

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1451

Introduced by

Representatives Monson, Carlson, Delzer, Skarphol

Senators Oehlke, Sitte

1 A BILL for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota
2 Century Code, relating to deposit of oil and gas tax revenue; to amend and reenact sections
3 6-09.6-01.1, 6-09.6-01.2, 6-09.6-03, 6-09.7-05, 15-08.1-08, 15-08.1-09, 54-27.2-01,
4 57-51.1-07.3, and 61-33-07 of the North Dakota Century Code, relating to the lands and
5 minerals trust fund, the budget stabilization fund, and the oil and gas research fund; to repeal
6 sections 57-51.1-07.2 and 57-51.1-07.4 of the North Dakota Century Code, relating to
7 elimination of the permanent oil tax trust fund; to provide for ~~a transfer~~transfers; to provide an
8 effective date; and to declare an emergency.

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

10 **SECTION 1. AMENDMENT.** Section 6-09.6-01.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **6-09.6-01.1. Developmentally disabled facility loan fund program no. 2.**

13 There is hereby created a developmentally disabled facility loan fund program no. 2 for the
14 purpose of making loans to nonprofit corporations, organized in the localities in which facilities
15 are proposed to be located, for project costs, including the cost of real estate, construction,
16 reconstruction, acquisition, furnishings and equipment, and administrative costs related to the
17 establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and
18 physically disabled persons. The loan fund may borrow an amount not to exceed five million
19 dollars from the common schools trust fund to finance the program. The loan must be repaid
20 from any moneys in the ~~lands and minerals trust~~state infrastructure strategic investment and
21 improvements fund not otherwise appropriated. Any interest earned by the loan fund before
22 loans are made must be credited by the Bank to the ~~lands and minerals trust~~state
23 infrastructure strategic investment and improvements fund. The loan fund program must be
24 administered by the Bank of North Dakota in the same manner the Bank administers the

1 program established by sections 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all
2 payments of principal and interest must be credited by the Bank to the ~~lands and minerals-~~
3 ~~trust~~state infrastructure strategic investment and improvements fund after the Bank has
4 deducted a service fee for administering the program equivalent to an annual fee of one-half of
5 one percent of the principal balance of the outstanding loans.

6 **SECTION 2. AMENDMENT.** Section 6-09.6-01.2 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **6-09.6-01.2. Developmentally disabled facility loan fund program no. 3.**

9 There is hereby created a developmentally disabled facility loan fund program no. 3 for the
10 purpose of making loans to nonprofit corporations, organized in the localities in which facilities
11 are proposed to be located, for project costs, including the cost of real estate, construction,
12 reconstruction, acquisition, furnishings and equipment, and administrative costs related to the
13 establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and
14 physically disabled persons. The loan fund may borrow an amount not to exceed four million
15 nine hundred fifty-one thousand one hundred forty-five dollars from the common schools trust
16 fund to finance the program. The loan fund program shall be administered by the Bank of North
17 Dakota in the same manner the Bank administers the program established by sections
18 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all payments of principal and interest
19 must be credited by the Bank to the ~~lands and minerals trust~~state infrastructure strategic
20 investment and improvements fund after the Bank has deducted a service fee for administering
21 the program equivalent to an annual fee of one-half of one percent of the principal balance of
22 the outstanding loans.

23 **SECTION 3. AMENDMENT.** Section 6-09.6-03 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **6-09.6-03. Amount of loan - Terms and conditions.**

26 Loans in an amount not exceeding three-fourths of project costs, including the cost of
27 construction, reconstruction, acquisition, furnishings, equipment, and administrative costs
28 related to the establishment of the project, and the cost or value of real estate upon which the
29 facility is located, must be made by the Bank of North Dakota from the fund maintained
30 pursuant to sections 6-09.6-01, 6-09.6-01.1, and 6-09.6-01.2. Such loans must bear interest at
31 a rate of ten and one-half percent for loans relating to facilities for developmentally disabled

1 persons and five percent for loans relating to facilities for physically disabled persons and
2 chronically mentally ill persons and are repayable in the manner prescribed by the Bank of
3 North Dakota within a period of not more than twenty-five years. In addition, in consideration of
4 the granting of a loan under this chapter, each nonprofit corporation shall execute a contract
5 with the state to operate the facility in accordance with the standards prescribed for the
6 licensing of the facility by the department of human services. The contract shall also provide
7 that if the use of the facility is discontinued or diverted to purposes other than those proposed in
8 the loan application without the express consent of the department of human services, the full
9 amount of the loan provided under this chapter immediately becomes due and payable. The
10 Bank of North Dakota may annually deduct, as a service fee for administering the revolving fund
11 maintained under section 6-09.6-01, one-half of one percent of the principal balance of the
12 outstanding loans from the revolving fund. Payments of interest and principal on loans made
13 under section 6-09.6-01 must be made to the Bank of North Dakota and credited to the
14 revolving fund. Payments of principal and interest on loans made under sections 6-09.6-01.1
15 and 6-09.6-01.2 must be credited by the Bank to the ~~lands and minerals trust~~state-
16 infrastructure strategic investment and improvements fund after the Bank has deducted a
17 service fee for administering the program equivalent to an annual fee of one-half of one percent
18 of the principal balance of the outstanding loans.

19 **SECTION 4. AMENDMENT.** Section 6-09.7-05 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **6-09.7-05. Establishment and maintenance of adequate guarantee funds - Use of**
22 ~~lands and minerals trust~~strategic investment and improvements fund.

23 The Bank of North Dakota shall establish and at all times maintain an adequate guarantee
24 reserve fund in a special account in the Bank. The guarantee reserve fund must be maintained
25 from the ~~lands and minerals trust~~strategic investment and improvements fund created by
26 section 15-08.1-08 and any moneys transferred from the ~~lands and minerals trust~~strategic
27 investment and improvements fund to maintain the guarantee reserve fund are available to
28 reimburse lenders for guaranteed loans in default. The securities in which the moneys in the
29 reserve fund may be invested must meet the same requirements as those authorized for
30 investment under the state investment board. The income from such investments must be made
31 available for the costs of administering the state guarantee loan program and income in excess

1 of that required to pay the cost of administering the program shall be deposited in the reserve
2 fund. The amount of reserves for all guaranteed loans must be determined by a formula which
3 will assure, as determined by the Bank, an adequate amount of reserve.

4 **SECTION 5. AMENDMENT.** Section 15-08.1-08 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **15-08.1-08. Income - Expenses - Reimbursement - Creation of ~~lands and minerals~~**
7 **~~trust~~state infrastructure strategic investment and improvements fund - Legislative intent -**
8 **Contingent transfer to legacy fund.**

9 The income derived from the sale, lease, and management of the mineral interests acquired
10 by the board of university and school lands pursuant to this chapter and other funds as provided
11 by law must, after deducting the expenses of sale, lease, and management of the property, be
12 deposited in a fund to be known as the ~~lands and minerals trust~~state infrastructure strategic
13 investment and improvements fund. The corpus and interest of such trust may be expended as
14 the legislative assembly may provide for one-time expenditures relating to improving state
15 infrastructure or for initiatives to improve the efficiency and effectiveness of state government. It
16 is the intent of the legislative assembly that moneys in the fund may be included in draft
17 appropriation acts under section 54-44.1-06 and may be appropriated by the legislative
18 assembly, but only to the extent that the moneys are estimated to be available at the beginning
19 of the biennium in which the appropriations are authorized. If the unobligated balance in the
20 fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any
21 revenues received for deposit in the fund in the subsequent month must be deposited instead
22 into the legacy fund. For purposes of this section, "unobligated balance in the fund" means the
23 balance in the fund reduced by appropriations or transfers from the fund authorized by the
24 legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any
25 fund balance designated by the board of university and school lands relating to potential title
26 disputes related to certain riverbed leases.

27 **SECTION 6. AMENDMENT.** Section 15-08.1-09 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 ~~15-08.1-09. Lands and minerals trust~~ State infrastructure Strategic investment and
2 improvements fund - Continuing appropriation.

3 There is appropriated annually the amount necessary to pay from the ~~lands and minerals-~~
4 ~~trust~~ state infrastructure strategic investment and improvements fund all principal and interest to
5 the common schools trust fund on any loans made from the fund to the developmentally
6 disabled loan fund program nos. 2 and 3. This authority is ineffective after all loans are repaid.

7 **SECTION 7. AMENDMENT.** Section 54-27.2-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **54-27.2-01. (Effective through June 30, 2009) Budget stabilization fund.**

10 The budget stabilization fund is a special fund in the state treasury. The state investment
11 board shall supervise investment of the budget stabilization fund in accordance with chapter
12 21-10. Any interest or other budget stabilization fund earnings must be deposited in the fund.
13 Any amounts provided by law for deposit in the fund and any interest or earnings of the fund
14 which would bring the balance in the fund to an amount greater than five percent of the current
15 biennial state general fund budget, as finally approved by the most recently adjourned special
16 or regular session of the legislative assembly, may not be deposited or retained in the fund but
17 must be deposited instead in the state general fund.

18 **(Effective after June 30, 2009) Budget stabilization fund.** The budget stabilization fund is
19 a special fund in the state treasury. The state investment board shall supervise investment of
20 the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget
21 stabilization fund earnings must be deposited in the fund. Any amounts provided by law for
22 deposit in the fund and any interest or earnings of the fund which would bring the balance in the
23 fund to an amount greater than ~~ten~~ nine and one-half percent of the current biennial state
24 general fund budget, as finally approved by the most recently adjourned special or regular
25 session of the legislative assembly, may not be deposited or retained in the fund but must be
26 deposited instead in the state general fund.

27 **SECTION 8. AMENDMENT.** Section 57-51.1-07.3 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **57-51.1-07.3. Oil and gas research fund - Deposits - Continuing appropriation.**

30 There is established a special fund in the state treasury to be known as the oil and gas
31 research fund. Before depositing oil and gas gross production tax and oil extraction tax

1 revenues in the general fund, property tax relief sustainability, strategic investment and
2 improvements fund, or the permanent oil tax trust ~~state infrastructure disaster relief~~ fund, two
3 percent of the revenues must be deposited monthly into the oil and gas research fund, up to
4 four million dollars per biennium. All moneys deposited in the oil and gas research fund and
5 interest on all such moneys are appropriated as a continuing appropriation to the council to be
6 used for purposes stated in chapter 54-17.6.

7 **SECTION 9.** A new section to chapter 57-51.1 of the North Dakota Century Code is created
8 and enacted as follows:

9 **State share of oil and gas taxes - Deposits.**

10 ~~The state treasurer shall deposit the first three hundred million dollars of the state general~~
11 ~~fund share of revenue derived from taxes imposed on oil and gas under chapters 57-51 and~~
12 ~~57-51.1 into the general fund, the next three hundred million dollars of the state general fund~~
13 ~~share of revenue from these taxes into the property tax relief sustainability fund, and any~~
14 ~~additional state general fund share of revenue from these taxes into the state infrastructure~~
15 ~~fund.~~ From the revenues designated for deposit in the state general fund under chapters 57-51
16 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:

17 1. The first two hundred million dollars into the state general fund;

18 2. The next three hundred forty-one million seven hundred ninety thousand dollars into
19 the property tax relief sustainability fund;

20 3. The next one hundred million dollars into the state general fund;

21 4. The next one hundred million dollars into the strategic investment and improvements
22 fund;

23 5. The next twenty-two million dollars into the state disaster relief fund; and

24 6. Any additional revenues into the strategic investment and improvements fund.

25 **SECTION 10. AMENDMENT.** Section 61-33-07 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **61-33-07. Deposit of income.**

28 All income derived from the lease and management of the lands acquired by the state
29 engineer and board of university and school lands pursuant to this chapter and not belonging to
30 other trust funds must be deposited in the ~~lands and minerals trust~~ state infrastructure strategic
31 investment and improvements fund.

1 **SECTION 11. REPEAL.** Sections 57-51.1-07.2 and 57-51.1-07.4 of the North Dakota
2 Century Code are repealed at the end of the biennium beginning July 1, 2009, and ending
3 June 30, 2011. For purposes of this section, at the end of the biennium means after
4 cancellation of unexpended appropriations under section 54-44.1-11 but before any transfers to
5 the budget stabilization fund under section 54-27.2-02.

6 **SECTION 12. TRANSFER.** At the end of the biennium beginning July 1, 2009, and ending
7 June 30, 2011, the state treasurer shall transfer any remaining balance in the permanent oil tax
8 trust fund to the state general fund. For purposes of this section, at the end of the biennium
9 means after cancellation of unexpended appropriations under section 54-44.1-11 but before any
10 transfers to the budget stabilization fund under section 54-27.2-02.

11 **SECTION 13. TRANSFER.** As soon as feasible after June 30, 2011, the state treasurer
12 shall close out the lands and minerals trust fund and transfer any remaining unobligated
13 balance to the strategic investment and improvements fund.

14 **SECTION 14. EFFECTIVE DATE.** This Act becomes effective July 1, 2011.

15 **SECTION 15. EMERGENCY.** This Act is declared to be an emergency measure.