

**SECOND ENGROSSMENT
with House Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2311

Introduced by

Senators Wardner, Bowman, O'Connell

Representatives Rennerfeldt, Wald, Warner

1 A BILL for an Act to create and enact a new chapter to title 54 and a new section to chapter
2 57-51.1 of the North Dakota Century Code, relating to creating and establishing an oil and gas
3 research council and oil and gas research fund; and to provide a continuing appropriation.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 54 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Definitions.**

- 8 1. "Commission" means the North Dakota industrial commission.
9 2. "Council" means the oil and gas research council.

10 **Oil and gas research council.** There is created the oil and gas research council. The
11 purpose of the council is to coordinate a program designed to demonstrate to the general public
12 the importance of the state oil and gas exploration and production industry, to encourage and
13 promote the wise and efficient use of energy, to promote environmentally sound exploration
14 and production methods and technologies, to develop the state's oil and gas resources, and to
15 support research and educational activities concerning the oil and natural gas exploration and
16 production industry.

17 **Commission to operate council.** The commission shall operate, manage, and control
18 the council.

19 **Powers and duties of commission in managing and operating council.** The
20 commission is granted all the powers necessary or appropriate to carry out and effectuate the
21 purposes of this Act, including the power to:

- 22 1. Make grants or loans, and to provide other forms of financial assistance as
23 necessary or appropriate, to qualified persons for research, development,

- 1 marketing, and educational projects, and processes or activities directly related to
- 2 oil and gas exploration and production industry;
- 3 2. Enter into contracts or agreements to carry out the purposes of this Act, including
- 4 authority to contract for the administration of the oil and gas research,
- 5 development, marketing, and educational program;
- 6 3. Keep accurate records of all financial transactions performed under this Act;
- 7 4. Cooperate with any private, local, state, or national commission, organization, or
- 8 agent, or group and to make contracts and agreements for programs benefiting the
- 9 oil and gas industry;
- 10 5. Accept donations, grants, contributions, and gifts from any public or private source
- 11 and deposit such in the oil and gas research fund; and
- 12 6. Make and explore orders, rules, and regulations necessary to effectuate the
- 13 purposes of this Act.

14 **Oil and gas research council.**

- 15 1. The oil and gas research council is composed of seven members, four of whom
- 16 must currently be engaged in and have at least five years of active experience in
- 17 the oil and natural gas exploration and production industry. The council consists
- 18 of:
- 19 a. Four members appointed by the governor from a list provided by the North
- 20 Dakota oil and gas association. The governor may reject the list and request
- 21 the association to submit a new list until the appointments are made.
- 22 b. One member appointed by the governor from a list provided by the North
- 23 Dakota association of oil and gas producing counties. The governor may
- 24 reject the list and request the association to submit a new list until the
- 25 appointment is made.
- 26 c. The executive director of the North Dakota petroleum council, or the
- 27 executive director's designee.
- 28 d. A county commissioner selected by the North Dakota association of oil and
- 29 gas producing counties.

- 1 2. Subject to subsection 7, the terms of office for members of the council are three
2 years but of those first appointed, two serve for one year, two serve for two years,
3 and three serve for three years.
- 4 3. The council shall select its chairman from among its members.
- 5 4. The council shall have at least one regular meeting each year and such additional
6 meetings as the chairman determines necessary at a time and place to be fixed by
7 the chairman. Special meetings must be called by the chairman on written request
8 of any three members. Four members constitute a quorum.
- 9 5. The council shall recommend to the commission the approval of grants, loans, or
10 other financial assistance necessary or appropriate for funding, research,
11 development, marketing, and educational projects or activities and any other
12 matters related to this Act.
- 13 6. Each member of the council is entitled to receive reimbursement of expenses in
14 performing official duties in amounts provided by law for other state offices.
- 15 7. Members of the council appointed by the governor serve at the pleasure of the
16 governor.

17 **Access to council records.**

- 18 1. Materials and data submitted to, or made or received by, the council or
19 commission, to the extent that the council determines the materials or data consist
20 of trade secrets or commercial, financial, or proprietary information of individuals or
21 entities applying to or contracting with the council or receiving council services
22 under this Act, are not public records subject to section 44-04-18 and section 6 of
23 article XI of the Constitution of North Dakota, and are subject to section
24 44-04-18.4.
- 25 2. A person or entity must file a request with the council or commission to have
26 material designated as confidential under subsection 1. The request must contain
27 any information required by the council and must include at least the following:
 - 28 a. A general description of the nature of the information sought to be protected.
 - 29 b. An explanation of why the information derives independent economic value,
30 actual or potential, from not being generally known to other persons.

- 1 c. An explanation of why the information is not readily ascertainable by proper
2 means by other persons.
- 3 d. A general description of any person or entity that may obtain economic value
4 from disclosure or use of the information, and how the person or entity may
5 obtain this value.
- 6 e. A description of the efforts used to maintain the secrecy of the information.
- 7 3. Any request under subsection 2 is confidential. The council shall examine the
8 request and determine whether the information is relevant to the matter at hand
9 and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If
10 the council determines the information is either not relevant or not a trade secret,
11 the council shall notify the requester and the requester may ask for the return of
12 the information and request within ten days of the notice. If no return is sought, the
13 information and request are a public record.
- 14 4. The names or identities of independent technical reviewers on any project or
15 program and the names of council members making recommendations are
16 confidential, may not be disclosed by the council, and are not public records
17 subject to section 44-04-18 or section 6 of article XI of the Constitution of North
18 Dakota.

19 **SECTION 2.** A new section to chapter 57-51.1 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Oil and gas research fund - Deposits - Continuing appropriation.** There is
22 established a special fund in the state treasury to be known as the oil and gas research fund.
23 In the 2003-05 biennium, the first fifty thousand dollars of revenue from the oil and gas
24 production tax and oil extraction tax must be deposited into a special fund known as the oil and
25 gas research fund. In the 2003-05 biennium, if the estimates for the oil and gas gross
26 production tax and the oil extraction tax in any revenue forecast exceed seventy-one million
27 sixty-four thousand dollars, the excess, up to two million dollars, must be deposited into the oil
28 and gas research fund. At the end of each calendar quarter, the state treasurer shall transfer
29 three percent of the state's share of the oil and gas gross production tax and oil extraction tax
30 revenues that have been deposited into the general fund in the previous three months into the
31 oil and gas research fund. When transfers to the oil and gas research fund reach two million

Fifty-eighth
Legislative Assembly

1 dollars in the 2003-05 biennium, no further transfers may be made. If subsequent revenue
2 projections during the 2003-05 biennium reduce the revenue forecast for the oil and gas
3 production tax and oil extraction tax to seventy-one million sixty-four thousand dollars or less,
4 transfers to the fund shall cease. After the 2003-05 biennium, three percent of the state's share
5 of the oil and gas gross production tax and oil extraction tax revenues that are deposited into
6 the state general fund, up to two million dollars per biennium, must be deposited into the oil and
7 gas research fund. The state treasurer shall transfer into the oil and gas research fund three
8 percent of the state's share of the oil and gas production tax and the oil extraction tax revenues
9 that have been deposited into the general fund for the previous three months. All money
10 deposited in the oil and gas research fund is appropriated as a continuing appropriation to the
11 council to be used for purposes stated in section 1 of this Act.