2023 SENATE FINANCE AND TAXATION

SB 2367

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2367
1/30/2023

Relating to the allocation of the state share of oil and gas taxes.

2:15 PM Chairman Kannianen opens hearing.

Senators Present: **Kannianen, Weber, Patten, Rummel, Piepkorn.** Senator Magrum is absent**.**

Discussion Topics:
- Bucket addition
- Bucket priority
- Competing bills

2:15 PM Senator Hogue introduced bill. #17936

2:23 PM Fintant Dooley - Lobbyist of the Salted Lands Council, in favor. #17905 #17909 #17910

2:36 PM Donnell Preskey – ND Association of Counties, in opposition. #17825 #17934

2:40 PM Matt Gardner – Director for ND league of Cities, in opposition.

2:42 PM Shane Goettlel – ND Airport Association, in opposition.

2:45 PM Larry Syverson – ND Township Officers Asociation, in opposition.

2:51 PM Chairman Kannianen adjourns meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2367
2/1/2023

Relating to the allocation of the state share of oil and gas taxes.

9:18 AM Chairman Kannianen opens meeting.

Senators present: **Kannianen, Weber, Patten, Piepkorn, Rummel, Magrum**

Discussion Topics:
- Expected costs
- State priority
- Bucket increase

9:36 AM Linda Svihovec – ND Association of Counties, verbally provided information.

9:45 AM Senator Magrum motioned a Do Pass rerefer to Appropriations.

9:45 AM Senator Rummel seconded.

Senators	Vote
Senator Jordan Kannianen	Y
Senator Mark F. Weber	Y
Senator Jeffery J. Magrum	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Dean Rummel	Y

Motion passed 6-0-0

9:46 AM Senator Rummel will carry.

9:46 AM Chairman Kannianen adjourns meeting.

Nathan Liesen, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2367: Finance and Taxation Committee (Sen. Kannianen, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2367 was rereferred to the **Appropriations Committee**. This bill does not affect workforce development.

2023 SENATE APPROPRIATIONS

SB 2367

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2367
2/9/2023

A BILL for an Act relating to the allocation of the state share of oil and gas taxes.

8:03 AM Chairman Bekkedahl opened the hearing on SB 2367.
Members present**: Senators Bekkedahl, Krebsbach, Burckhard, Davison, Dever, Dwyer, Erbele, Kreun, Meyer, Roers, Schaible, Sorvaag, Vedaa, Wanzek, Rust, and Mathern.**

Discussion Topics:
- Oil and gas taxes
- State share allocation
- Prairie dog funds

8:06 AM Senator Bekkedahl introduced the bill and testified. #20290

8:17 AM Donnell Presky, North Dakota Association of Counties, testified in opposition, testimony. # 20291

8:29 AM Larry Severson, North Dakota Township, testified in opposition, verbally.

8:30 AM Stephanie Dasinger Engebretson, Attorney, North Dakota League of Cities, testified in opposition, verbally.

8:31 AM Shane Goettle, Lobbyist, North Dakota Airport Association, testified in opposition, verbally.

8:34 AM Phil Murphy, Lobbyist, North Dakota Soybean Growers, testified in opposition, verbally.

8:35 AM Matt Perdue, Lobbyist, North Dakota Farmers Union, testified in opposition, verbally.

8:37 AM Scott Meski ,Lobbysit, North Dakota Transportation Coalition, testified in opposition, verbally.

8:39 AM Chairman Bekkedahl closed the hearing.

Peter Gualandri on behalf of Kathleen Hall, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2367
2/16/2023

A BILL for an Act relating to the allocation of the state share of oil and gas taxes.

9:36 AM Chairman Bekkedahl opened the meeting on SB 2367.

Members present: Senators Bekkedahl, Krebsbach, Burckhard, Davison, Dever, Dwyer, Erbele, Kreun, Meyer, Roers, Schaible, Sorvaag, Vedaa, Wanzek, and Rust.

Members absent: Senator Mathern.

Discussion Topics:
- Human services zone funding
- Funding buckets
- Committee discussion

9:36 AM Committee discussion

9:38 AM Senator Davison proposed and explained Amendment LC 23.1083.01001, testimony # 20993

9:41 AM Senator Davison moved to adopt Amendment LC 23.1083.01001
Senator Dever seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	N
Senator Curt Kreun	Y
Senator Tim Mathern	A
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator David S. Rust	N
Senator Donald Schaible	Y
Senator Ronald Sorvaag	N
Senator Shawn Vedaa	N
Senator Terry M. Wanzek	N

Motion passed 10-5-1

9:54 AM Senator Davison moved DO PASS AS AMENDED.
Senator Dever seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	YY
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	N
Senator Curt Kreun	Y
Senator Tim Mathern	A
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator David S. Rust	N
Senator Donald Schaible	Y
Senator Ronald Sorvaag	N
Senator Shawn Vedaa	N
Senator Terry M. Wanzek	N

Motion passed 10-5-1.

Senator Rummel will carry the bill.

10:03 AM Chairman Bekkedahl closed the meeting.
.

Kathleen Hall, Committee Clerk

23.1083.01001
Title.02000

Prepared by the Legislative Council staff for
Senator Davison
February 6, 2023

Atx
2-16-23
(1-1)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2367

Page 1, line 11, replace "thirty" with "fifty"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment increases the state share of oil and gas taxes deposited in the tax relief fund from $230 million to $250 million per biennium. Current law provides for $200 million of tax collections to be deposited in the fund each biennium.

REPORT OF STANDING COMMITTEE

SB 2367: Appropriations Committee (Sen. Bekkedahl, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). SB 2367 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 11, replace "thirty" with "fifty"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment increases the state share of oil and gas taxes deposited in the tax relief fund from $230 million to $250 million per biennium. Current law provides for $200 million of tax collections to be deposited in the fund each biennium.

2023 HOUSE FINANCE AND TAXATION

SB 2367

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

SB 2367
3/14/2023

A bill relating to the allocation of the state share of oil and gas taxes.

Chairman Headland opened the hearing at 9:00AM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Steiner, Representative Toman, Representative Finley-DeVille, and Representative Ista. No members absent.

Discussion Topics:
- Adjustment of funds
- General Fund
- SIIF Fund
- Tax Relief Fund
- Inflation rates

Senator Hogue introduced the bill in support (#24573 and 24574).

Dan Schriock, Assistant County Engineer with the Burleigh County Highway Department, testified in opposition (#24550).

Donnell Preskey, North Dakota Association of Counties, testified in opposition (#24847).

Scott Meske, representing the North Dakota Transportation Coalition, testified in opposition (#24711).

Ryan Riesinger, President of the Airport Association of North Dakota and the Executive Director of the Grand Forks Regional Airport Authority, testified in opposition (#24552).

Stephanie Dassinger Engebretson, representing the North Dakota League of Cities, verbally testified in opposition.

Larry Severson, North Dakota Township Officers Association, verbally testified in opposition.

Kyle Wanner, Executive Director with the North Dakota Aeronautics Commission, verbally testified in a neutral capacity.

Additional written testimony:
David Steele, Council member with the City of Jamestown, testimony in opposition #24666.

Chairman Headland closed the hearing at 9:44AM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

SB 2367
4/4/2023

A bill relating to the allocation of the state share of oil and gas taxes.

Chairman Headland opened the meeting at 3:01 PM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Steiner, Representative Toman, Representative Finley-DeVille, and Representative Ista. Members absent: Representatives Olson.

Discussion Topics:
- Proposed amendment
- Committee vote

Chairman Headland proposed a verbal amendment on subsection 2, rename the "tax relief fund" to the "social services fund" and on line 20, item 7, move it back down to "four hundred million dollars".

Representative Dockter moved the amendment as stated above.

Representative Hagert seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	AB
Representative Vicky Steiner	Y
Representative Nathan Toman	Y

Motion carried 13-0-1

Vice Chairman Hagert moved a Do Pass as Amended.

Representative Steiner seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	AB
Representative Vicky Steiner	Y
Representative Nathan Toman	Y

Motion carried 13-0-1

Representative Dockter is the bill carrier.

Chairman Headland adjourned at 3:07 PM.

Mary Brucker, Committee Clerk

Adopted by the House Finance and Taxation Committee

April 5, 2023

4/5/23
MG
p.1 of 1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2367

Page 1, line 11, overstrike "tax relief" and insert immediately thereafter "social services"

Page 1, line 20, remove "sixty"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2367, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2367 was placed on the Sixth order on the calendar.

Page 1, line 11, overstrike "tax relief" and insert immediately thereafter "social services"

Page 1, line 20, remove "sixty"

Renumber accordingly

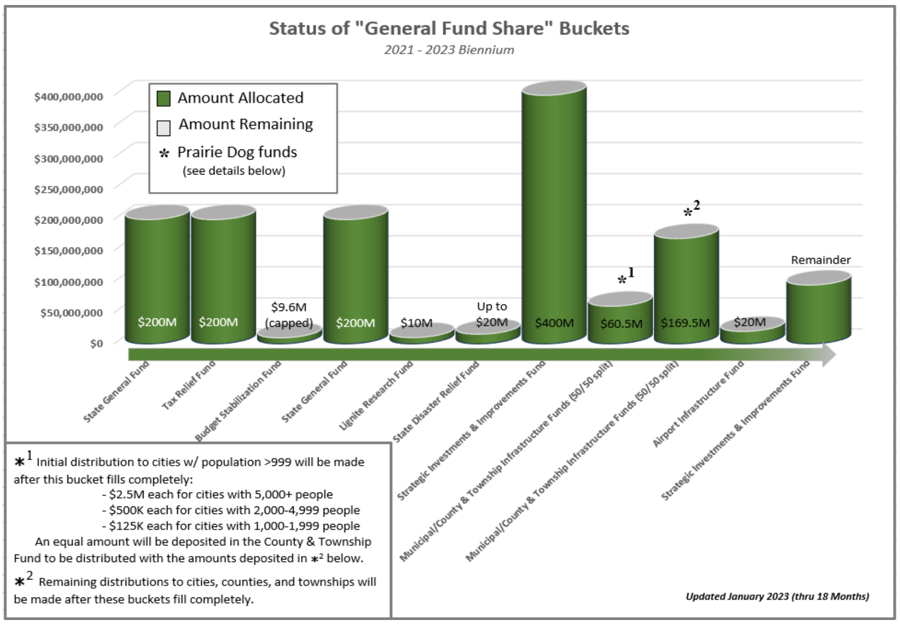
TESTIMONY

SB 2367

Testimony to
Senate Finance & Tax Committee
January 30th, 2023
Donnell Preskey, NDACo

RE: Opposition to SB 2367 – Increasing State Buckets

Mr. Chairman and committee members, I'm Donnell Preskey with the North Dakota Association of Counties. Our counties are concerned about Senate Bill 2367, for the main reason that the actions of this bill will more than likely delay prairie dog funds getting to non-oil counties, cities and townships for infrastructure funding.



NDACo does not support the concept of increasing the state buckets (two state general fund buckets, the property tax relief fund and the Strategic Investments & Improvements Fund by $150 million before the municipal, county and township and airports buckets. As you can see on the chart, there is a SIIF bucket after the local buckets which fills indefinitely.

We do recognize that the property tax relief fund is used to fund social services, however if additional funds are needed, there are other funds with healthy balances that are available, like the general fund.

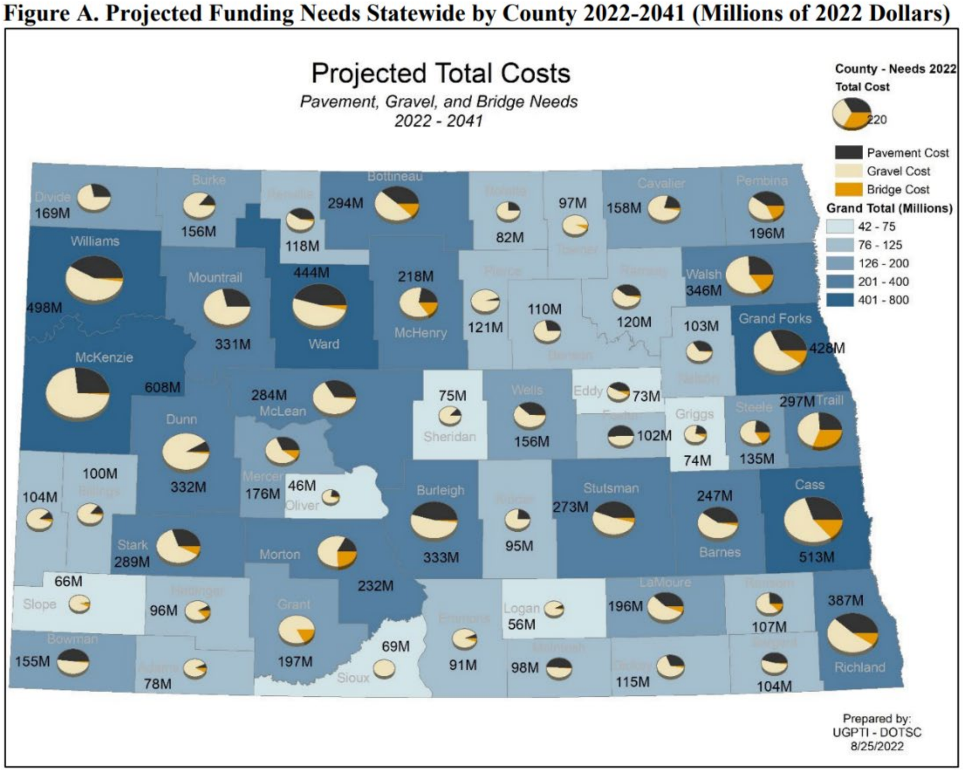
In 2019, the legislature made a commitment to local infrastructure funding with approval of HB 1066, otherwise know as "Operation Prairie Dog". Non-oil counties in the last few weeks have received their first deposit of prairie dog funds. These funds have been long-awaited for. While the political subs were never guaranteed those funds, they were hopeful they would receive them in 2020, until the COVID-19 pandemic dramatically impacted the state's oil production. In the first biennium of Prairie Dog's existence, oil and gas tax revenues stopped short of reaching the Prairie Dog buckets for cities, counties and townships.

The need for a permanent funding structure to address roads and bridges is only increasing. The most recent Upper Great Plains Transportation Institute's Local Roads Study identifies a $10.5 billion dollar need for local roads and bridges over the next 20 years, or, on average, an investment of $525 million each year. For comparison, in 2019, UGPTI's estimate was $8.7 billion investment for local roads and bridges over 20 years or $440 million a year to maintain their road networks.

Table E: Summary of All Road and Bridge Investment and Maintenance Needs for Counties, Townships and Tribal Areas in North Dakota (Millions of 2022 Dollars)

Period	Unpaved	Paved	Bridges	Total
2022-23	$ 660.35	$557.10	$139.42	$1,356.87
2024-25	$ 650.79	$515.00	$139.42	$1,305.21
2026-27	$ 665.91	$371.50	$139.42	$1,176.83
2028-29	$ 665.55	$344.90	$139.42	$1,149.87
2030-31	$ 651.44	$274.30	$139.42	$1,065.16
2032-41	$ 3,251.62	$1,186.00	$18.45	$4,456.07
2022-41	**$ 6,545.66**	**$3,248.80**	**$715.57**	**$10,510.01**

Figure A. Projected Funding Needs Statewide by County 2022-2041 (Millions of 2022 Dollars)



ND Counties support revamping the buckets as suggested in a bill before you last week. That bill removes the $400 million SIIF bucket that sits immediately ahead of the local buckets. This would provide greater reliability in a long-term funding stream for local infrastructure. In our visits with county officials, the removal of the SIIF bucket is a top priority.

While there may be a time when the state should look at increasing the funds, now is not the time.

FLASH NOTE
25/10/2021

Carbon Tracker Initiative

North Dakota P&A cost data is bad news for the taxpayers in oil-producing states

AUTHOR

Stephen Greenslade
ARO Analyst,
Regulatory &
Accounting

Summary

As the Colorado Oil and Gas Conservation Commission's (COGCC) seeks to fulfill its statutory mandate to "require every operator to provide assurance that it is financially capable of fulfilling every obligation imposed" by the state's rules and regulations,1 it needs to figure out how much it will really cost to plug and abandon its wells. For evidence, it should look to North Dakota, where last year's CARES Act well plugging program has yielded actual receipts for 251 well plugs and 128 site reclamations.

Key takeaways from our analysis of North Dakota data:

- Plugging alone has averaged over $130,000 per well. Reclamation costs roughly double that total, bringing per-well retirement costs to over $250,000 on average. With around 50,000 wells in Colorado,1 that would come to $12.5 billion.
- The relatively high frequency of very-high-cost plug and reclamation projects suggest that states should consider implementing a risk-sharing system (e.g., a severance tax-funded stop-loss insurance program) to supplement surety bonds and improve incentives for timely well plugging by responsible parties.

Plugging Costs

Plugging a well entails cementing the borehole to ensure the isolation of the various subsurface strata—particularly hydrocarbon-bearing layers and water-bearing layers—to prevent communication between them and/or pollution at the surface. Plugging invoices from North Dakota's CARES Act plugging program, retrieved through a Freedom of Information Act (FOIA) request, shed light on the cost of this routine operation. As is shown in Table 1 below, we calculated the average per-well plugging cost for the 251 well invoices to be over $130,000.

[1] *COGCC, Daily Activity Dashboard, page 2 of 9, 'Active Well Status Breakdown'. Accessible at:* https://cogcc.state.co.us/DAD.html

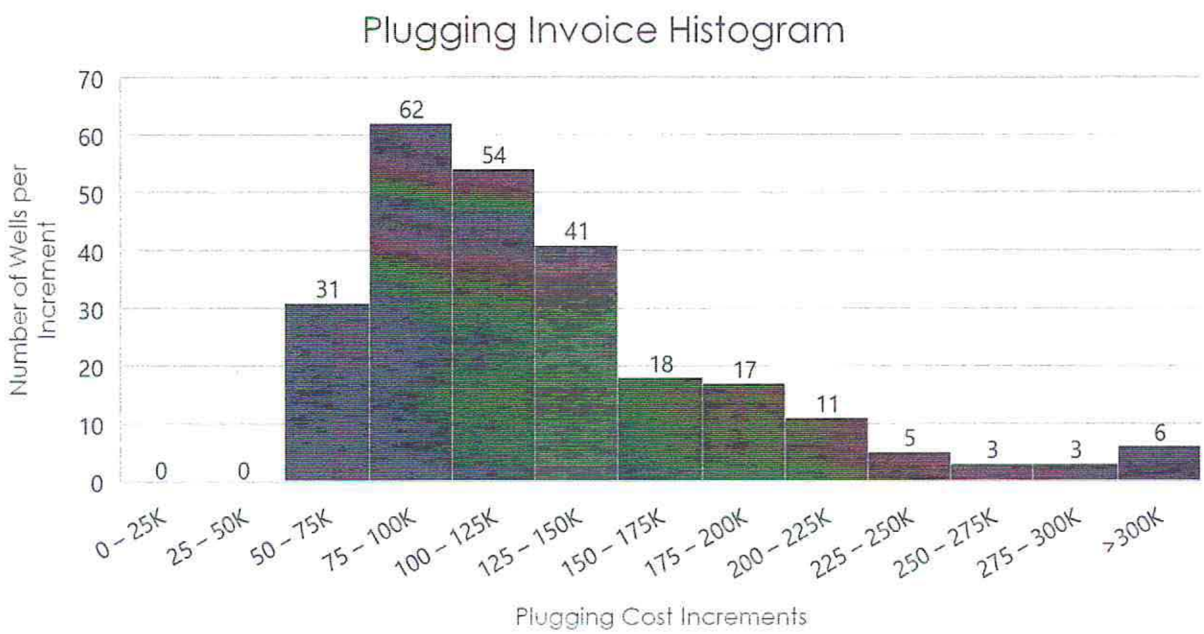
TABLE 1 - DESCRIPTIVE STATISTICS FOR NORTH DAKOTA CARES ACT WELL PLUG DATA FROM FOIA REQUEST, 251 RECORDS.

Well Plugging Cost (thousands of $) – Descriptive Statistics		
Total plugging cost in FOIA (A)	$	32,787.1
Count of plugged wells in FOIA (B)		251
Mean plugging cost (A / B)	$	130.6
Median plugging cost	$	113.7
Max cost	$	523.4
Min cost	$	51.2

Source: Well plugging invoices for ND CARES Act plugs, NDIC

Plug costs ranged widely, from a low of about $50,000 to over $500,000. The histogram in Figure 1 below shows the distribution of North Dakota plugging costs in $25,000 increments, with the number of wells in each increment at the top.

FIGURE 1. DISTRIBUTION OF WELL PLUGGING INVOICES, $25,000 INCREMENTS. THE MEAN PLUGGING COST LIES WITHIN THE RED BAR



Data: CARES Act plugging and reclamation program FOIA request

This distribution shows a long right tail, i.e., the plugging costs in this dataset are very skewed to the right, indicating a much larger range of costs above the median than below it. When it comes to well plugging, this makes perfect sense; there is a base price for labor and materials and anything more adds to the cost—unexpected downhole junk, well casing issues, surface or groundwater contamination, etc. These surprises can up the price to extravagant levels.

Reclamation Costs Are Even More Skewed

Reclamation is an additional legal requirement for final well abandonment. Though there can be local intricacies and exceptions, reclamation generally means resetting the landscape to its pre-drilling condition, i.e., recontouring the land, removing access roads, and replanting native species or replacing topsoil for return to agricultural use. Remediation for previously unknown or undisclosed spills is also generally required where contamination is discovered. Reclamation costs are distributed a bit differently from plugs, but are similar in magnitude to plugging costs. Table 2 shows key facts for 128 sites, with an average reclamation cost of $123,869 per wellsite.2

TABLE 2. DESCRIPTIVE STATISTICS FOR NORTH DAKOTA CARES ACT WELL RECLAMATION DATA FROM FOIA REQUEST, 128 RECORDS.

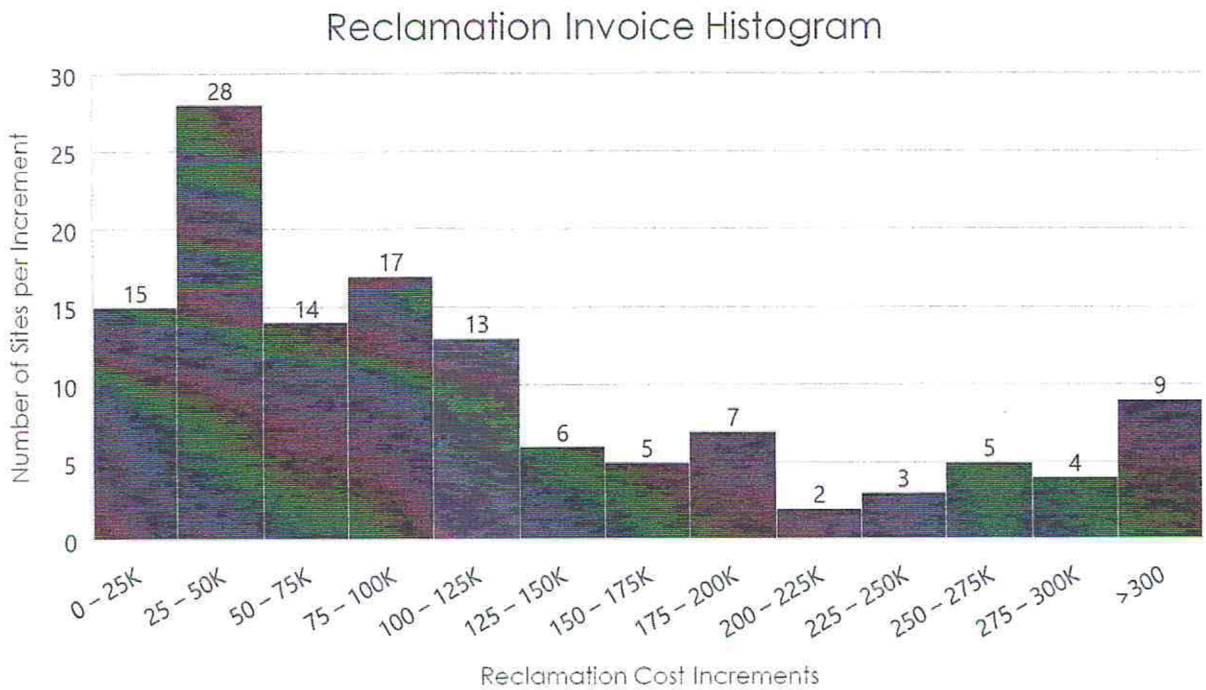
Reclamation Cost (thousands of $) – Descriptive Statistics		
Total reclamation cost (A)	$	15,855.2
Count of sites reclaimed in FOIA (B)		128
Mean reclamation cost (A / B)	$	123.9
Median reclamation cost	$	86.6
Max cost	$	782.5
Min cost	$	1.4

Source: Site reclamation invoices, NDIC, Freedom of Information Act request.

Reclamation costs run from as little as a few thousand to over three quarters of a million dollars. This wide range is likely due to a combination of factors including site topography, desired post-retirement surface use, and remediation for previously unreported spills, which can be a particularly impactful driver of reclamation cost.

[2] *According to the data, these sites are billed on a per-well basis. In other words, none of these sites include reclamation on multiple wells, which eliminates the challenge of disaggregating reclamation costs per well.*

FIGURE 2. DISTRIBUTION OF RECLAMATION COSTS IN $25,000 INCREMENTS. THE MEAN RECLAMATION COST LIES WITHIN THE RED BAR.



Data: CARES Act plugging and reclamation program FOIA request

The histogram in Figure 2 above illustrates the long right tail in the reclamation data. Reclamation projects frequently require extensive work above and beyond the basic operations, evidenced by the fact that more than half (55%) of reclamation invoices were over $75,000, and over one in four (27%) exceeded $150,000. These costs are in addition to the cost to plug wells. At these frequencies, expensive reclamation projects should not be considered low probability, high-cost events, but rather high probability, high-cost events that require careful consideration when devising a full-cost financial assurance program.

Estimating the Bill at Closing Time

As we discussed extensively in It's Closing Time, forecasting well closure costs is challenging in large part because good quality, fully disaggregated data is hard to find.3 That said, North Dakota's CARES Act plugging costs far exceed the financial assurance requirements in most states, including Colorado, and adding on reclamation essentially doubles the price per well. These numbers eclipse the estimates coming out of state orphan well programs, which, for reasons discussed in It's Closing Time, are not likely to offer an accurate reflection of the full costs.

[3] Despite this, the CTI cost model provides an estimate very similar in magnitude to the FOIA data. Applying the CTI cost model to the average adjusted depth of the North Dakota wells in the FOIA data (our model caps price at 10,000 ft TVD), our estimate for the total cost of the 280 North Dakota CARES Act wells is approximately $39 million, only about $1.8 million off from the total plugging cost quoted by Oil and Gas Division Director, Lynn Helms.

Implications for Colorado

North Dakota Shows How Little We Know

Are North Dakota costs perfectly representative of Colorado? Probably not. But as states have not opted to collect actual cost data from operators, we're left with guesswork based on models and isolated samples. North Dakota's rare set of competitively-bid project invoices should concern the COGCC, since it shows that the gap between actual costs and current bond requirements is likely worse than expected, and the incentive for industry to delay and avoid payment greater than realized. In order to fill this knowledge gap, Colorado regulators should collect full-cost plugging and reclamation data from operators to build a factual basis for financial assurance rules.

"Fulfilling Every Obligation"

Colorado's statutes require that companies provide assurances that they are financially capable of fulfilling every obligation imposed by the state. In North Dakota plugging plus reclamation costs would put that figure around $250,000 on average per well, but current proposals aren't even close to that. Someone will pay for the cost of doing business in the oil and gas industry, but without the implementation of a full-cost financial assurance system, it won't be the companies who carry that obligation under law.

Managing High Probability, High-Cost Events

North Dakota's data suggest that high-cost outliers should not be ignored—they are a feature of aging oilfields, in part because technology and regulation have changed dramatically since drilling first began. A full-cost financial assurance system must consider these high-probability, high-cost outcomes in order to protect the public from taking on private decommissioning costs and incentivize operators to plug wells. For many small operators, one very expensive well could be financially crippling, and the risk that any given plugging project could unexpectedly bankrupt the company is a strong disincentive for plugging non-economic wells. Regulators who want to develop a system that maximizes the number of wells plugged by industry and minimizes the cost to the public should be aware of these issues when developing policy. Surety bonds are not well suited to deal with these risk/incentive issues. A better mechanism would be a risk-sharing/insurance policy against high-cost plugging or reclamation costs that would provide protection for both operators in the normal course of well decommissioning and the state in the event an operator defaults.

Fintan L. Dooley, ND Bar 03270

140 Riverside Park Road
Bismarck, ND 58504

Alliance of the Rat Killers
Surface & Mineral Owners Collaborate!
Surface And Mineral Owners, consider your mutual interests!

1. SURFACE OWNERS, you contend with FEDERAL AND STATE AGENCIES which have done little to mitigate decades of solid wastes left behind by DEVELOPERS, the last of whom who sold its depleted assets to a JUDGMENT PROOF BOTTOM DWELLER who pumps stripper wells, evades taxation and fails to maintain the antiquated equipment. These ratpack friends made money by storing their hazardous waste-free-of- charge on your private property. Your acres on an adjoining the drill site have been condemned and became an UNCOMPENSATED-UNPERMITTED SOLID WASTE DISPOSAL SITE
2. MINERAL OWNERS, your minerals have been tied up by a trick knot: By this I mean the leases which falsely "hold minerals by production" and have done so for years, yield nothing save a few pennies of royalty on an erratic basis.

Meet your companion estate owners! Kill the rats above and below the ground.

There has never been a more auspicious time for killing rats. Why? Because of the crash of the oil market. Thank COVID, Prince Mohammed Bin Solomon, Premier Vladimir Putin, and President Donald Trump. Our president handed Lynn Helms and the North Dakota's Industrial Commission $66 million to quickly condemn, carefully plug bore holes and partially reclaim abandoned wells. One of the conditions of receipt of the Federal Money was to admit that that North Dakota has "orphans," abandoned wells.

That admission caused a review of NDIC deceptions: To receive the $66 and a second $25 million the State has now acknowledged that any well whose plugging and reclamation costs are not covered by bonding nor any well which is not owned by a company with resources adequate to retire the asset is an orphan.

Carbon Tracker studied North Dakota Cares Act data and has provided us with a tool to accurately calculate the cost of plugging and reclamation. The latter cost is understated but nevertheless is sufficient to help establish which wells belong in the orphanage.

North Dakota statutes provide a procedure for mineral owners to demand the cancellation of leases by developers whose wells are not producing and are not economic.

The demand to acknowledge that the lease is now void culminates in a notice filed in the County Recorder's office. Thereafter the mineral estate is free of lease, able to be leased again.

What to do?

3. Surface Estate Owners should provide legal description, location and explained of the contaminated acres with an summary of the well's history. An affidavit will ultimately be prepared.
4. Mineral estate owners should identify the string of developers, the address of the leaseholder and copies of payment records for at 6 years.

Fintan Dooley
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Bismarck, ND 58504
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findooley@gmail.com

#17910

A New Theory of ARO Creditor Rights

Analyst Note

January 2023

About Carbon Tracker

The Carbon Tracker Initiative is a team of financial specialists making climate risk real in today's capital markets. Our research to date on unburnable carbon and stranded assets has started a new debate on how to align the financial system in the transition to a low carbon economy.

www.carbontracker.org | hello@carbontracker.org

Contributors and Special Thanks

Dwayne Purvis, P.E., contributed the holdback analysis on Painted Pegasus Petroleum LLC. Theron Horton provided data sets and analytics based off data from the COGCC. Well transfer visualizations were produced by Stephen Greenslade. Special thanks to Thom Allen and Maurizio Carulli for their review and feedback.

About the Author

Greg Rogers – Senior Adviser

Greg is a practitioner-scholar in accounting for climate change. He wrote the seminal desk book on financial reporting of environmental liabilities and risks. In addition, Greg is a Fellow and Advisor to the Master of Accounting Program at Cambridge Judge Business School. He worked as an advisor to BP and its auditors Ernst & Young on liability estimates and disclosures arising from the Deepwater Horizon disaster. He has consulted/ testified as an expert in environmental and climate-related litigation.

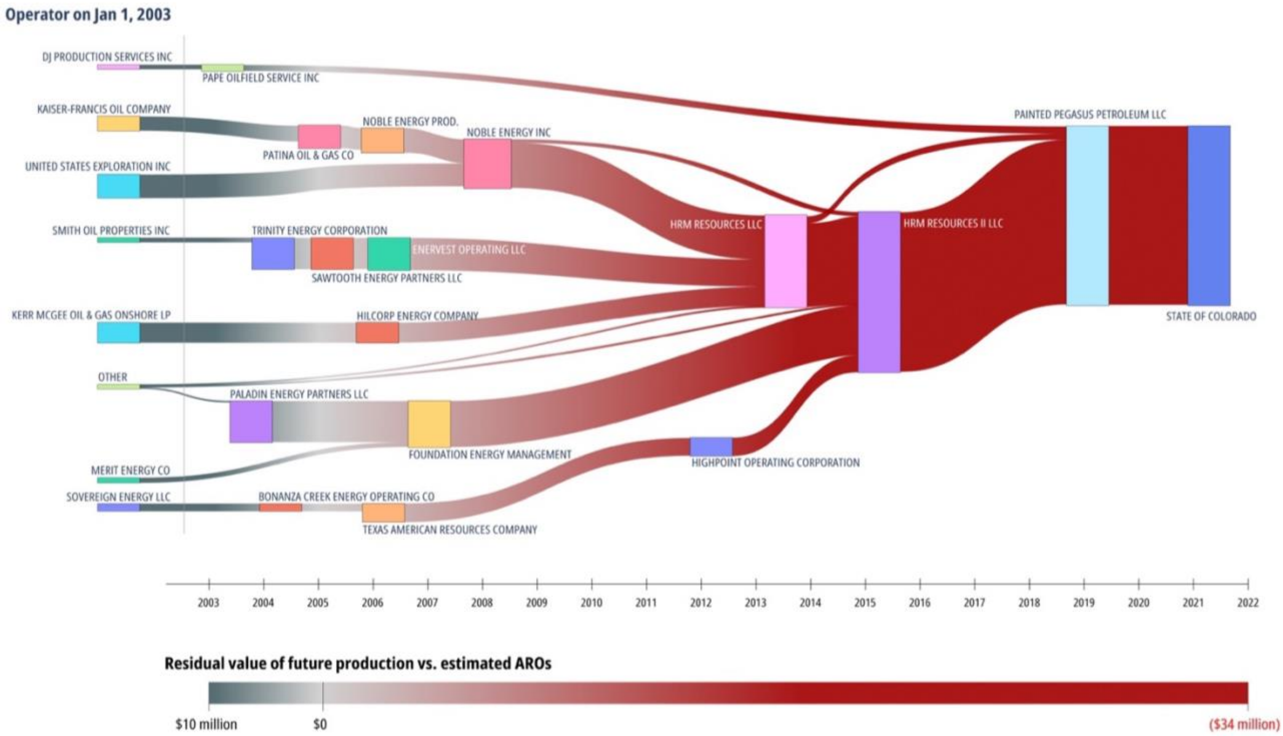
Table of Contents

1 Key Findings

- An oil and gas well is "upside-down" when its ARO exceeds its future net cash flows from production. Oil and gas wells are often operated and sold to undercapitalized firms long past the point where future cash flows could be reasonably expected to fund AROs.
- The amount of financial assurance required by U.S. state and federal oilfield regulators is typically only a small fraction of estimated AROs. If settlement of AROs by undercapitalized firms cannot be funded from future cash flows, eventual default is predictable.
- A recent federal class action lawsuit asserts that landowners whose property is burdened by inactive wells are "creditors" with legal rights against operators for decommissioning costs.
- The suit could expose current *and former* operators to legal liability for AROs, reducing the incentives for late-life sales of upside-down wells to undercapitalized firms.
- A successful outcome for landowners could provide a significant source of funding for decommissioning wells that will otherwise become wards of the state.

FIGURE 0.1 - OWNERSHIP TIMELINE AND RESIDUAL VALUE OF PAINTED PEGASUS WELLS SINCE 2003.

Figure shows the approximate flow of well ownership for all Painted Pegasus wells, with declining residual value of the group indicated by color gradient.



Data: COGCC

2 Introduction

With approximately **2.1 million** abandoned wells across the U.S.,[1] there is growing concern about unfunded asset retirement obligations (AROs) to decommission oil and gas wells. Fueling the rise in abandoned and orphan wells are the perverse regulatory incentives for operators to strip the last remaining resources from mature wells before defaulting on AROs and filing bankruptcy. A recent class action lawsuit on behalf of West Virginia landowners offers a potential judicial solution to this regulatory failure. This paper describes the new theory of ARO creditors' rights asserted in the lawsuit and how it might be applied elsewhere.

ARO Overview

Asset retirement obligations (AROs) are legal obligations associated with the retirement of long-lived assets. AROs specific to the oil and gas industry include the statutory obligation of current well operators to decommission oil and gas wells at the end of their useful life. Decommissioning includes down-hole plugging and surface reclamation.

AROs generally arise from government regulations. However, the "reasonably prudent operator" standard of care recognized in some states may create a constructive ARO in favor of lessees and landowners. Regardless, the failure to fulfill decommissioning obligations in a timely manner may harm landowners as well as government interests. Inactive and low producing oil and gas wells are often improperly maintained. Such wells may leak brine, oil, methane, and hydrogen sulfide. These releases can impair agricultural land, harm livestock, pollute groundwater, and sicken residents. Derelict wells can restrict property use and diminish property values, especially where mineral rights have been severed from the surface estate. If regulators don't require operators to decommission such wells, what legal rights, if any, do landowners have? A new lawsuit suggests they may have rights as "ARO creditors".

ARO Creditor Rights

The term "creditor rights" is a generic term for a collection of legal rights that a creditor has to collect outstanding debts from a debtor. A federal class action lawsuit filed by West Virginia landowners seeks to recover decommissioning costs from the current and former operators of inactive wells on their property. The plaintiff-landowners assert that they are properly *creditors* because they hold claims for relief against the debtor-operators for damages resulting from trespass, nuisance, and negligence. They assert that, as creditors, they have all the rights afforded to creditors under federal bankruptcy law and state fraudulent conveyance statutes.

The lawsuit threatens the common industry practice of transferring upside-down wells to ever smaller entities and distributing production cash flows to owners, without adequate holdback for AROs. It is routine for major operators to drill wells, profit from the best years of production, and then sell them as their value-to-ARO ratio declines. AROs follow assets, and former operators generally have no financial responsibility to decommission previously owned wells. So, the transfer of upside-down wells makes economic sense for sellers. But how does it make economic sense for buyers?

In Section 3, we examine the novel theory of ARO creditors' rights asserted in the West Virginia lawsuit. This section is intended for a legal audience. For non-lawyers, the key take-away is that landowners whose property is burdened by inactive and upside-down wells may have previously unrecognized legal rights to hold current and former operators financially responsible for AROs.

In Section 4, we provide a case study involving a small bankrupt operator in Colorado to show how this new theory of ARO creditors' rights might be replicated on a large scale.

[1] *April 2018 Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2016: Abandoned Oil and Gas Wells. US Environmental Protection Agency.*

3 The Diversified Suit

3.1 Overview

In July 2022, West Virginia landowners on behalf of a proposed class of similarly situated landowners filed a federal lawsuit in the U.S. District Court for the Northern District of West Virginia against Diversified Energy Company Plc and EQT Production Company. *McEvoy et al v. Diversified Energy Company PLC et al*, Case 5:2022cv00171 (N.D. W. Virginia) (the "Diversified Suit").

The case centers on thousands of inactive gas wells in West Virginia operated by Diversified, some of which were acquired from EQT. Diversified is a public limited corporation incorporated in the United Kingdom and headquartered in Alabama.

The plaintiffs are members of a proposed class of landowners whose properties are burdened by these wells. The complaint asserts common law claims for trespass, nuisance, and negligence on grounds that: (a) state law requires operators to decommission wells that remain inactive for one year; and (b) inactive wells are hazardous to human health, damage the environment, contribute to climate change by leaking significant amounts of methane, interfere with plaintiffs' use and enjoyment of their property, and impair plaintiffs' property values.

The complaint states that Diversified owns 23,309 wells in West Virginia, including more than 2,000 wells acquired from EQT in two separate transactions in 2018 and 2020. Plaintiffs assert that Diversified has an obligation to plug more than 2,000 wells in West Virginia that are abandoned or otherwise not productive.

The suit aims in the first instance to enforce the landowners' common law right to have inactive wells decommissioned by Diversified in accordance with state law. The case also asserts that the acquisitions of wells from EQT were fraudulent and should be voided.

Below we provide an overview of Alabama creditor rights law upon which the landowners' claims are based.

3.2 Alabama creditor rights laws

It is a foundational principle of corporate and bankruptcy law that creditors have priority over owners. A transfer by a debtor to owners or others may be fraudulent if made with 'actual intent' to defraud creditors or if it is 'constructively' fraudulent as to a specific creditor. In this case, landowners whose property is burdened by inactive wells are the creditors, and Diversified is the debtor.

Under both the Alabama Uniform Fraudulent Transfers Act (UFTA) and its successor statute, the recently passed Alabama Uniform Voidable Transactions Act (UVTA),[2] a creditor (e.g., landowners) who can establish that a transaction by a debtor (e.g., Diversified) was either an actual fraudulent transfer or a constructive fraudulent transfer can void the transaction. A party commits an actual fraudulent transfer when it transfers assets or incurs liabilities with the intent to hinder, delay, or defraud its creditors' claims. In determining actual intent, consideration may be given to, among other things, whether:

1. the transfer was to an insider;
2. the debtor retained possession or control of the property transferred after the transfer;
3. the transfer was concealed or not disclosed;
4. before the transfer was made, the debtor had been sued or threatened with suit;
5. the transfer was of substantially all the debtor's assets;
6. the debtor absconded;
7. the debtor removed or concealed assets;
8. the value of the consideration received by the debtor was not reasonably equivalent to the value of the asset transferred;
9. the debtor was insolvent or became insolvent shortly after the transfer was made;
10. the transfer occurred shortly before or shortly after a substantial debt was incurred; and

[2] *Ala. Code §§ 8-9A-5 and 8-9B-5*.

11. the debtor transferred the essential assets of the business to a lienor that transferred the assets to an insider of the debtor.

A party commits a constructive fraudulent transfer when it fails to receive reasonably equivalent value for assets transferred or obligations incurred, and it is "insolvent" at the time of the transfer or becomes so shortly after the transfer was made.

3.3 The Complaint

The pending second amended *Diversified* complaint[3] asserts that the value of the consideration received by Diversified in two transactions with EQT was not reasonably equivalent to the amount of the obligations Diversified incurred. Plaintiffs ask the court to void the EQT transfers and seek damages for decommissioning costs as well as compensation for their lost use of the property and the annoyance, inconvenience, and aggravation associated with the undecommissioned wells.

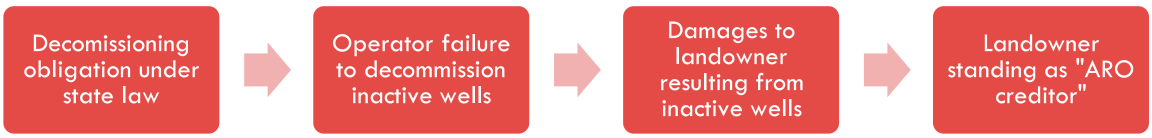
3.3.1 A new legal theory applied to a familiar fact pattern

It is common practice in the oil and gas industry to package inactive and low producing wells with a few good wells and sell them to a smaller, often undercapitalized company as a way to offload AROs. Each company in the chain strips the remaining assets until it's no longer profitable to do so. At that point – when no savings or cash flows are available for decommissioning – producers dump their AROs onto the lap of landowners and taxpayers.

The transfer of oil wells with declining and ultimately negative value benefits all parties up the chain of title, each of whom hopes to escape financial responsibility for decommissioning. Each transfer allows the seller to cleanse its balance sheet of low-quality assets and associated AROs. AROs follow well ownership, and sellers usually have no trailing liability for formerly owned wells. Each transfer places more legal distance and reputational space between the seller and future ARO default.

Unlike the fact pattern, which is well-worn, the legal theory in the Diversified case is novel. First, it asserts a new theory of creditor rights: ***Common law claims for damages arising from inactive wells can create a debtor-creditor relationship between operators and landowners***. As service obligations, AROs are not typically "debts" within the meaning of bankruptcy law and fraudulent conveyance statutes. However, a common law claim for relief is a "debt" because it can be reduced to a monetary payment for damages. This imbues landowners with legal standing as "ARO creditors" against debtor-operators (Figure 1.1).

FIGURE 1.1 - THEORY OF ARO CREDITOR RIGHTS FOR LANDOWNERS



Second, the lawsuit posits that, as "creditors," landowners can hold current *and former* operators accountable for transferring wells without adequate consideration for AROs.

3.3.2 Reasonably equivalent value

A key concept in creditor rights law is the notion of "reasonably equivalent value". As shown in Figure 1.2, in a transfer of wells the value received by the seller includes the sales proceeds plus the fair value of AROs transferred to the buyer. The value received by the buyer includes the fair value of recoverable hydrocarbons (less production and transportation costs) minus the fair value of AROs assumed. If a well is upside-down – i.e., the value of the ARO assumed by the buyer exceeds the value of the hydrocarbons

[3] *The plaintiffs' second amended complaint is pending court approval to replace the first amended complaint.*

acquired – the seller must pay the buyer for the difference. Otherwise, the values exchanged by the parties are not reasonably equivalent. If a buyer (transferee) assumes AROs without receiving reasonably equivalent value to settle them, the transaction may be voided, returning liability for decommissioning to the seller (transferor).

FIGURE 1.2 - REASONABLY EQUIVALENT VALUE

If landowners whose property is burdened by nonproducing wells are "creditors" within the meaning of these laws, operators that distribute property to owners or others before adequately provisioning for AROs may be accountable.

For landowners seeking to hold operators accountable for AROs, time is of the essence, because the limitations period for fraudulent transfers is generally **four years** after the transfer when the creditor's claim arose before the transfer was made.[4] Each transfer starts a new four-year limitations period further insulating from liability prior operators who are more likely to have the ability to pay. From the operator perspective, frequent transfers are desirable with the last one taking place at least four years before ARO default.

3.4 Unlawful dividends

Although not alleged in the Diversified Suit, in addition to claims for fraudulent conveyance, landowners may have claims against corporate directors and shareholders for unlawful dividends. **Dividends and other distributions to owners made when a corporation is insolvent, or which render a corporation insolvent, are unlawful under state corporation laws**. This harkens back to the principle that creditors must be repaid before equity holders.

Importantly, in this context, **a debt owed to a creditor need not yet be due** in order to challenge unlawful distributions. The Delaware Court of Chancery recently considered this issue, answering whether to have standing as a "creditor" a party must have been a judgment creditor at the time of the challenged dividends. The court answered 'no', holding that it is sufficient that a party have a claim against the corporation at the time of the challenged dividends, whether or not reduced to a judgment.[5]

3.5 Scope of the class

The proposed class in the Diversified Suit is limited to nonproducing wells and wells that had been inactive for one year or more at the time of the lawsuit.[6] A much larger class would include all upside-down wells, whether active or inactive, for the reason that they are likely to be accompanied by fraudulent conveyances, unlawful dividends, and latent landowner claims for trespass, nuisance, and negligence arising from poor maintenance and improper operation.

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[4] *A one-year limitations may apply when the action is brought by a creditor whose claim arose after the transfer was made. See Ala. Code §* 8-9A-9*. Section 174 of the Delaware General Corporation Law provides for director liability at any time within six years after paying such unlawful dividend.*

[5] Chancery Decides Questions of First Impression Regarding Statutory Claims for Unlawful Dividends and Fraudulent Transfers*, Morris James (August 2019).*

[6] *Plaintiffs assert that West Virginia Code §* 22-6-19 *establishes that Diversified owes them a duty to "promptly" plug any wells on Plaintiffs' properties once those wells are abandoned, i.e., have not produced oil or gas for twelve consecutive months.*

4 Painted Pegasus case study

The Diversified Suit involves two public corporations including one of the largest owners of onshore wells in the U.S. However, there are millions of onshore wells and thousands of private operators, often owning merely hundreds of wells. These companies are too small to participate in the public capital markets but with hundreds of wells and potentially tens of millions in liability, they could nonetheless be subject to legal actions like those in the Diversified Suit. This would be of concern for those companies, their shareholders and directors, and prior operators in the chain of title.

To illustrate the broad potential application of the *Diversified* theory of ARO creditors' rights, we next present a case study on a small, recently bankrupt Colorado operator—Painted Pegasus Petroleum LLC.

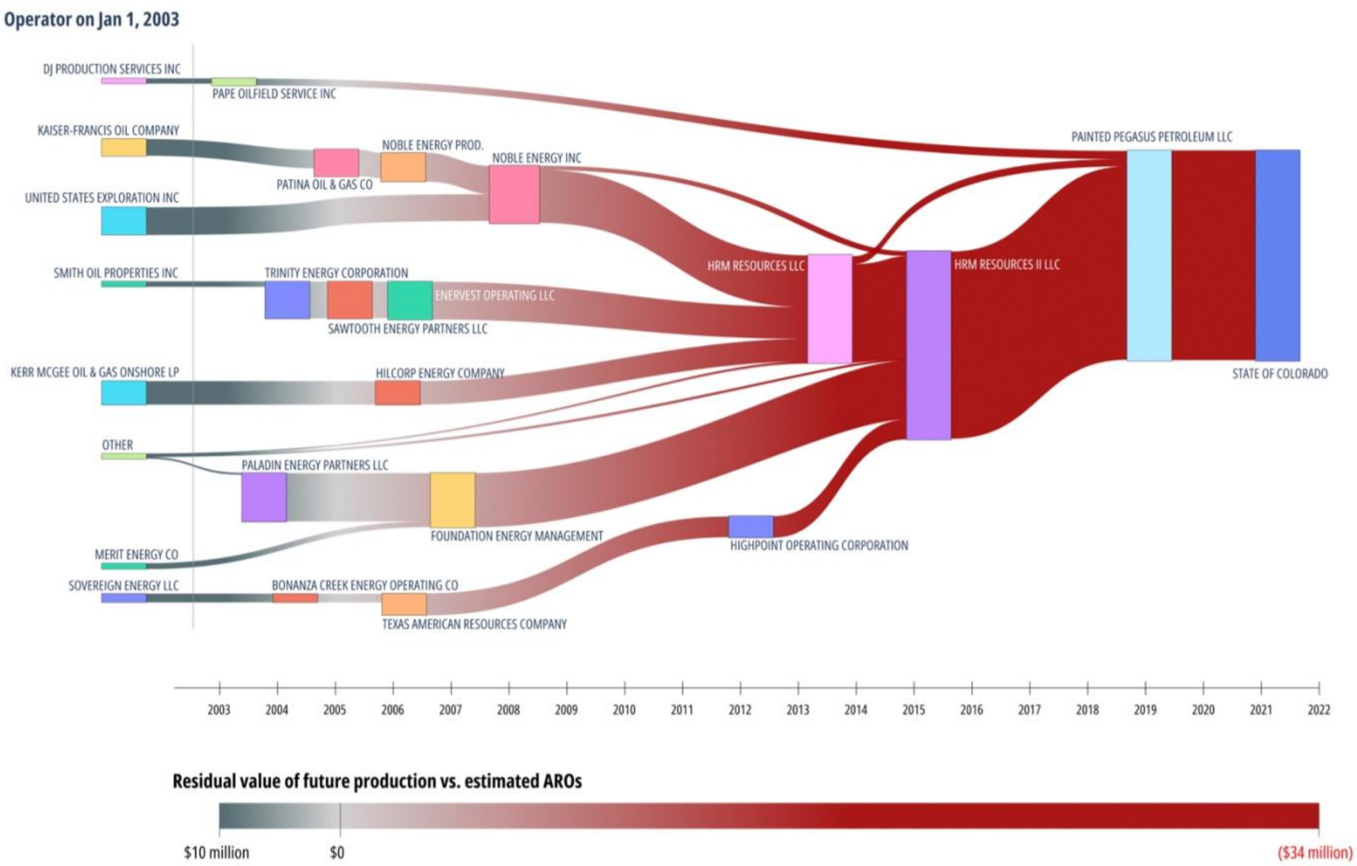
Painted Pegasus – Description of Operator

The Colorado Oil & Gas Conservation Commission's (COGCC) Orphan Well Program lists Painted Pegasus Petroleum as the current operator of 196 sites and 189 inactive conventional oil wells in the Denver-Julesburg basin in Weld and Adams counties in Colorado.[7] The wells, which were drilled between 1957 and 2011, have a median age of 41 years.

Figure 2.1 shows the many transfers of ownership between the original drillers and interim operators of these wells before they landed in the hands of Painted Pegasus.

[7] COGCC Orphan Well Program data.

FIGURE 2.1 – OWNERSHIP TIMELINE AND RESIDUAL VALUE OF PAINTED PEGASUS WELLS SINCE 2003. THE FIGURE SHOWS THE APPROXIMATE FLOW[8] OF WELL OWNERSHIP FOR ALL PAINTED PEGASUS WELLS, WITH DECLINING RESIDUAL VALUE OF THE GROUP INDICATED BY COLOR GRADIENT.



Data: COGCC

In June 2018, the Third Creek gathering pipeline that transported oil from the Painted Pegasus wells to market shut down.[9] The wells on the Third Creek system produce mainly oil and a little bit of gas, but the oil can't be produced unless something is done with the gas. The Third Creek line gathered those small amounts of natural gas and sold them into an interstate pipeline.

In September 2018, three months after the gathering pipeline closed, Painted Pegasus took ownership of 189 wells from HRM Resources.[10] The wells have produced an average of only 0.4 boe/day each since the date of transfer.[11] By taking ownership of the wells, Painted Pegasus assumed financial responsibility for decommissioning under state law. The legal and financial terms of the transfer are not publicly available.

[8] *To simplify the visualization, some minor transactions were grouped together. For operators on the receiving end of multiple transactions, timeline location is roughly the average receiving transaction date.*

[9] *Anadarko Permanently Shutters One DJ Basin Gas Gathering System*, Natural Gas Intelligence (June 1, 2018).

[10] *COGCC Daily Activity Dashboard: "Export of Data": Operator Change Tab*

[11] *Derived from COGCC production reports*

4.1 Well status

Today, all of the Painted Pegasus wells are enrolled in the Colorado Orphan Well Program. The COGCC has commenced decommissioning 14 of the wells. Based on costs incurred to date of $1.4 million,[12] we estimate the total cost to decommission all of the Painted Pegasus wells to be $18 million.

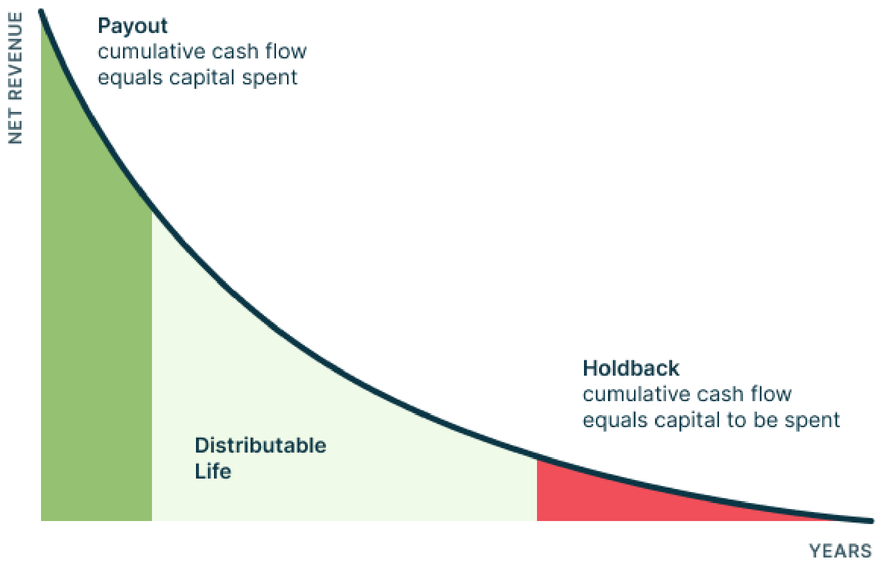
98% of AROs fall to the state

The Painted Pegasus AROs are secured by $305,000 in surety bonds.[13] Assuming total decommissioning costs of $18 million, the average bond coverage ratio (surety bonds divided by decommissioning costs) for the Painted Pegasus wells is under two percent (<2%). That leaves the State of Colorado and its taxpayers unsecured for over 98% of estimated decommissioning costs.

4.2 Cash flow analysis

When operators defer saving for AROs by instead distributing cash flows to owners, the liabilities accumulate. Meanwhile production, and expected future cash flows, decline. As illustrated in Figure .2 below, *holdback* is the estimated time to fund AROs from cash flow in the final years of a well's life. **The holdback period begins when cumulative cash flows from remaining production equal AROs. It is the point just when a well turns upside-down.**

FIGURE 2.2 – PHASES IN THE ECONOMIC LIFE OF A WELL



Holdback is the end-of-life analogue to payout. During payout, upfront capital expended on exploration and drilling is recovered from early cash flow. The payout period is followed by a period of distributable cash flows that represent a return on the initial capital investment. During holdback, 100% of cash flows must be withheld for future decommissioning costs.[14] Distribution of cash to owners or others during holdback violates the principle that creditors have priority over owners.

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[12] *The COGCC's average per well cost to date to decommission 14 wells orphaned by Painted Pegasus began in 2021 is $96,000. The final cost to complete the work and the full scope of work to be completed is not known at this time. Our estimate of downhole plugging costs using our depth-based cost model is $178,000 per well.*
[13] *COGIS* surety information for Painted Pegasus *and COGCC* Orphan Well Program data.
[14] *The holdback model is not the optimum method of managing cash flow for decommissioning—rather, the framework enables clear assessment of ARO management and risk on a sound cash flow basis.*

4.3 Painted Pegasus - Analysis

We performed a cash flow analysis of the Painted Pegasus wells to identify the point in time at which they turned upside-down.

To estimate the historical cash flows from the wells, we started with actual data for the two most important figures: production volumes as reported in regulatory filings since 1999 and spot market prices for the commodities sold. We assumed price differentials, taxes, and royalty burdens based on local trends. A range of operating costs were estimated using professional judgment and tested under several alternative scenarios.

Most Painted Pegasus wells traded hands three to five times just in the last 20 years while the properties were producing and, mostly, generating positive cash flows, but in an amount too low to fund future decommissioning. For each generation of sale, the large majority of the wells were active and producing "stripper" well levels which exempted them from paying severance taxes.[15] Production quantities declined slowly but prices increased part of the time, extending the life of the wells.

Viewed in hindsight, all generations of trades since 2005 occurred when the wells were upside-down – i.e., no longer financially capable of funding their AROs from future cash flow.

4.3.1 Painted Pegasus acquired wells when they were already upside-down and losing money

When Painted Pegasus acquired the wells in 2018, the wells were already operating at a loss assuming low-side operating costs. It may have been possible to eke out some free cash flow by cutting costs and maintenance, but our analysis shows that there could not have a reasonable expectation of settling AROs (see Figure 2.3 below). In 2021, less than three years later, the company filed for bankruptcy.

Painted Pegasus acquired the properties from HRM Resources which assembled the collection in six transactions from 2013 to 2015, mostly from larger companies like Noble Energy.

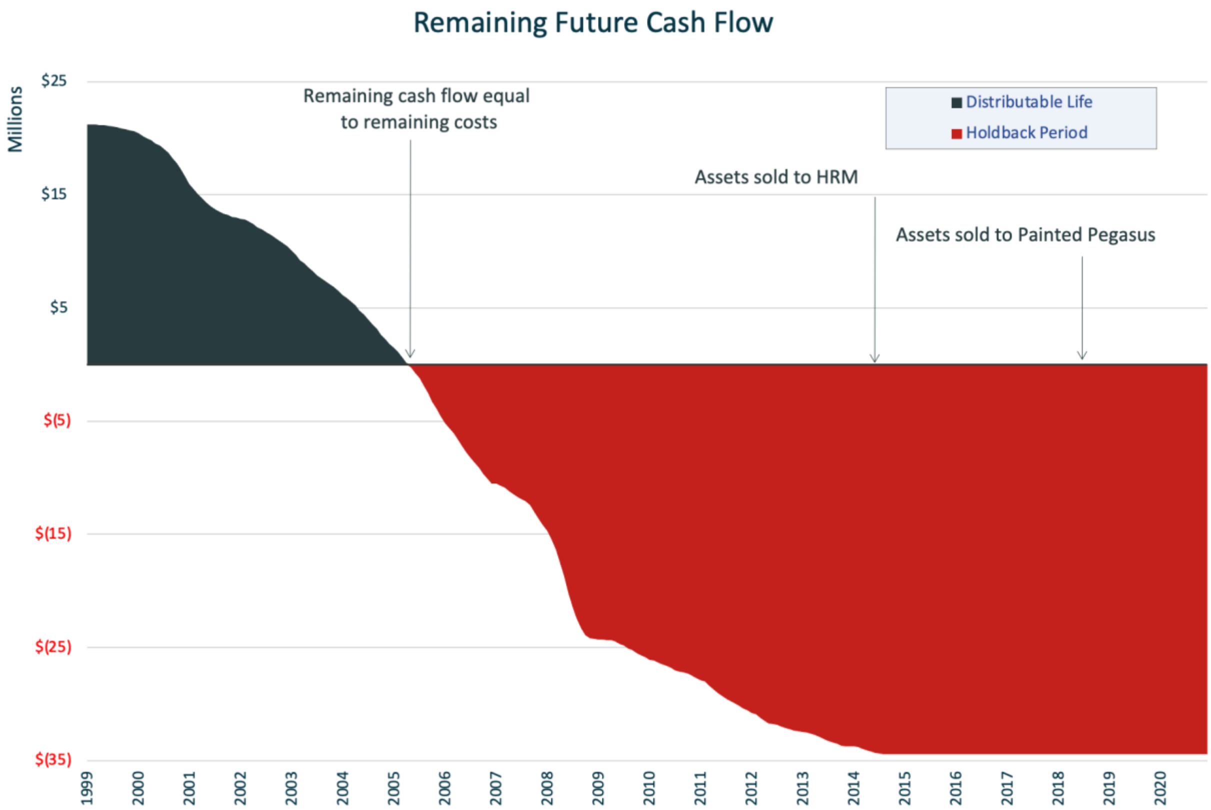
To conduct this holdback analysis, we used 2015 as a proxy date for the transactions, forecasted production as could have been expected at the time, and held recent prices constant for the forecast at $94 per barrel. Even projecting these extraordinarily high oil prices, we estimate that at least four and possibly all six packages were already operating at a loss given normal operating costs. As with its successor Painted Pegasus, the operator likely planned to profit from the wells by cutting costs for things like maintenance – and deferring decommission costs indefinitely.

The previous generation of transactions occurred as eight sales between 2003 and 2006. Operating costs were changing rapidly during this period, but we estimate that the wells were likely cash flow positive. Nonetheless, these wells were still upside-down with regard to decommissioning costs during this time period.

Even given the buoyant oil prices from the mid-2000s to 2015, decommissioning costs likely exceeded all cash flow generated since the 2005 sales. These properties thus changed hands three or more times while they were upside-down. Bond coverage on the wells is less than 2 percent. Now the state orphan well program must bear the cost and/or the landowners must live with the blight of unplugged orphaned wells.

[15] Colorado Stripper Well Exemption from Oil & Gas Severance Tax.

FIGURE 2.3 – TIME SERIES OF ESTIMATED RESIDUAL VALUE OF THE PAINTED PEGASUS WELLS SINCE 1999



Data: COGCC

Painted Pegasus provides is an extreme illustration of common industry practice. The case is extreme due to the self-evident absence of economic substance in the company's acquisition of wells after the shut-in of a gathering line needed to transport production to market. Painted Pegasus assumed insufficiently bonded AROs with little or no associated asset value. Yet our analysis of well histories in Colorado indicate that the case is largely representative of the oil and gas industry's version of the Peter Principle: Once drilled, wells tend to be transferred to the operator with the least ability pay.

5 Conclusion

The Diversified Suit signals that landowners whose property is burdened by upside-down and inactive wells may have standing as *creditors* – with rights against current and former operators – under laws designed to protect creditors against fraudulent conveyances and unlawful dividends. This legal development has the potential to threaten the pervasive industry practice of transferring mature oil and gas wells as a means to evade financial responsibility for AROs.

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Legislative Council

North Dakota Legislative Council

Prepared for Representative Lefor
LC# 23.9536.01000
January 2023

ESTIMATED OIL AND GAS TAX REVENUE ALLOCATIONS - STATE'S SHARE 2023-25 BIENNIUM

This memorandum provides information on the estimated allocation of the state's share ("buckets") of oil and gas tax revenue allocations for the 2023-25 biennium based on current law and proposed changes in Senate Bill No. 2275 (Senator Wanzek) and Senate Bill No. 2367 (Senator Hogue).

State's share ("buckets") - Current law
$1,532 million

- **General fund** – First $200 million - $200 million
- **Tax relief fund** – Next $200 million - $200 million
- **Budget stabilization fund** – Next $75 million based on fund balance - $0
- **General fund** – Next $200 million - $200 million
- **Lignite research fund** – Next $10 million - $10 million
- **State disaster relief fund** – Next $20 million based on fund balance - $0
- **Strategic investment and improvements fund** – Next $400 million - $400 million
- **Non-oil political subdivision infrastructure funds** – Next $230 million - $230 million (50 percent to each fund)
  - Municipal infrastructure fund - $115 million
  - County and township infrastructure fund - $115 million
- **Airport infrastructure fund** – Next $20 million - $20 million
- **Strategic investment and improvements fund** – Any remaining revenues - $272 million

State's share ("buckets") - SB 2275 (Sen. Wanzek)
$1,532 million

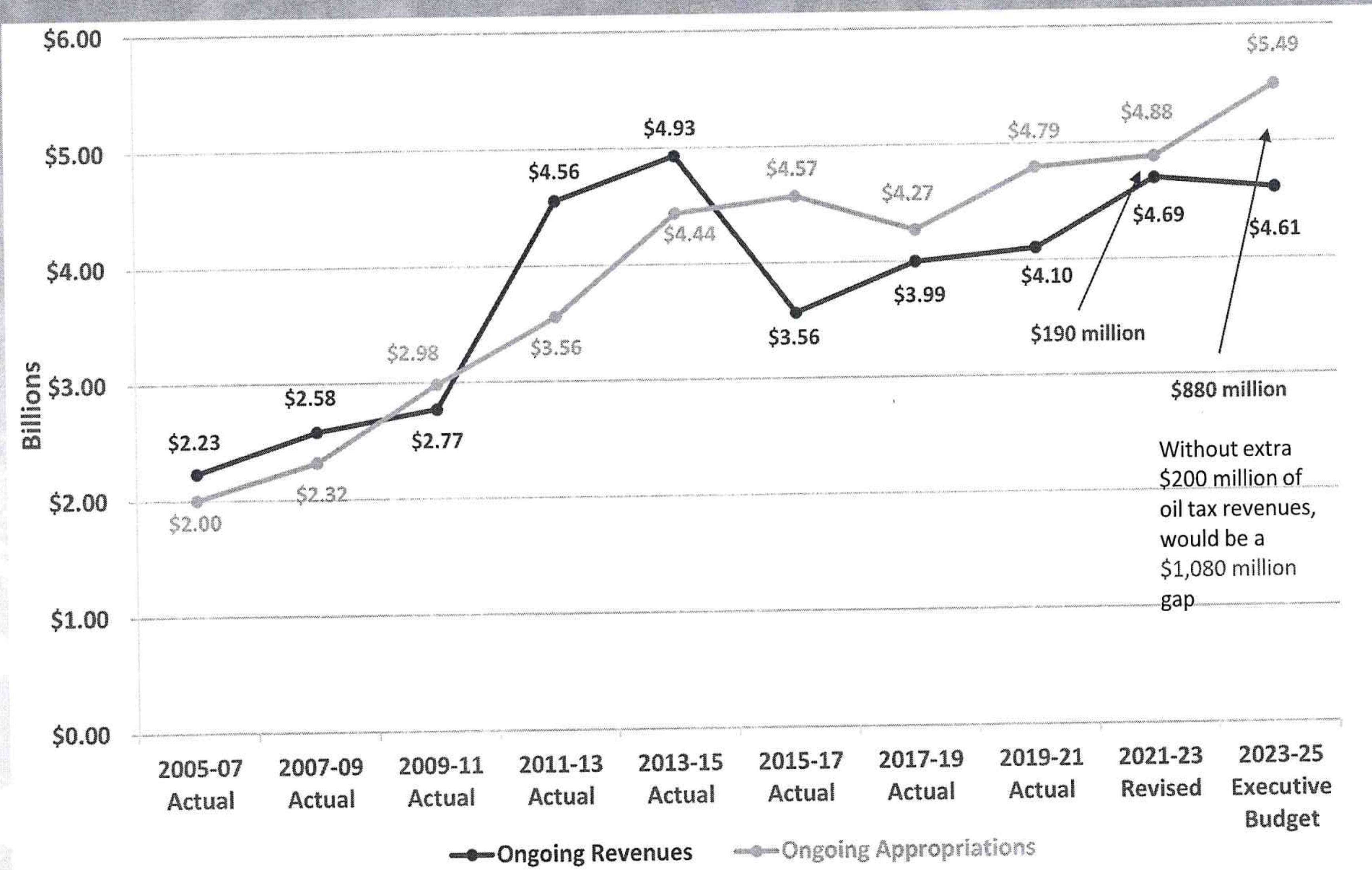
- **General fund** – First $200 million - $200 million
- **Tax relief fund** – Next $200 million - $200 million
- **Budget stabilization fund** – Next $75 million based on fund balance - $0
- **General fund** – Next $200 million - $200 million
- **Lignite research fund** – Next $10 million - $10 million
- **State disaster relief fund** – Next $20 million based on fund balance - $0
- **Non-oil political subdivision infrastructure funds** – Next $230 million - $230 million (50 percent to each fund)
  - Municipal infrastructure fund - $115 million
  - County and township infrastructure fund - $115 million
- **Airport infrastructure fund** – Next $20 million - $20 million
- **Strategic investment and improvements fund** – Any remaining revenues - $672 million

State's share ("buckets") - SB 2367 (Sen. Hogue)
$1,532 million

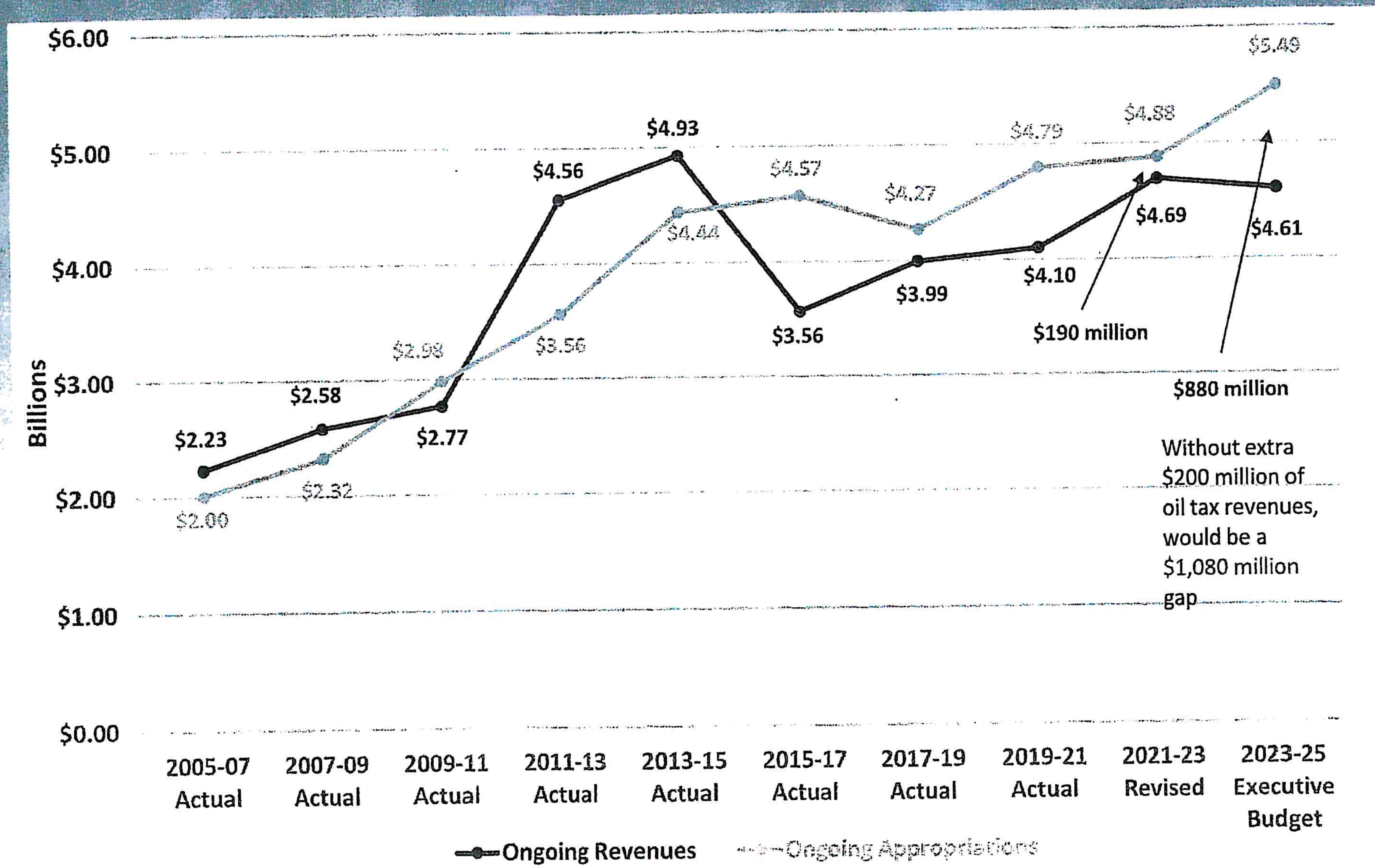
- **General fund** – First $230 million - $230 million
- **Tax relief fund** – Next $230 million - $230 million
- **Budget stabilization fund** – Next $75 million based on fund balance - $0
- **General fund** – Next $230 million - $230 million
- **Lignite research fund** – Next $10 million - $10 million
- **State disaster relief fund** – Next $20 million based on fund balance - $0
- **Strategic investment and improvements fund** – Next $460 million - $460 million
- **Non-oil political subdivision infrastructure funds** – Next $230 million - $230 million (50 percent to each fund)
  - Municipal infrastructure fund - $115 million
  - County and township infrastructure fund - $115 million
- **Airport infrastructure fund** – Next $20 million - $20 million
- **Strategic investment and improvements fund** – Any remaining revenues - $122 million

#17936

Ongoing General Fund Revenues and Appropriations



Ongoing General Fund Revenues and Appropriations

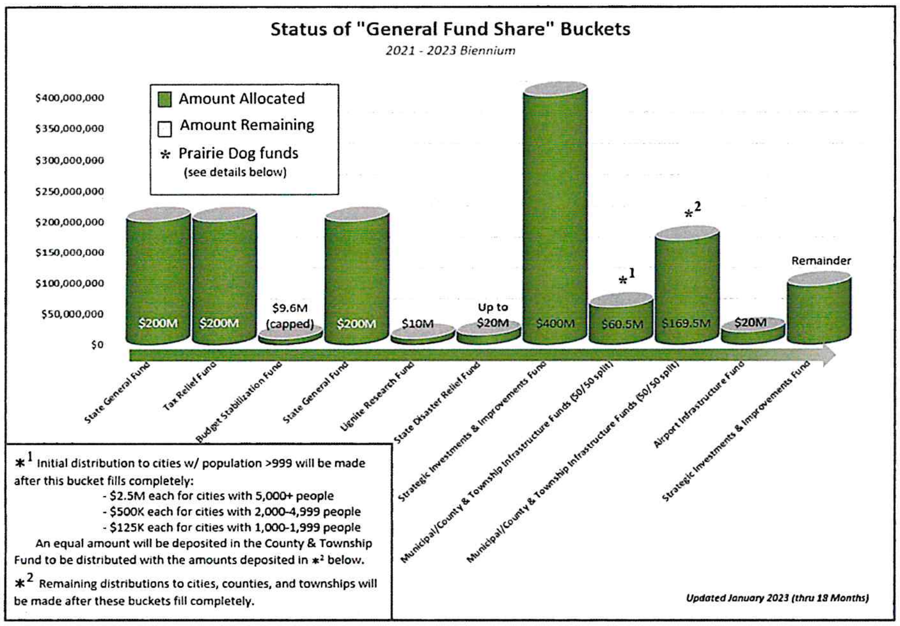


NDACo
NORTH DAKOTA ASSOCIATION OF COUNTIES

Testimony to
Senate Appropriations
February 9, 2023
Donnell Preskey, NDACo

RE: Opposition to SB 2367 – Increasing State Buckets

Mr. Chairman and committee members, I'm Donnell Preskey with the North Dakota Association of Counties. Our county officials have concerns with Senate Bill 2367, for the main reason that this bill will more than likely **delay prairie dog funds getting to non-oil counties, cities and townships for infrastructure funding**.



There may be a time when it is appropriate to adjust the state buckets but now, when local infrastructure needs are so great, and the state has healthy reserves, is not the time.

SB 2367 will increase the two state general fund buckets, the property tax relief fund and the Strategic Investments & Improvements Fund by $150 million. Those buckets all sit ahead of the municipal, county and township and airports buckets. As you can see on the chart, there is also a SIIF bucket after the local buckets which fills indefinitely until the end of the biennium.

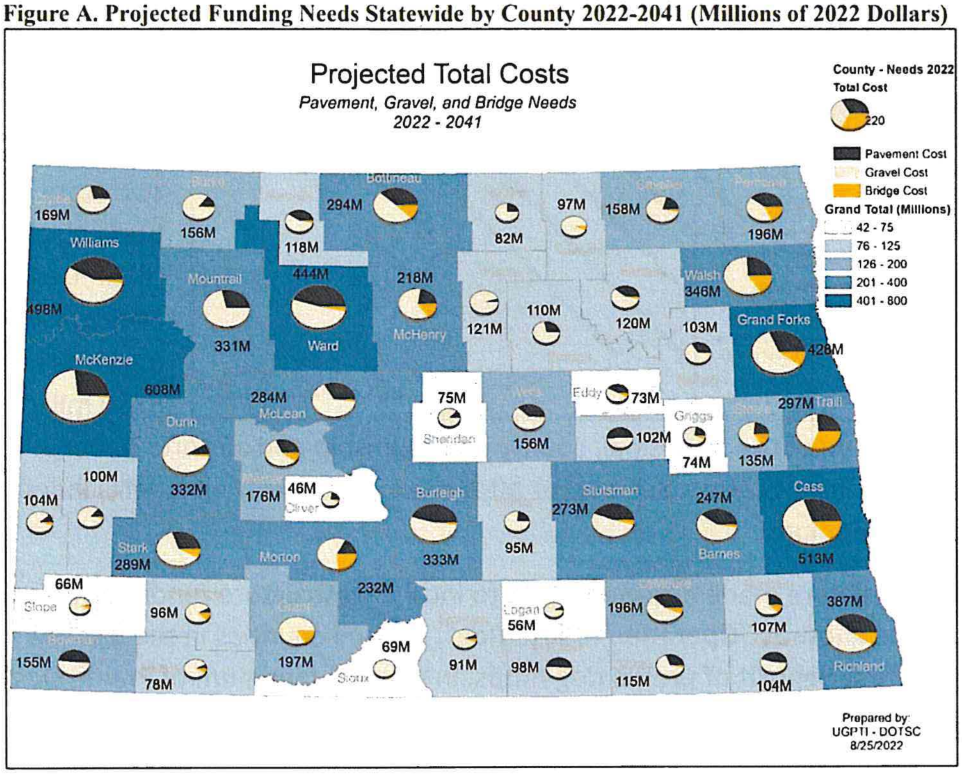
In 2019, the legislature made a commitment to local infrastructure funding with approval of HB 1066, otherwise know as "Operation Prairie Dog". Non-oil counties in the last few weeks have received their **first deposit** of prairie dog funds. In the first biennium of Prairie Dog's existence, oil and gas tax revenues stopped short of reaching the Prairie Dog buckets.

The need for a permanent funding structure to address roads and bridges is only increasing. The most recent Upper Great Plains Transportation Institute's Local Roads Study identifies a $10.5 billion dollar need for local roads and bridges over the next 20 years, or, on average, an investment of $525 million each year. For comparison, in 2019, UGPTI's estimate was $8.7 billion investment for local roads and bridges over 20 years or $440 million a year to maintain their road networks.

Table E: Summary of All Road and Bridge Investment and Maintenance Needs for Counties, Townships and Tribal Areas in North Dakota (Millions of 2022 Dollars)

Period	Unpaved	Paved	Bridges	Total
2022-23	$ 660.35	$557.10	$139.42	$1.356.87
2024-25	$ 650.79	$515.00	$139.42	$1.305.21
2026-27	$ 665.91	$371.50	$139.42	$1.176.83
2028-29	$ 665.55	$344.90	$139.42	$1.149.87
2030-31	$ 651.44	$274.30	$139.42	$1.065.16
2032-41	$ 3.251.62	$1.186.00	$18.45	$4.456.07
2022-41	**$ 6.545.66**	**$3.248.80**	**$715.57**	**$10.510.01**

Figure A. Projected Funding Needs Statewide by County 2022-2041 (Millions of 2022 Dollars)



Because of these illustrated needs, ND Counties ask that you resist actions that will push the Prairie Dog buckets further down the line or delay the realization of these funds.

23.1083.01001
Title.

Prepared by the Legislative Council staff for
Senator Davison
February 6, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2367

Page 1, line 11, replace "thirty" with "fifty"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

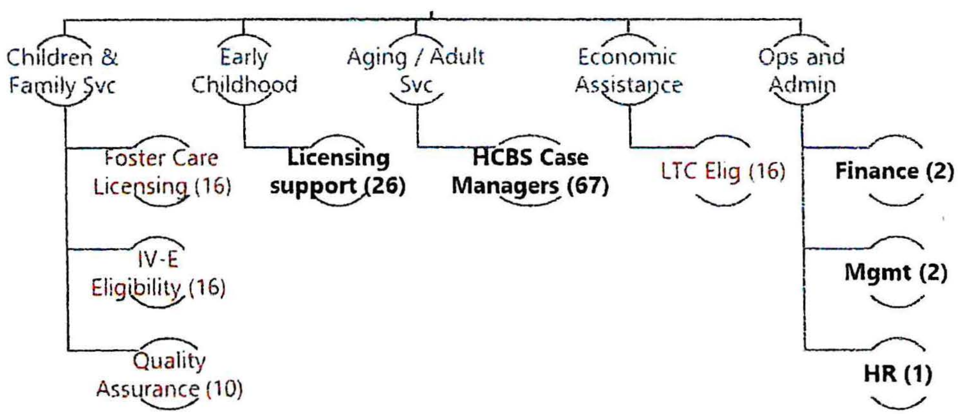
This amendment increases the state share of oil and gas taxes deposited in the tax relief fund from $230 million to $250 million per biennium. Current law provides for $200 million of tax collections to be deposited in the fund each biennium.

Summary of 457 Fund decrease related to state-delivered services and supports

Description	2021 - 2023 Budget Base	Increase/ (Decrease)	2023 - 2025 Executive Budget
Salaries and Benefits	$ 26,977,885	$ (16,296,846)	$ 10,681,039
Operating	4,171,761	(3,719,725)	452,036
IT Services	17,128	(355)	16,773
Capital Asset Expense	-	-	-
Capital Assets	-	-	-
Grants	158,750,611	32,322,796	191,073,407
Total	$ 189,917,385	$ 12,305,870	$ 202,223,255

Costs for State-delivered svc

Costs for Zone-delivered svc



TOTAL obligation to transfer from 457 to HHS: $20,833,563 and 98 FTE

- Early Childhood
  - $4,659,684 total expenses attributed to this cost pool (staffing, travel, IT)
  - 26 FTE Counties ← Liscensing Early Childcare
- HCBS Case Management
  - $13,326,329 total expenses attributed to this cost pool (staffing, travel, IT)
  - 67 FTE
- Ops and Admin
  - $2,847,550 total expenses attributed to this cost pool (staffing, contracts (incl indirect cost), public notices, travel, IT)
  - 5 FTE

Testimony Prepared for the
House Finance & Taxation
March 14, 2023
By: Daniel Schriock PE, Burleigh County Assistant Engineer

North Dakota
Association of
County Engineers

RE: Opposition for SB 2367 – Relating to the allocation of the state share of oil and gas taxes

Chairman Headland and House Finance & Taxation Committee Members, thank you for the opportunity to provide testimony on SB 2367. I am Daniel Schriock, the Assistant County Engineer for Burleigh County, and I also serve on the legislative committee for the ND Association of County Engineers. I would like to share some of the concerns our members have on SB 2367 and the impacts that it will have when it comes to consistent funding for County Road and Bridge Programs.

Transportation funding at the county level is one of the more difficult things to budget for when it comes to counties. Differences in County Highway budgets verses what other entities and departments do is that instead of budgeting by calculating expenses first and determine how much money is needed, Highway Departments must instead calculate the revenues first and determine how much money we will have to work with for a given year. We then take out salaries and fixed costs that are beyond our control such as fuel and operating expenses and what is left goes to our yearly roadway maintenance and construction projects.

The “3 legged stool” county highway departments use to define their budget consists of local property taxes, gas tax revenue (which has remained fairly level since 2013), and federal project allocations. Some other varying forms of funding have been the one-time State funding bills, which we’ve been very grateful for in being able to move projects forward. Although one time funding is beneficial, it is difficult to budget for because the funds are not a consistent stream of revenue that counties can depend on.

When HB 1066 “Operation Prairie Dog” (OPD) bill was introduced in 2019, it gave the non-oil producing counties hope for a consistent funding system to address our ever-increasing demand for road and bridge projects. It was encouraging to receive the first deposit from OPD earlier this year. With that said, including an additional $170M to buckets ahead of the County and Township buckets, it will likely delay the funds or possibly cause more shortfalls of the County and Township buckets from filling at all.

Chairman Headland and committee members, I would like to thank you for your time in allowing me to share some concerns on how increases in size to the buckets ahead of the OPD buckets can delay much needed funding for our local transportation systems.

AAND

Airport Association of North Dakota

Ryan Riesinger - President   Anthony Dudas - Vice President
Jordan Dahl - Sec. / Treasurer
P.O. Box 2845, Fargo, North Dakota 58108-2845
1-701-738-4646

March 14, 2023

RE: Testimony to House Finance and Taxation Committee on SB 2367 – Relating to the allocation of the State share of oil and gas taxes

Chairman Headland and members of the committee,

I am Ryan Riesinger, President of the Airport Association of North Dakota (AAND) and Executive Director of the Grand Forks Regional Airport Authority (GFK). I want to thank you for the opportunity to testify today. AAND is the professional organization for North Dakota Airports and it serves to promote airports and aviation across the state. GFK consistently ranks as one of the busiest airports in the country and is the proud home of the University of North Dakota (UND) John D. Odegard School of Aerospace Sciences. I am here today on behalf of AAND and GFK to express opposition to SB 2367.

During the 2019 Legislative Session, the North Dakota legislature passed "Operation Prairie Dog" to support infrastructure development throughout the state. This 2019 appropriations bill included allocations to "Municipal/County & Township Infrastructure Funds" for the non-oil producing areas of the state, and $20 million for a new "Airport Infrastructure Fund". These infrastructure funds were placed at the bottom of a series of "buckets" that are filled by streams from both the Oil & Gas Production Tax and the Oil Extraction tax (see attachment). SB 2367 proposes to add $170 million to buckets placed prior to the Prairie Dog Infrastructure buckets.

At the end of the 2021 legislative session, it was forecasted that the infrastructure fund buckets would not fill during the 2021-2023 biennium. This meant that cities, counties, townships, and airports were unable to rely on this funding source as they planned and prepared for projects within the current biennium. Reliable State and local funding for transportation projects is critical in order for leaders to plan ahead, create shovel ready projects, and maximize federal grant funding. It is also important to ensure that high priority projects can move forward as efficiently as possible throughout the planning, environmental, design, bidding, and construction stages.

As our airports plan for future development and growth the funding needs are projected to be significant. Over $1 billion in projects have been identified over the next 10 years at airports in North Dakota, and the amount for 2023-2027 alone is $684 million (see attachment). Our airports work cooperatively with the Federal Aviation Administration (FAA) to maximize federal grant participation, but additional investment from the State and local airport sponsors will be required to meet these forecasts. Allocating $170 million in additional funding before the Prairie Dog Infrastructure buckets will make them less reliable for the cities, counties, townships, and airports to plan for our projects and will expose us to inflation risks and potentially delay important shovel ready infrastructure projects throughout the state.

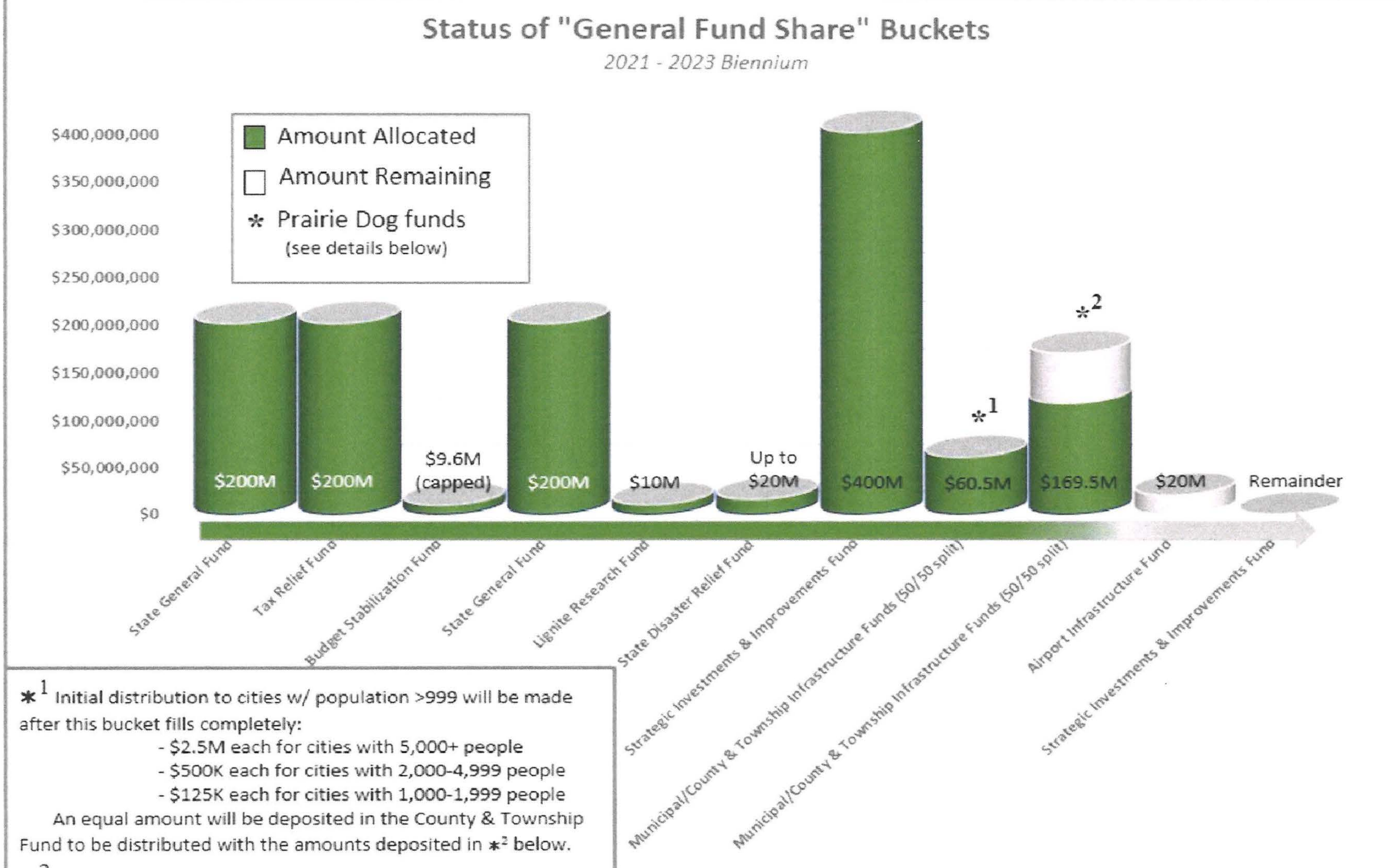
In closing, AAND and GFK are in opposition to SB 2367. We respectfully request that the committee provide a do not pass on the bill. I thank you for the opportunity to provide testimony today and will take any questions the committee may have for me.

Respectfully,

Ryan Riesinger
President, Airport Association of North Dakota
Executive Director, Grand Forks Regional Airport Authority

Attachments: Prairie Dog Bucket Funding as of November 2022
Statewide Airport Capital Improvement Planning Report

Status of Funding (through November 2022):



*[1] Initial distribution to cities w/ population >999 will be made after this bucket fills completely:

- $2.5M each for cities with 5,000+ people
- $500K each for cities with 2,000-4,999 people
- $125K each for cities with 1,000-1,999 people

An equal amount will be deposited in the County & Township Fund to be distributed with the amounts deposited in *[2] below.

*[2] Remaining distributions to cities, counties, and townships will be made after these buckets fill completely.

Updated November 2022 (thru 16 Months)

STATEWIDE AIRPORT CAPITAL IMPROVEMENT PLANNING REPORT - NORTH DAKOTA

FAA / State General Aviation and Commercial Service Program (NPIAS AIRPORTS)

	AIRPORT	Based Aircraft	PROJECT	Projects (Thousands) 1 to 5 Yrs.	Projects (Thousands) 6 to 10 Yrs.
			Terminal/Cargo Apron Rehabilitation	1000	
1	Fargo	218	Terminal Apron Expansion (Phase I C'23, Phase II '24)	17000	
	FAR		South GA Apron Rehabilitation/Reconstruction	12000	
			Terminal Building Expansion (D'23, Phase I C'24, Phase II C'25)	100000	
			North GA Apron Expansion & Perimeter Road Reconstruction (C'23)	14000	
			Terminal Apron Reconstruction & Glycol Capture (D'25, Phase I C'26, Phase II C'27)	21000	
			Replace Passenger Boarding Bridge	1000	
			Pavement Maintenance (RTA, RCF, Seal)	1000	1000
			Glycol Pump Station	2000	
			Terminal Parking Lot Rehabilitation & Expansion	1500	
			SRE Acquisition	2000	2000
			Rwy 9/27 Ext./Widening w/ Parallel Taxiway - Study, EA, Design, Construct		65000
			North GA Taxilane Extension		1000
			East GA Expansion		2000
			Airfield Wetland Mitigation / Drainage Improvements	9000	7000
2	Bismarck	90	GA Apron Expansion	6000	2000
	BIS		Hangar 5 Demolition	700	
			Rehabilitate Runway 3-21	8000	
			Rehabilitate Taxiway D	5000	
			Expand Commercial Apron	14000	
			Construct Terminal Building Expansion	60000	
			Install New Passenger Boarding Bridges	7000	4000
			Rehabilitate Taxiway C North	10000	
			Runway 13 RPZ Land Acquisition		2200
			Purchase SRE Equipment	3000	1000
			Construct SRE Building	1000	
			Purchase ARFF Equipment	1000	1000
			Deicing Fluid Collection System	500	
			Rehabilitate/Construct ARFF Building Expansion	1000	
			Commercial and GA Ramp Panel Replacement	1000	1000
			Construct Taxilane Expansion	1000	500
			Rehabilitate/Construct Parking Lot/Expansion	1500	
			Rehabilitate Access Roads		1600
			Pavement Maintenance (RTA, RCF, Seal)	1000	1000
			Construct Service Road Expansion		300
			Relocate Airway Avenue/Airport Road Intersection		300
			Corporate Area Hangar Development		3300
			Update Noise Contours		250
			Runway 9L-27R & TWY B Extension, Lighting, & Reconstruction (C'23-'24)	34800	
3	Grand Forks	138	Runway 17R-35L Reconstruction (D'24, Phase II C'25, Phase III C'26, Phase III C'27)	75000	
	GFK		Construct Runway 18-36		10000
			Expand Terminal Apron		10000
			Expand Terminal		20000
			Pavement Maintenance (RTA, RCF, Seal)	1000	1000
			Runway 17L-35R Rehabilitation		12000
			Fencing & Perimeter Road Improvements	1000	
			Storm Water and Drainage Improvements (C '23)	9000	
4	Minot	128	Purchase SRE Equipment	2000	1000
	MOT		RWY 8 Approach Clearing/Tree Removal	250	
			RWY 8/26 Rehab/T-hold Relocation; TWY B Intersection; TWY D Exp. (D '24, C '25-'26)	10000	
			Purchase ARFF Truck		1000
			Taxiway C Rehabilitation	5000	
			Replace T-Hangars	3000	3000
			Northwest GA Apron		2000
			Taxiway B & T-Hangar Rehabilitation	3000	
			Pavement Maintenance (RTA,RCF, Seal, Remarking)	1000	1000
			Construct GA Landside Access Road and Parking Lot	3500	
			Rehabilitate Runway 13/31, Taxiway D-1, Taxiway A, & Airfield Lighting	5100	
5	Jamestown	36	Rehabilitate Terminal Apron Phase II & GA Apron/Taxiways/Taxilanes	500	
	JMS		Acquire SRE	600	
			SRE Building Expansion (D'24, C'25)	1200	
			Perimeter Fence Improvements	300	
			Terminal Remodel/Reconfiguration & Parking Lot Improvements (C'26)	2000	
			Storm Sewer Rehabilitation	1700	
			Taxiway B Rehabilitation	600	
			Replace Passenger Boarding Bridge		1000
			W. Industrial Park Infrastr. Improvements		1500
			Pavement Maintenance (RTA,RCF, Seal), Remarking	1000	1000
			Runway 4/22 Rehabilitation and Airfield Crack Sealing		1500
			Taxiway A, B, & D Rehabilitation		600
			Acquire ARFF Vehicle		900
			Construct T-Hangar		1000

	AIRPORT	Based Aircraft	PROJECT	Projects (Thousands)	
				1 to 5 Yrs.	6 to 10 Yrs.
			Purchase SRE Equipment	2000	1000
6	Williston	32	Deicing Fluid Collection Improvements	4000	
	XWA		Cargo Apron Construction	6000	
			Pavement Maintenance (RTA, RCF)	1500	3000
			Construct Hangars	2000	2000
			Ground Service Equipment Building	500	
			Terminal Parking Expansion	2000	
			Construct Sanitary Force Main	2300	
			Pave Perimeter Roads	2700	
			Construct Runway 4-22 Parallel Taxiway		6500
			Purchase ARFF Equipment		1000
			Pavement Maintenance (RTA, RCF, Seal)	500	500
7	Devils Lake	28	Apron & Taxiway Reconstruction	3200	
	DVL	↑ 15	Runway 13/31 & Taxiway A Pavement Rehabilitation	1700	
			Construct SRE/ARFF Building		3800
			Rehabilitate Terminal Apron		1000
			Wildlife Hazard Assessment & WHMP Update	200	
			Reconstruct GA Apron		1500
			Lighting Rehabilitation		1500
			Acquire SRE		800
			Runway 15-33/Taxiway A Light System Conversion, Runway 7-25 Light System/Beacon	1700	
8	Dickinson	35	Purchase SRE Equipment	1000	1000
	DIK	=	ARFF Truck Acquisition & ARFF Building Expansion	1500	
			Runway 7-25 & GA Apron Pavement Maintenance	600	
			GA Apron and Taxiway A Rehabilitation	5000	
			Terminal Design and Construction	30000	
			Commercial Terminal Apron, Access Road, & Parking Lot	11000	
			Construct Hangar Taxilanes		1000
			Crosswind Parallel Taxiway		3000
			Runway 7-25 Rehabilitation		7000
			Pavement Maintenance (RTA, RCF, Seal)	1000	1000
			SRE/ARFF Building Expansion		3000
	Commercial Service Airports Totals:			**545150**	**203550**
		BASIC	Construct Apron Expansion (D'23, C'25)	900	
9	Ashley	13	Pavement Maintenance (RTA, RCF, Seal)	100	300
	ASY		Construct Terminal	800	
			Construct Fuel System (100LL + Jet A)		800
			Install AWOS		400
			Construct Partial Parallel Taxiway		1100
		BASIC	Rehabilitate Runway 12/30, Taxiway, Apron Pavement	150	
10	Beach	11	Construct Hangar (D '25, C '26)	1200	
	20U		Rehabilitate Hangar Taxilanes	1100	
			ALP/MP Update with Exhibit A/AGIS Component		300
			Construct New Turf Runway		1000
			Pavement Maintenance (RTA, RCF, Seal)	300	400
			Construct Fence and Signage		500
			Construct AWOS Access Road	200	
		LOCAL	Runway 13/31, Taxiway, Apron Pavement Rehabilitation		2000
11	Bottineau	16	Construct New Hangar	800	800
	D09		Realign and Construct Turf Crosswind Runway		1000
			Replace Fuel System	700	
			Pavement Maintenance (RTA, RCF, Seal)	500	200
			Airport Beacon & Electrical Vault Rehabilitation	200	
			Terminal Improvements (D'25, C'26)	600	
			Construct Taxiway Expansion	300	300
			Construct Fence and Signage		2000
		LOCAL	Construct Hangar ('23, '24 Ongoing Reimbursements)	500	
12	Bowman	17	Pavement Maintenance	400	400
	BWW		Construct Partial Parallel Taxiway	1000	1000
			Construct Crosswind Runway		1500
			Construct Taxilane		1000
		BASIC	Rehabilitate Runway 16/34 Lighting System	800	
13	Cando	11	Pavement Maintenance (RTA, RCF, Seal)	300	500
	9D7		Construct Fuel System	700	
			ALP/MP Update with AGIS		300
			Construct Hangar		1000
			Acquire SRE Equipement		400
		BASIC	Apron Pavement Seal Coat & Taxilane Reconstruction	600	
14	Carrington	12	Rehabilitate Airfield Lights	500	
	46D		Construct New Hangar		1000
			Pavement Maintenance (RTA, RCF, Seal)	100	500
			Construct Fence & Signage		200
			South Apron Rehabilitation		300
		LOCAL	Runway Repairs	500	
15	Casselton	35	Env. Assessment & Land Acquisition for Runway Relocation (EA '23, Acq '25)	1500	
	5N8		Runway 13/31 Relocation & Parallel Taxiway Construction	14800	
			Construct Fence		2000
			Pavement Maintenance (RTA, RCF, Seal)	200	200
			Construct New Hangar	1000	1000
			Apron Reconstruction		1700

	AIRPORT	Based Aircraft	PROJECT	Projects (Thousands)	
				1 to 5 Yrs.	6 to 10 Yrs.
		BASIC	Airfield Lighting Rehabilitation		
16	Cavalier	16	Runway, Taxiway, & Apron Rehabilitation (D'24, C'25)	2600	
	2C8		Construct Drainage Improvements	150	
			Pavement Maintenance (RTA, RCF, Seal)	100	400
			Construct Full Parallel Taxiway		2000
			Relocate Powerline		50
			Construct Fence and Signage		500
		LOCAL	Land Acquistion Phase 2 - RPZ / Transitional Surfaces (18 Acres)	50	
17	Cooperstown	15	Runway 13/31, Taxiway and Apron Rehabilitation (D'24, C'25)	2000	
	S32		Pavement Maintenance (RTA, RCF, Seal)	100	500
			ALP/MP Update with AGIS Component		300
			Access Road Improvements		300
			Construct Fence and Signage		2000
			Construct Parallel Taxiway		500
			Lighting System Rehabilitation		700
			Transfer Out		
		BASIC	Construct New SRE Building (D '24, C '25)	800	
18	Crosby	11	Replace Airport Beacon (C'27)	150	
	D50		Construct Partial Parallel Taxiway		1000
			Construct Hangar		1000
			ALP/MP Update with AGIS		400
			Snow Removal Equipment	400	
			Construct Jet A Fuel System		500
			Pavement Maintenance (RTA, RCF, Seal)	200	400
		BASIC	Pavement Maintenance (RTA, RCF, Seal)	300	100
19	Dunseith - IPG	0	Runway, Taxiway, and Apron Reconstruction (D '23, C '24)	2500	
	S28		Install Airfield Lighting		700
			Construct Terminal Building		500
		BASIC	Rehabilitation of Apron, Taxiway, & Access Road (D'25, C'26)	500	
20	Edgeley	10	Airfield Lighting Rehabilitation	800	
	51D		Pavement Maintenance (RTA, RCF, Seal)	100	300
			Construct Runway Extension		1600
			Construct Fence and Signage		200
		BASIC	Reconstruct Taxilane & Seal Coat Pavements	600	
21	Ellendale	11	Pavement Maintenance (RTA, RCF, Seal)	100	500
	4E7		Replace Hangar (D'24, C'25)	1000	
			Pave Turf Taxilane	700	
			ALP/MP Update with AGIS		300
			Construct Fence and Signage		200
			Install AWOS		400
		BASIC	Construct Terminal Building	800	
22	Ft. Yates	0	Pavement Maintenance (RTA, RCF, Seal)	300	100
	Y27		Rehabilitate Runway, Taxiway, Apron (D '26, C '27)	2500	
			Construct Fuel System		500
			Access Road Improvements		900
			Instrument Approach Development	300	
			Construct Hangar		800
			Construct SRE Building		700
		BASIC	Pavement Maintenance (RTA, RCF, Seal)	100	400
23	Garrison	13	Construct Security Fence and Signage	200	1000
	D05		Construct GA Terminal Building (D '25, C '26)	1000	
			Construct Hangar Taxilane		500
			Upgrade Fuel System		300
			Purchase SRE Equipment		300
			Update ALP/MP with AGIS and Exhibit A		300
			Construct Hangar	800	
		BASIC	Runway, Taxiway, and Apron Rehabilitation	150	
24	Glen Ullin	11	Construct Partial Parallel Taxiway (D '26, C '27)	1200	
	D57		Pavement Maintenance (RTA, RCF, Seal)	100	400
			ALP Update with AGIS		300
			Taxilane Extension		500
			Construct Hangar		800
			Construct Crosswind Rwy, EA, RPZ Land Acquisition		1000
		LOCAL	Taxilane & Apron Reconstruction (D'23, C'24)	1000	
25	Grafton	18	Construct Hangar (D/C '23, Ongoing Reimbursements '24-26)	900	
	GAF		Drainage Improvements & Wetland Mitigation	2000	
			Construct New SRE Building		400
			Replace Airport Beacon		60
			Runway 17/35 Rehabilitation		1600
			Pavement Maintenance (RTA, RCF, Seal)	300	300
			Remove Old Storage Building		200
			Construct Fence and Signage		2000
		BASIC	Reconstruct Taxilane & Access Road Improvements	700	
	Gwinner	12	Construct Terminal/SRE Building (D'25, C'26)	1000	
26	GWR		Taxiway Turnaround Widening	300	
			Update ALP/MP with AGIS and Exhibit A		300
			Land Acquistion - Fence		300
			Construct Fence and Signage		500
			Pavement Maintenance (RTA, RCF, Seal)	100	500

	AIRPORT	Based Aircraft	PROJECT	Projects (Thousands) 1 to 5 Yrs.	6 to 10 Yrs.
		BASIC	Rwy 11-29, Taxiway, Apron Rehabilitation	200	2000
27	Harvey	12	RPZ Land Acquisition and EA		800
	5H4		Pavement Maintenance (RTA, RCF, Seal)	300	100
			Runway 11-29 Extension		2000
			New Crosswind Runway		800
			Update ALP/MP with AGIS and Exhibit A		300
			Parallel Taxiway		1000
			Apron Expansion		300
			Construct Hangar	1000	
			AGIS Survey (LPV Approach, Both Ends)	200	
			Construct Fence and Signage	200	
		LOCAL	ALP/MP Update with AGIS and Exhibit A	300	
28	Hazen	16	Purchase SRE Equipment	300	
	HZE		Construct Partial Parallel Taxiway & Lighting		1000
			North Hangar Taxilane Construction		700
			Pavement Maintenance (RTA, RCF, Seal)	400	200
			Construct Fence & Signage		2000
			Replace UST Fuel System (100LL & Jet A AST)	1300	
			Construct Hangar	1100	
			Construct Crosswind Runway		1000
		LOCAL	Rehabilitate Taxiway C and Rehab/Extend South Hangar Taxilane (C '23)	800	
29	Hettinger	32	Construct Hangar	1000	
	HEI		Apron Rehabilitation	1000	
			Construct Hangar Taxilane	500	
			ALP/Master Plan Update		300
			Rehabilitate Taxiway B	500	
			Construct Fence & Signage		2000
			Pavement Maintenance (RTA, RCF, Seal)	400	300
		LOCAL	Apron Rehabilitation, Taxilane Extension, & Drainage Improvements	3200	
30	Hillsboro	32	Construct T-hangar (BIL in '24, '25, & '26)	600	
	3H4		Land Acquisition for Runway Extension (EA '26, Acquisition '28)	400	200
			Construct Runway Extension		6500
			Terminal Improvements	100	
			Reconstruct Access Road		500
			Construct Fence and Signage		2000
			Purchase SRE Equipment	150	
			ALP/Master Plan Update		300
			Install Jet A Fuel System		500
			Pavement Maintenance (RTA, RCF, Seal)	200	300
		LOCAL	Construct Partial Parallel Taxiway and Hangar Taxilane (C '23)	1200	
31	Kenmare	31	Purchase SRE	300	
	7K5		Construct Access Road Extension and Parking Lot Expansion	1000	
			Hangar Taxilane Expansion	800	
			Relocate Fuel System		200
			Construct Terminal Building		500
			Construct Hangar		1000
			Pavement Maintenance (RTA, RCF, Seal)	500	300
		LOCAL	Construct Hangar Taxilane	1000	
	Kindred	25	Replace Concrete Runway and Apron Panels	300	
32	K74		Airfield Lighting Rehabilitation (D '25, C'26)	800	
			Runway 11/29 Extension & Par. Taxiway (EA, Land Acq., Wetland Mit., Design, Const.)		5000
			Pavement Maintenance (RTA, RCF, Seal)	100	300
			Purchase SRE		150
			Construct Terminal Building		500
			Construct Fence and Signage		2000
		BASIC	Rehab of Rwy 15/33, Apron, and Taxiway	1700	
33	Lakota	10	Pavement Maintenance (RTA, RCF, Seal)	100	500
	5L0		Construct Fence and Signage		500
			Construct Taxilane	700	
			Lighting system rehabilitation	800	
		U	Pavement Maintenance (RTA, RCF, Seal)	200	300
34	LaMoure	3	Rehabilitate Runway 16/34 Lighting System		700
	4F9		Reconstruct Taxiway	400	
			Land Acquisition of Airport Footprint	1000	
			Construct Terminal Building		400
			Construct Hangar		700
			Construct Fuel System		500
		LOCAL	Reconstruct Partial Taxilane & Construct Partial Parallel Taxiway	1000	
35	Langdon	16	Taxiway and Apron Expansion	1100	
	D55		Rehabilitate Terminal Building		200
			Construct Hangar	100	800
			Pavement Maintenance (RTA, RCF, Seal)	200	500
			Construct Full Parallel Taxiway		1700
			Crosswind Runway Turf Rehabilitation		600
		LOCAL	Taxiway and Apron Rehabilitation and Improve Access Road (C '23)	1100	
36	Linton	18	Pavement Maintenance (RTA, RCF, Seal)	400	200
	7L2		ALP/MP Update with AGIS Component	300	
			Runway 9/27 Extension and Widening		1300
			Construct Parallel Taxiway		1800
			Construct Hangar		1000
			Acquire SRE Equipment	300	
			Construct SRE Building	500	

	AIRPORT	Based Aircraft	PROJECT	Projects (Thousands) 1 to 5 Yrs.	6 to 10 Yrs.
		BASIC	Construct Apron Expansion & RSA Improvements	150	
	Lisbon		Runway 14/32 Rehabilitation (D'25, C'26)	1700	
37	6L3	12	Rwy 14/32 Lighting Rehabilitation	100	600
			Construct Apron Expansion		900
			Apron and Taxilane Rehabilitation		400
			Construct Connector Taxiway to Correct Direct Access Issue		600
			Extend Partial Parallel Taxiway		1000
			Install AWOS		300
			Construct Fence and Signage		200
			Construct Taxilane Extension		500
			Construct Runway Turnaround		500
			Pavement Maintenance (RTA, RCF, Seal)	200	300
		LOCAL	Pavement Maintenance (RTA, RCF, Seal)	500	500
38	Mandan	97	Wetland Mitigation/ Drainage (C'23)	1500	2000
	Y19		Construct Parking Lot	300	
			Purchase SRE Equipment	400	300
			Install 100LL and Jet A Fuel System	900	
			Construct Terminal Building	700	
			Construct Runway Expansion		5000
			Relocate County Road and Powerlines		2500
			Construct South Development Taxilane	1800	
			Construct Hangar	2000	2000
			Construct T-Hangar Pavement	1000	
			Realign Parallel Taxiway	200	2000
			Reconstruct Hangar Taxilanes	1000	
			Construct Corporate Apron and Taxilanes		2000
			SRE Building Expansion		300
			ALP/MP Update with AGIS Component		300
		LOCAL	Drainage Improvements	600	
39	Mohall	31	Construct Fence and Signage	1600	
	HBC		Pavement Maintenance (RTA, RCF, Seal)	500	300
			Pave Access Road & Parking Area		800
			Construct Hangar		1000
			Construct Parallel Taxiway		1000
			Construct Hangar Taxilane		600
		BASIC	Construct Hangar Taxilane	400	
40	Mott	10	Construct Terminal, Access Road, & Parking Lot		
	3P3		Runway Rehabilitation		1500
			Construct Hangar	1000	
			Obsruction Removal and RSA Grading	250	
			Construct Partial Parallel Taxiway		800
			Install AWOS		500
			Pavement Maintenance (RTA, RCF, Seal)	300	300
		LOCAL	Taxilane and Apron Expansion	1000	
41	Northwood	21	Construct Terminal Building (D'25, C'26)	600	
	4V4		Construct Hangar (D'25, C'26)	1500	
			Pavement Maintenance (RTA, RCF, Seal)	100	500
			Construct Fuel System		1000
			Acquire SRE		300
		BASIC	Construct Replacement T-Hangar (D'24, C'25)	2000	
42	Oakes	9	Construct Taxilane	700	
	2D5		Construct Fuel System		1000
			Pavement Maintenance (RTA, RCF, Seal)	100	400
			Construct Fence and Signage	200	
			Runway and Apron Rehabilitation		1500
			ALP/MP Update with AGIS Component		300
		BASIC	Lighting System Rehabilitation (C'23, Ongoing Reimbursement '24?)	800	
43	Park River	9	Runway 13/31, Apron, Taxiway Rehabilitation		1000
	Y37		Construct Fence and Signage		200
			Pavement Maintenance (RTA, RCF, Seal)	500	200
			Runway Extension EA, Land Acquisition, and Construction	300	1300
			Install AWOS		300
		BASIC	Pavement Maintenance (RTA, RCF, Seal)	300	300
44	Parshall	10	Reconstruct Taxiway, Apron, and Taxilane		800
	Y74		Construct Runway Extension		2000
			Rehabilitate Access Road	300	
			Install AWOS	300	
			Runway 30 RPZ Land Acquisition	300	
			Replace Airport Beacon & PAPIs	300	
			Construct Hangar	1000	
		BASIC	Replace Windsock & Install Secondary	150	
45	Pembina	13	Pavement Maintenance (RTA, RCF, Seal)	500	200
	PMB		Install Fuel System	500	
			Construct Hangar		1000
			Runway and Taxiway Rehabilitation		1400
			Acquire SRE		400
			Construct Fence and Signage	200	
		BASIC	Pavement Maintenance (RTA, RCF, Seal)	300	500
46	Rolla	11	Airfield Electrical Rehabilitation	800	
	06D		ALP Update / AGIS and Exhibit A		300
			Land Acquisition (RPZ)		400
			Acquire SRE Equipment	400	

	AIRPORT	Based Aircraft	PROJECT	Projects (Thousands) 1 to 5 Yrs.	6 to 10 Yrs.
		BASIC	Construct SRE/Terminal Building (D '22, C '23)	1000	
	Rugby	11	Runway 12-30, Taxiway and Taxilane Rehabilitation (D '25, C '26)	2200	
47	RUG		Purchase SRE Equipment	400	
			Construct Hangar		1000
			Pavement Maintenance (RTA, RCF, Seal)	300	300
			ALP Update / AGIS and Exhibit A		400
		LOCAL	Targeted ALP Update	150	
48	Stanley	29	Pavement Maintenance (RTA, RCF, Seal)	300	300
	08D		Construct Crosswind Runway	1000	
			Construct Fence and Signage		2000
			Construct Runway Extension		3000
			Construct Road and Parking Improvements	800	
			Construct Hangar	1000	
		LOCAL	Construct Lighting System For Taxiway/Apron	500	
49	Tioga	23	Runway 12-30 Rehabilitation		2000
	D60		Rehabilitate West Taxilanes	1500	
			Pavement Maintenance (RTA, RCF, Seal)	700	300
			Construct Fence and Signage		2000
			Purchase SRE Equipment	300	
			Construct Full Length Parallel Taxiway		2000
		LOCAL	Construct Electrical Vault	150	
50	Valley City	28	Acquire SRE with Snowblower Attachment	600	
	BAC		Runway 13/31 Rehabilitation		1000
			Apron Reconstruction	1400	
			Turf Runway 5/23 Relocation - EA, Land Acquisition, Design, & Construction		1500
			Pavement Maintenance (RTA, RCF, Seal)	200	300
		LOCAL	Taxiway Rehabilitation	400	
51	Wahpeton	37	T-Hangar Drainage Improvements	200	
	BWP		Install Taxiway Lighting	600	
			Pavement Maintenance (RTA, RCF, Seal)	200	300
			Construct Fence and Signage		2000
			South Taxilane/Apron Reconstruction		1100
			Purchase SRE		500
			Land Acquisition (House on Runway 33 End)		400
		BASIC	Construct Hangar (C'24, Ongoing Reimbursement '25 & '26)	1400	
52	Walhalla	10	Rehabilitate Airfield Lighting		700
	96D		ALP/MP Update with AGIS Component		300
			Pavement Maintenance (RTA, RCF, Seal)	200	200
			Runway, Taxiway, & Apron Pavement Rehabilitation/Reconstruction		2200
			Upgrade Fuel System	500	
			Transfer Out Entitlements		
		BASIC	Construct Parallel Taxiway (D'23, C'24)	1000	
53	Washburn	17	Pavement Maintenance (RTA, RCF)	200	300
	5C8		Replace LED MIRLs, MITLs, PAPIs, Beacon, Windcone and Signs	700	
			Construct Fence and Signage		2000
			Construct Access Road		300
			Land Acquisition for Future Development		200
			Upgrade Fuel System		500
			Construct Hangar		1000
		LOCAL	Construct SRE Building (D'23, C'24)	1000	
54	Watford City	35	Pavement Maintenance (RTA, RCF, Seal)	300	300
	S25		Construct Fence and Signage	500	1500
			Parking Lot Expansion and Terminal Area Drainage Improvements	300	
			Apron Expansion and Hangar Taxilane		1700
			Construct Hangar		1000
55	State PCI		Statewide PCI Study Update	600	1200
56	State Aviation Impact		Statewide State Aviation Impact Update	500	
57	State System Plan		State Aviation System Plan Update	500	
	Total Based Aircraft	1458	**General Aviation Airport Project Totals:**	139,550	179,260
			Commercial Service Airport Project Totals:	545,150	203,550
			Total Airport Project Totals:	684,700	382,810

Airports Not Included within Analysis:

Non NPIAS Paved (18):		**Non NPIAS Turf (17):**	
55	Beulah	73	Arthur
56	Drayton	74	Bowbells
57	Enderlin	75	Columbus
58	Killdeer	76	Elgin
59	Larimore	77	Fessenden
60	Leeds	78	Gackle
61	Maddock	79	Hazelton
62	Mayville	80	Kulm
63	Minto	81	Lidgerwood
64	Napoleon	82	McClusky
65	New Rockford	83	McVille
66	New Town	84	Milnor
67	Page	85	Plaza
68	Rolette	86	Richardton
69	St. Thomas	87	Riverdale
70	West Fargo	88	Towner
71	Westhope	89	Turtle Lake
72	Wishek		

TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB 2367
HOUSE FINANCE AND TAXATION COMMITTEE
MARCH 14, 2023

Good morning Chairman Headland and members of the House Finance and Taxation Committee. My name is David Hogue. I am a North Dakota state senator representing District 38, which includes northwest Minot and the city of Burlington. I appear before your committee to seek support for Senate Bill 2367.

SB 2367 is a bill that seeks to maintain three of our major funds on par with the rate of inflation our state has experienced in the last several biennia. Senate Bill 2367 increases the amount that goes into the general fund, our tax relief fund for county social services, and the strategic investment and improvements fund. As you will note from lines 10, 11, 15, and 20, the amount that goes into those funds is static.

SB 2367 raises the amount that goes into the general fund from $ 400 million to $ 460 million, a 15% increase from the previous biennium. SB 2367 raises the amount that goes into the tax relief fund for county social services from $ 200 million to $ 250 million. This increase from $ 200 million to $ 250 million is the actual amount necessary to fund that tax relief for our counties.

SB 2367 increases the amount going to the SIIF fund from $ 400 million to $ 460 million, another increase of 15%.

As you can see from the attached March 9, 2023 budget summary, the General Fund is $ 1,193 million in the red and that figure includes an assumption that the $ 60 million that SB 2367proposes to transfer to the General Fund takes place. Without SB 2367, the General Fund is over $ 1.2 billion in the red.

I realize several political subdivisions are not supportive of this measure but I tell them what I would like to tell you: We are state representatives and state senators and we have a constitutional duty to balance a state budget. Despite having that solemn constitutional duty, our projections show that the so-called “Prairie Dog” buckets will fill.

Chairman Headland and members of the House Finance and Taxation Committee, I urge your support of SB 2367 and would be happy to try to answer your questions.

Prepared by the Legislative Council staff
March 10, 2023

2023-25 BUDGET STATUS SUMMARY
AS OF MARCH 9, 2023

Beginning Balance and Revenues

Legislative estimate of unobligated general fund cash balance - July 1, 2023	$990,718,425 [1]
Add 2023-25 estimated revenues	
January 2023 legislative base revenue forecast	$5,093,906,670
Legislative changes to base revenue forecast	
Major increases	
SB 2367 - Increases the allocation of oil and gas tax revenue to the general fund	60,000,000
Major decreases	
HB 1012 & SB 2015 - Allocates motor vehicle excise taxes to the state highway fund rather than the general fund	(169,250,000)
NOTE: SB 2329 provides a similar allocation of motor vehicle excise tax collections to political subdivisions	
HB 1014 - Decreases the transfer of Bank of North Dakota and Mill and Elevator profits to the general fund	(81,300,000)
HB 1168 - Provides income tax credits related to manufacturing and agriculture automation incentives	(3,000,000)
HB 1158 - Provides an individual income tax exemption and reduces the individual income tax rate	(566,400,000)
NOTE: HB 1118 provides an individual income tax credit for residents and reduces the income tax rate	
SB 2237 - Creates an individual income tax credit related to child care expenses	(9,900,000)
SB 2293 - Expands an individual income tax deduction to exclude state active duty military pay from taxation	(4,000,000)
Other increases (decreases)	(9,049,896)
Total legislative changes affecting revenues	($782,899,896)
Total estimated general fund revenues and beginning balance - 2023-25 biennium	$5,301,725,199

Appropriations

Base level appropriations	$4,878,875,745
Legislative increases (decreases) to base level appropriations	
Major increases	
HB 1002 - Judicial branch	20,296,595
HB 1003 - North Dakota University System	232,349,099
HB 1014 - Industrial Commission, Department of Mineral Resources, and Housing Finance Agency	27,508,309
HB 1015 - Department of Corrections and Rehabilitation	67,382,240
HB 1018 - Department of Commerce	44,783,357
HB 1021 - Information Technology Department	20,894,455
HB 1276 - Agriculture diversification and development fund	30,000,000
HB 1532 - Nonpublic school education reimbursement	24,000,000
SB 2003 - Attorney General	20,940,133
SB 2012 - Department of Health and Human Services	412,339,153
SB 2013 - Department of Public Instruction	242,573,004
SB 2015 - Office of Management and Budget, including a statewide salary equity pool	58,017,935
SB 2239 - Public Employees Retirement System reduction of the main system plan unfunded liability	250,000,000
SB 2283 - Department of Health and Human Services basic care payment rates	19,718,386
Major decreases	
None	
Other increases (decreases) net	145,908,370
Total legislative changes affecting appropriations	$1,616,711,036
Total 2023-25 general fund appropriations	$6,495,586,781

Estimated Ending Balance - June 30, 2025

Estimated budget status general fund balance	**($1,193,861,582)**

2023-25 Ongoing and One-Time General Fund Revenues and Appropriations Comparison

	Ongoing	One-Time	Total
General fund revenues	$4,311,006,774	$990,718,425	$5,301,725,199
General fund appropriations	5,878,041,160	617,545,621	6,495,586,781
Balance (Deficit)	($1,567,034,386)	$373,172,804	($1,193,861,582)

2023-25 General Fund Appropriations Comparison to Executive Budget Recommendation

	Executive Budget	2023-25 Current Budget Status	Increase (Decrease) Amount	Increase (Decrease) Percent
Ongoing general fund appropriations	$5,489,362,605	$5,878,041,160	$388,678,555	7.1%
One-time general fund appropriations	374,889,588	617,545,621	242,656,033	64.7%
Total general fund appropriations	$5,864,252,193	$6,495,586,781	$631,334,588	10.8%

Footnotes

[1] January 2023 base revenue forecast - Unobligated general fund cash balance on June 30, 2023	$1,398,719,379 [a]
Legislative action affecting the June 30, 2023, balance	
HB 1014 - Industrial Commission - Provides a deficiency appropriation for FTE positions and a transfer	($77,460)
HB 1014 - Bank of North Dakota - Decreases the transfer of Bank profits for the 2021-23 biennium	(70,000,000)
HB 1289 - Judicial Branch - Allows a court to waive unpaid fees pursuant to an emergency clause	(20,000)
SB 2013 - Department of Public Instruction - Provides an exemption allowing state school aid to be repurposed	(16,009,764)
SB 2016 - Adjutant General - Provides a deficiency appropriation for a transfer to the Veterans' Cemetery fund	(26,656)
SB 2025 - Provides deficiency appropriations to various state agencies	(41,529,057)
SB 2183 - Adjutant General - Deficiency appropriation for emergency snow removal grants	(25,000,000)
SB 2284 - Department of Public Instruction - Provides an exemption allowing state school aid to be repurposed	(1,000,000)
Total legislative changes affecting the beginning balance	($153,662,937)
Estimated general fund cash balance prior to budget stabilization fund transfer	$1,245,056,442
Estimated transfer to budget stabilization fund - June 30, 2023	(254,338,017) [b]
Legislative estimate of unobligated general fund cash balance - July 1, 2023	$990,718,425

[a] The beginning balance reflects estimated unexpended 2021-23 biennium general fund appropriations of $169.7 million.

[b] North Dakota Century Code Chapter 54-27.2 provides that any amount in the general fund at the end of a biennium in excess of $65 million must be transferred to the budget stabilization fund except that the balance in the budget stabilization fund may not exceed 15 percent of the general fund budget approved by the most recently adjourned Legislative Assembly. The amount shown is based on the current estimate of the June 30, 2023, general fund balance and the current status of 2023-25 biennium general fund appropriations.

Budget Stabilization Fund Transfer and Balance

Estimated balance - June 30, 2023	$720,000,000
Estimated transfer from general fund	254,338,017
Estimated balance - July 1, 2023	$974,338,017

Strategic Investment and Improvements Fund

Estimated July 1, 2023, balance available for appropriation or transfer - January 2023 legislative revenue forecast	$1,387,387,584
Appropriations and transfers	
HB 1003 - Higher Education - Capital projects and a transfer to the University System capital building fund	($372,260,100)
HB 1007 - Veterans' Home - Parking lot and road repairs on the Veterans' Home campus	($600,000)
HB 1012 - Department of Transportation - Matching federal funds and creating a flexible transportation fund	(328,000,000)
HB 1014 - Industrial Commission - Research projects, transmission line grant, and loan guarantee	(110,000,000)
HB 1015 - Department of Corrections and Rehabilitation - New correctional facilities and information technology needs	(165,057,000)
HB 1018 - Department of Commerce - Transfer to the North Dakota Development Fund and other grants	(248,500,000)
HB 1020 - Agriculture Research and Extension Service - Various improvement projects and deferred maintenance	(103,732,600)
HB 1021 - Information Technology Department - Digitization project and customer management program	(16,500,000)
HB 1040 - Public Employees Retirement System - Transfer to the main system retirement plan	(240,000,000)
HB 1480 - Department of Health and Human Services - Transfer to a newly created pay for success fund	(2,500,000)
SB 2002 - Secretary of State - Information technology projects	(1,500,000)
SB 2009 - Agriculture Commissioner - Transfer to the bioscience innovation fund	(5,500,000)
SB 2012 - Department of Health and Human Services - Transfer to the human service finance fund and for projects	(39,335,154)
SB 2015 - Office of Management and Budget - Deferred maintenance funding pool	(20,000,000)
SB 2016 - Adjutant General - Statewide interoperable radio network equipment	(2,700,000)
SB 2018 - State Historical Society - Critical repairs at historic sites and new exhibits	(5,095,000)
SB 2019 - Parks and Recreation Department - Deferred maintenance and capital projects and park grants	(12,500,000)
SB 2089 - Industrial Commission - Transfer to a new clean natural gas capture and emissions reduction fund	(7,500,000)
SB 2136 - Tax Commissioner - Reimbursements under the homestead tax credit program	(135,000,000)
SB 2242 - Bank of North Dakota - Transfer to a newly created bulk propane storage tank revolving loan fund	(15,000,000)
SB 2290 - Agriculture Commissioner - Grasslands grazing grants	(3,000,000)
Total appropriations and transfers	($1,834,279,854)
Estimated remaining funds	($446,892,270)

SB 2367

Testimony to the House Finance and Tax Committee
March 13, 2023
David Steele Council Member City of Jamestown

Mr. Chairman and Committee Members. I am David Steele, Council Member serving for the citizens of the city of Jamestown, ND. I stand in opposition to SB 2367. Our city council has been very appreciative of receiving Prairie Dog funds to complete some of our, much needed, infrastructure projects, most notably the replacement of aged water mains. The use of Prairie Dog Funds has allowed the City of Jamestown to complete a few of the, much needed, projects and keep the tax specials applied to such projects greatly reduced to our residences and business owners by thousands of dollars. The goal of our city is to prioritize needed projects, use Prairie Dog funds and other sources, including low interest funds, to complete the projects with the least amount of property tax specials on property owners as possible. Delaying municipalities from receiving these funds by increasing the general funds, tax relief, and SIIF buckets will delay completion of projects, increase costs due to the delays, and will eventually cost the property owners more in tax specials. Increasing taxes on property owners is not what we want to do, yet these projects are necessary to be completed. The city of Jamestown could easily surpass $40 million in needed infrastructure projects today. Please keep your municipalities and citizens in mind and keep the original intent of the Prairie Dog buckets intact. Defeat SB 2367.

Advocating for North Dakota's Integrated Infrastructure Network

March 14, 2023

Neutral Testimony of Senate Bill 2367

Chairman Headland and Members of the Committee:

I'm Scott Meske, representing the North Dakota Transportation Coalition and offer our thoughts on Senate Bill 2367, which defines the Legacy Fund earnings spending priorities.

The North Dakota Transportation Coalition consists of the largest twenty statewide and regional trade associations, agriculture groups, political subdivisions and business entities in the State – all of whom have a vested interest in moving goods, services and people as efficiently and safely as possible. Our purpose is to advance and enhance North Dakota's transportation infrastructure through advocacy and education efforts resulting in sustainable funding and sound public policy solutions.

One of those policy positions is to ensure local political subdivisions have the needed support to build, repair and maintain our local infrastructure network. We recognize that "Prairie Dog funding" is never a guarantee, our concerns are with the timing of the disbursements to the political subdivisions when available. While Senate Bill 2275 ultimately did not survive, we believe this bill can help. The NDTC would support any modification to SB 2367 by placing one half of the Prairie Dog disbursements in front of the SIIF bucket.

The State of North Dakota is in an enviable financial position in many respects. We should be looking to use this fortunate position to truly invest in our infrastructure now. The need only increases the longer we continue to take a band-aid approach. Prioritizing the political subdivision stream makes economic sense to address our infrastructure needs.

The NDTC respectfully requests such an amendment to SB 2367.

Thank you

North Dakota Transportation Coalition Legislative Priorities

NDTC
NORTH DAKOTA TRANSPORTATION COALITION

Primary Priorities

Funding:

Prioritize the political subdivision infrastructure fund (OPD) bucket over the Strategic Investment and Improvement Fund bucket in the oil and gas tax distribution formula, to ensure long-term and consistent funding from this revenue source.

Support utilizing a portion of the Legacy Fund earnings for transportation infrastructure in one-time projects.

Support the Infrastructure Revolving Loan Fund.

Generally, support appropriating general fund dollars to match federal funds when needed.

Ensure NDDOT has the administrative capacity to apply for and manage federal funds, including discretionary funds contained within the Infrastructure Investment and Jobs Act.

Regulatory Environment:

Where appropriate, ease burdensome regulations to ensure fair and balanced oversize overweight fees and permitting.

Secondary Priorities

Continued support for UGPTI.

Support the utilization of Motor Vehicle Excise Tax revenues for transportation infrastructure projects.

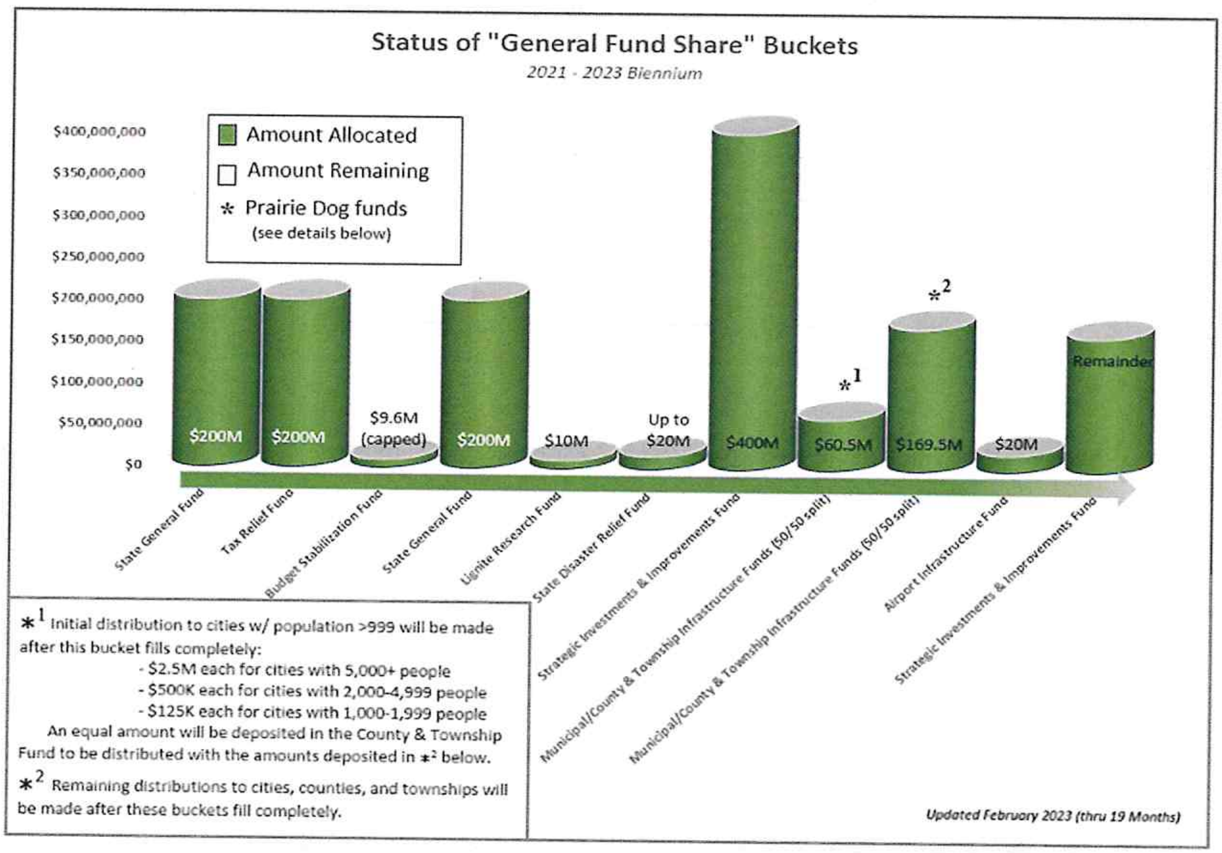
#24847

Testimony to
House Finance & Tax Committee
March 14, 2023
Donnell Preskey, NDACo

RE: Opposition to SB 2367 – Increasing State Buckets

Chairman Headland and committee members, I'm Donnell Preskey with the North Dakota Association of Counties. Our counties are concerned about Senate Bill 2367, for the main reason that the actions of this bill will more than likely delay prairie dog funds getting to non-oil counties, cities and townships for infrastructure funding.

This bill will result in an increase of $170 million into state buckets (two state general fund buckets, the property tax relief fund and the Strategic Investments & Improvements Fund) prior to any oil and gas revenues reaching the buckets created for non-oil counties, cities, townships and airports. As you can see on the chart, there is an additional SIIF bucket after the prairie dog local buckets which fills indefinitely until the end of the biennium.



In 2019, the legislature made a commitment to local infrastructure funding with approval of HB 1066, otherwise known as "Operation Prairie Dog". Four years later, non-oil counties have received their first deposit of prairie dog funds.

While the political subs were never guaranteed those funds, they were hopeful they would receive them in 2020, until the COVID-19 pandemic dramatically impacted the state's oil production. In the first biennium of Prairie Dog's existence, oil and gas tax revenues stopped short of reaching the Prairie Dog buckets.

The need for a permanent funding structure to address roads and bridges is only increasing. The most recent Upper Great Plains Transportation Institute's Local Roads Study identifies a **$10.5 billion dollar need** for local roads and bridges over the next 20 years, or, on average, an investment of $525 million each year. For comparison, in 2019, UGPTI's estimate was **$8.7 billion** investment for local roads and bridges over 20 years or $440 million a year to maintain their road networks.

NDACo has a resolution to support efforts that will provide greater dependability of Prairie Dog funds as a long-term funding stream to support local infrastructure is one of our greatest priorities. Therefore, we ask this committee to consider adjusting the $170 million of additional funds proposed in SB 2367 and/or adjust the position of the local prairie dog buckets to provide greater certainty.

Table E: Summary of All Road and Bridge Investment and Maintenance Needs for Counties, Townships and Tribal Areas in North Dakota (Millions of 2022 Dollars)

Period	Unpaved	Paved	Bridges	Total
2022-23	$ 660.35	$557.10	$139.42	$1.356.87
2024-25	$ 650.79	$515.00	$139.42	$1.305.21
2026-27	$ 665.91	$371.50	$139.42	$1.176.83
2028-29	$ 665.55	$344.90	$139.42	$1.149.87
2030-31	$ 651.44	$274.30	$139.42	$1.065.16
2032-41	$ 3.251.62	$1.186.00	$18.45	$4.456.07
2022-41	**$ 6.545.66**	**$3.248.80**	**$715.57**	**$10.510.01**

Figure A. Projected Funding Needs Statewide by County 2022-2041 (Millions of 2022 Dollars)