Energy Development and Transmission Committee
Joint Meeting with the Education Funding and Taxation Committee
Williston State College Williston, ND
May 31st 2012

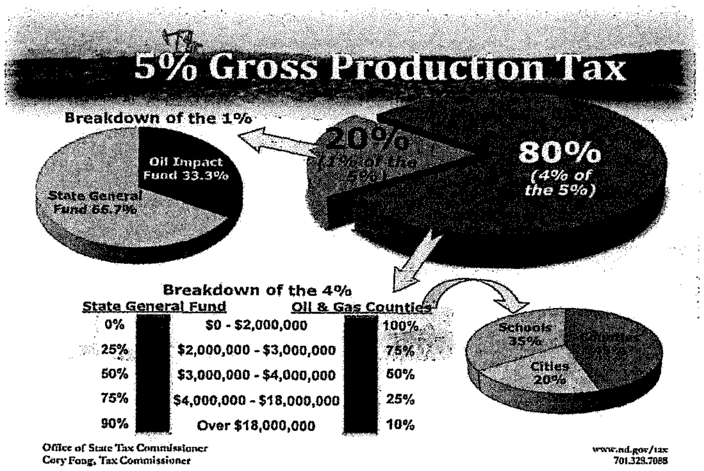
Report on the impacts resulting from oil development for western North Dakota K-12 school district:

I. **History of the oil and gas production tax and oil impact funding:**
   a. **1957** - Gross Production Tax was established based on 4/5 of the 5% production tax to be distributed to counties with the following distribution (15% cities, 45% school districts, 40% road and bridge funds) – No county caps (maximums)
   b. **1981**- Gross Production Tax distribution formula within the county was changed (20% cities, 35% school districts, 45% county general fund). New caps were implemented.
   c. **1983** – The Gross Production Tax caps were increased to 3.9 million (county population under 3,000); 4.1 million (population between 3,000 and 6,000); and 4.6 million (population greater than 6,000)
   d. **1989** – A portion of the 1/5 that goes to the state general fund reallocated to the Oil & Gas Impact Grant fund.
   e. **2007** – SB 2200 was passed. The education bill introduced the imputation factor for school districts.
      Districts above 150% of the state average imputed taxable valuation per student will receive their payment reduced by 75% of the valuation exceeding the state average. 60% of the tuition and county revenue is considered in imputed taxable valuation the first year. The percentage was increased to 70% the second year.
      The effects of the imputation factor on the county revenue (oil and gas production tax) for individual school districts depends on the district taxable valuation, student average daily membership (ADM), and the current state average imputed factor. Oil and Gas production tax is used as a "taxable valuation" or "property tax" value to determine school district wealth. This reinforces the original intent of the gross production tax to provide in lieu of funding for school districts that lost taxing authority with the loss of taxable valuation dollars.
   f. **2009** – HB 1304 was passed which removed the cap on the oil and gas production formula; however, the additional 10% added at the end of the formula was not granted to school districts. The 35% allocated to schools (after the cap) was distributed into the "Infrastructure Fund" that provided grants through each county commission to school districts and townships. Money granted to schools through this fund was for "repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. Changes to the gross production tax formula also called for revenues to be put into the Infrastructure Fund after the first million dollars; which left some school districts with less production tax revenue despite the intent of "hold harmless" with the legislation. The availability of additional school district oil and gas production tax beyond the cap was at the discretion of the county commission and limited to bus purchases.
   g. **2011** – HB 1013 passes that allocates $142 million for county road projects and $100 million to the Oil Impact grant program. HB 1077 removes the population cap on cities regarding their oil and gas production tax revenues. The $100 million in Oil Impact is designated for city infrastructure projects. No intent for school district infrastructure projects to be funded through the Oil Impact Fund.

SB 2150 – Allocated $5 million out of the Oil Impact grant fund to school districts experiencing "rapid enrollment growth". School districts must experience a 7% growth from Fall to Fall of a school year and a minimum of 25 students. The allocation can not exceed 2.5 million each year of the biennium. The first year (2011-2012) allocated $2,408,560 to 10 school districts. (South Prairie, Minnewaukan, and Warwick among recipients)

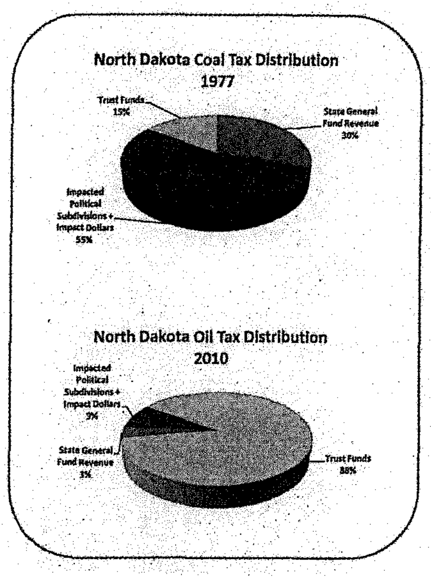
For capped school districts to receive additional revenue from the 2011 legislative session; they must meet the rapid enrollment growth grant criteria and/or receive funds from the county Infrastructure Fund.

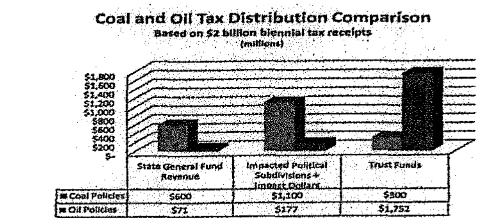
h.

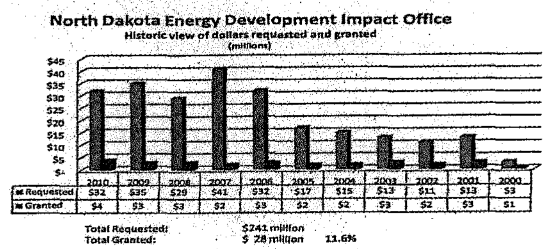


II. Coal Impact Funding vs. Oil and Gas Production Tax Funding:

a. Between 1975-1982; the Beulah school district received $2,657,446 and the Hazen school district received $2,542,215 from the Coal Impact Grants available to school district impacted by the coal energy development. Adjusted for 2012 dollars; the total for both school districts is approximately $15.3 million.
b. Currently, the Hazen school district receives an equivalent amount annually compared to the McKenzie County Public School District #1.
c. The grant awards to school districts from 1975-1982 included multiple school construction projects for school districts affected by the coal industry.
d. The Coal Loan Program was also available to school districts and provided were "repaid from the local share of the Severance Tax gave cities, counties, and **schools** in the coal producing counties a means of obtaining up-front capital improvement funding at low interest".







NEXUS
The Financial Link

III. McKenzie County Public School District #1:

a. Spring 2010 = 538 students K-12
   May 23rd, 2012 (last day of school) = 743 students K-12
b. 38% increase over 2 year span
c. Approximately 250 new students enrolled in the district between May 25th, 2011 and January 25th, 2012
d. Over the same time span – 8 new teachers hired to accommodate enrollment increases. *5 new teachers hired for 2012-2013 to provide additional classroom sections. An administrative position – assistant high school principal added to the district – approximate cost of $375,000*
e. MCPSD #1 received $445,740.00 in rapid enrollment grant funds for 2011-2012.
f. Funds covered the initial costs of 6 new teachers and classroom adjustments to accommodate 4 news sections of classes at the elementary school
g. MCPSD #1 received $914,097.92 in oil and gas production tax revenue for 2011-2012. Reached cap in second month of production payments
   MCPSD #1 received $1,149,123.31 in oil and gas production tax revenue for 1983-1984. The value in 2012 dollars is approximately $2,629,111
h. Accommodating the migrant nature of student population and varying demographic of educational backgrounds
i. Challenge of maintaining current educational standards while accounting for the new student population (AYP)
j. New Teachers – Teacher Housing (Affordable)
k. New ancillary staff – competitive wages and **cost of living** issues
l. Transportation – New routes, hiring drivers, CDL wages, longer ride times, developments not designed for bus pick-ups, life span of bus approximately one-half of previous expectations
m. New service requirements – Special Education, English Language Learners.
n. Facilities – Short term (portables) and long term (buildings).
   District hired architect firm to perform study of facilities and assist the school board with future facility needs

Permits – predicting future enrollments: Over 1,000 single family units submitted to the planning commission and preliminary or final plats approved. Another 1000+ apartment unit(s) proposed to the planning commission for approval.
Population of Watford City expected to reach between 7,500 and 10,000 in 2-3 year span (Previous population of 1,500)
NDSU study funded by NDOGPC will provide research based data on enrollment projections including five oil and gas impacted school districts in western North Dakota.

IV. Key Points:

1. Oil and gas production tax revenue is considered an "in lieu" of property tax revenue for school districts. This is confirmed by the imputation factor converting the revenue into a taxable valuation factor. Oil and gas revenue is considered at the same level as local property tax. To eliminate schools from the oil and gas production tax formula beyond the previous cap is to limit the local taxable valuation of a school district – which is not done in any other situation.
2. Most districts in oil and gas impacted areas are not affected by the imputation factor due to low taxable valuation bases. The MCPSD #1 loses approximately 40% of its taxable district land due to federal ownership of land. School districts ¼ of the size of MCPSD #1 in the eastern portion of the state have double the taxable valuation of MCPSD #1.
3. School districts have worked to accommodate growth up to this point by feasibly utilizing school facilities that were available due to declining enrollment. However, now that the current space is being utilized – school districts must look ahead and plan to address future enrollment growth and weigh the positive and negatives of temporary and permanent structures. Districts were fiscally responsible in closing buildings during the 1990s and early 2000s; however, several facilities were sold and no longer available to the school district. (MCPSD #1 – Johnson Corners and Grassy Butte elementary schools).
4. The 12% cap on general fund levies for school districts does not allow districts with rapidly increasing taxable valuations to levy anything close to the 110 mill cap. Some districts are already around 60-70 mills; MCPSD #1 is currently at 83.11 mills and will likely be at 50-60 mills in the next 1-2 years – despite increasing the levy amount the maximum 12% each year.
5. The debt limit is equal to 10% of the assessed valuation in a school district. For school districts facing substantial infrastructure and facility projects; the debt limit – in its current form – will not allow districts to adequate address facility needs and create insufficient classroom environments for students. Portable units that eventually become permanent units are not acceptable for quality education.
6. Transportation is a major impact area for school districts. Not only are the roads and maintenance an issue for districts, but the ability to provide transportation services to new areas of the district while facing bus driver shortages, pay issues, and the lack of mechanical services in our areas. Local patrons may lose bus services due to impacts created by oil development.
7. Student academic success – a greater diversity of students can be a positive for our school districts, but it also places a greater demand on support services to assist in the transition and to address students arriving in the district behind in their academic

achievement levels. Efforts to address the greater diversity require additional staff and initiatives to reduce classroom sizes (a difficult task when space is already an issue).

8. Affordable employee housing – I don' t think any administrator in northwest ND can say they didn't lose a prospective employee due to the housing and cost of living issues. Districts have also lost long-time employees due to the changes in lifestyle and the ability to see a house at historic high levels in our area. Salaries are increased to address the cost of living issue, but at an additional burden of the school district. The cost of addressing employee housing in the district building or purchasing its own is substantial, not only in initial cost, but in the maintenance of upkeep of buildings. However, without doing something, the prospect of not filling positions is very real.
9. The media coverage of western ND the past 1-2 years has created issues in recruiting employees to impacted communities. At least two administrators declined positions in MCPSD #1 due to family and spouse uncertainties regarding safety and living conditions in a "boom town".
10. With the current situation; counties, cities, and school districts are forced to compete over the same dollars and can create conflict between the subdivisions at a time when cooperation is imperative.
11. The impacts of this oil development era were a process that started with road impacts and limits to no student growth. Impacts on buses were evident, but classroom and education impacts were minimal. As the development grew and housing (temporary and permanent) began to be developed – cities were faced with major infrastructure issues and they were addressed in the 2011 legislative assembly. Schools were beginning to see some student growth with the employment force growing and some attention was being placed on potential growth issues, but room was available in most school settings. At the current time; it is now clear school districts are receiving major impacts from this development and with the financing put into infrastructure at the county and city level; these impacts will be long term and require long term solutions. We cannot claim "we had no idea" in 4-5 years regarding the impacts on schools. The evidence is becoming clear this impact is a matter of "when" not "if".
12. Schools ARE infrastructure and a political subdivision that requires the allocation of funds from the 11.5% paid by the oil industry to ensure this development is sustained and the local school district and state are meeting the requirements set forth for a uniform public education provided to all students in North Dakota.

V. Myths and perceptions:

1. Imputation Factor – how it works and the inability to provide any additional funding despite the rationale for it.
2. Oil and gas production = wealthy school districts
3. Western ND schools are in danger of "overbuilding" and should revert back to mindsets that were present for the previous thirty years – "waiting for the bust" and rely on portable/temporary solutions
4. Low mill levies show an abundance of revenue and lack of local contribution to educational services
5. Taxable valuations in western ND school districts is skyrocketing and will solve the financial woes of school districts
6. All western ND school districts receive other federal funds (public domain royalties and flood control money) and do not need any additional assistance (New Town example)
7. The oil industry needs to step in and assist with the funding of education infrastructure

8. Western ND schools are "overreacting or exaggerating" impacts – they should be happy to have more students
9. Per-pupil increases and the rapid enrollment grants should provide the necessary funds to assist school districts in growing areas
10. The state of North Dakota does not provide funding for school buildings – local taxpayers must fund the construction of new school facilities
11. This issue rests solely with the Education committee and is an "equity" issue regarding a perceived "special treatment" of western ND schools

VI. Possible Solutions:

1. Address the 12% cap given conditions/triggers with rapid increasing taxable valuations in oil impacted areas.
2. Address the debt limit and reevaluate the limit based on cost of construction and substantial infrastructure needs in western ND.
3. Address the viability of reinstating the choice of spring or fall ADM in regards to state foundation aid payments.
4. Reinstitute schools into the production tax formula beyond the previous cap – schools receive direct funds (not reallocated through the county level) to address the sustainability issue – teachers, supplies, minor infrastructure.
5. Provide an impact fund for school district to apply (similar to the function of the current fund to address city infrastructure) and allow school districts to access funds to be used for major infrastructure projects in the form of school buildings or housing projects.
6. Provide some additional options for low interest construction bonds to encourage districts to pursue long-term solutions of a high quality.
7. Research options available in the Extraction Tax (6.5%) of which a majority goes to the state general fund for school infrastructure projects.
8. Common school trust fund will continue to grow exponentially – opportunities to use interest generated from this fund for special infrastructure projects for school districts.
9. Use of the "1% of the 5%" that goes to the oil impact fund (33.3%) and the general fund (66.7%) to provide school district impact funds.

VII. Conclusion

It is a time for action in North Dakota. This oil and gas development is all about opportunity and the betterment of all ND citizens and school districts. Everyone citizen can benefit from this economic development and one of the quickest ways to derail this opportunity is to underfund the impact areas and not invest the excess revenue into infrastructure projects – which includes school district facilities. It is not the time to get caught up into simplistic situations of comparing one district to the next – this is about North Dakota education and is not an east – central – west situation. The request for assistance is not about school districts getting "rich" or equity issues at the state level; it is about guaranteeing a quality educational experience and environment for any ND student regardless of their geographical location. Western North Dakota school districts have a right to equity and quality as much as other ND districts in addressing this unique, emergency situation.