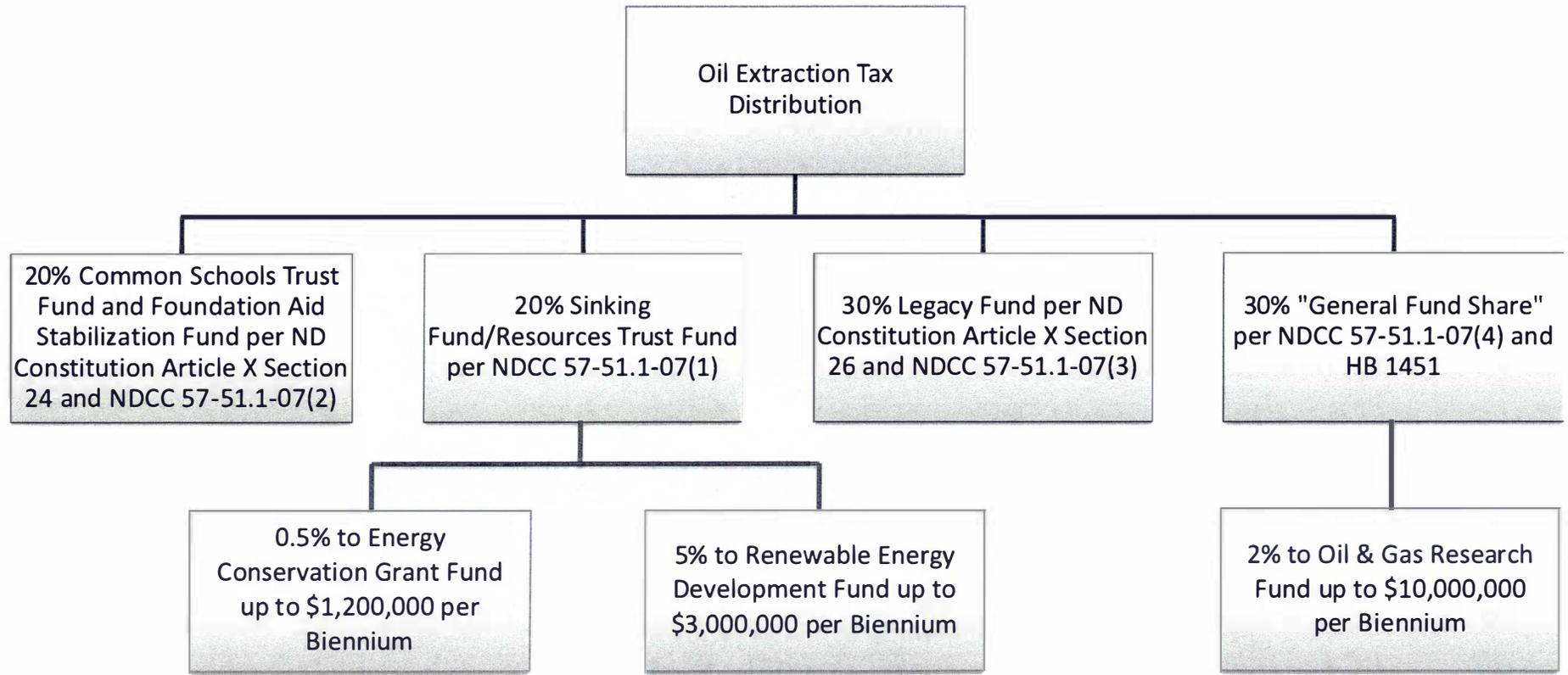


HB 1031  
1-16-15

5 of 5

Office of State Treasurer  
Kelly L. Schmidt  
Phone: 701-328-2643  
Website: [www.nd.gov/ndtreas/](http://www.nd.gov/ndtreas/)

North Dakota  
Oil Extraction Distribution Fiscal Year 2014 and Beyond



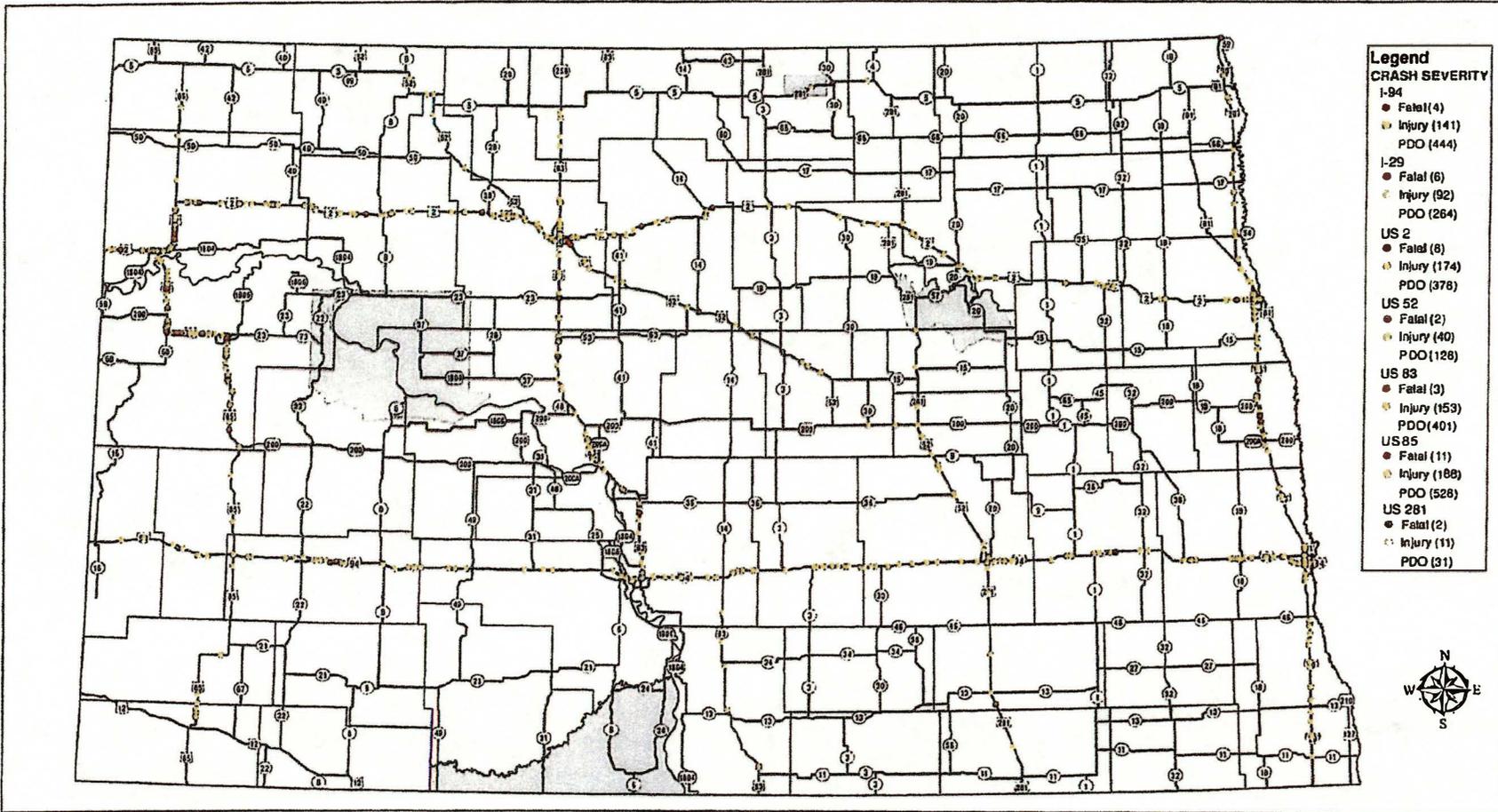




Theodore Roosevelt Expressway

#2  
#B1409  
2-5-15

# 2014 Crashes on Select Major Highways (See Legend)



2

This crash data was prepared on 1/28/2015, so it is possible crashes that occurred in November and December have not yet been entered into the database. Property Damage Only (PDO) crashes are not shown on map. The study period used was 1/1/2014 to 12/31/2014. Traffic count data used was collected in 2014.

PREPARED BY THE  
North Dakota Department of Transportation  
Programming Division  
Traffic Operations Section  
January 2015

23 USC 409 Documents  
NDDOT Reserves All Objections

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