

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1451
(Representatives Monson, Carlson, Delzer, Skarphol)
(Senators Oehlke, Sitte)

AN ACT to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to deposit of oil and gas tax revenue; to amend and reenact sections 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, 57-51.1-07.3, and 61-33-07 of the North Dakota Century Code, relating to the lands and minerals trust fund, the budget stabilization fund, and the oil and gas research fund; to repeal sections 57-51.1-07.2 and 57-51.1-07.4 of the North Dakota Century Code, relating to elimination of the permanent oil tax trust fund; to provide for transfers; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

There is hereby created a developmentally disabled facility loan fund program no. 2 for the purpose of making loans to nonprofit corporations, organized in the localities in which facilities are proposed to be located, for project costs, including the cost of real estate, construction, reconstruction, acquisition, furnishings and equipment, and administrative costs related to the establishment thereof, of facilities for developmentally disabled, chronically mentally ill, and physically disabled persons. The loan fund may borrow an amount not to exceed five million dollars from the common schools trust fund to finance the program. The loan must be repaid from any moneys in the ~~lands and minerals trust~~strategic investment and improvements fund not otherwise appropriated. Any interest earned by the loan fund before loans are made must be credited by the Bank to the ~~lands and minerals trust~~strategic investment and improvements fund. The loan fund program must be administered by the Bank of North Dakota in the same manner the Bank administers the program established by sections 6-09.6-01 and 6-09.6-02 through 6-09.6-05, except that all payments of principal and interest must be credited by the Bank to the ~~lands and minerals trust~~strategic investment and improvements fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans.

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

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

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

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

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

Loans in an amount not exceeding three-fourths of project costs, including the cost of construction, reconstruction, acquisition, furnishings, equipment, and administrative costs related to the establishment of the project, and the cost or value of real estate upon which the facility is located, must be made by the Bank of North Dakota from the fund maintained pursuant to sections 6-09.6-01, 6-09.6-01.1, and 6-09.6-01.2. Such loans must bear interest at a rate of ten and one-half percent for loans relating to facilities for developmentally disabled persons and five percent for loans relating to facilities for physically disabled persons and chronically mentally ill persons and are repayable in the manner prescribed by the Bank of North Dakota within a period of not more than twenty-five years. In addition, in consideration of the granting of a loan under this chapter, each nonprofit corporation shall execute a contract with the state to operate the facility in accordance with the standards prescribed for the licensing of the facility by the department of human services. The contract shall also provide that if the use of the facility is discontinued or diverted to purposes other than those proposed in the loan application without the express consent of the department of human services, the full amount of the loan provided under this chapter immediately becomes due and payable. The Bank of North Dakota may annually deduct, as a service fee for administering the revolving fund maintained under section 6-09.6-01, one-half of one percent of the principal balance of the outstanding loans from the revolving fund. Payments of interest and principal on loans made under section 6-09.6-01 must be made to the Bank of North Dakota and credited to the revolving fund. Payments of principal and interest on loans made under sections 6-09.6-01.1 and 6-09.6-01.2 must be credited by the Bank to the ~~lands and minerals trust~~strategic investment and improvements fund after the Bank has deducted a service fee for administering the program equivalent to an annual fee of one-half of one percent of the principal balance of the outstanding loans.

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

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

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The guarantee reserve fund must be maintained from the ~~lands and minerals trust~~strategic investment and improvements fund created by section 15-08.1-08 and any moneys transferred from the ~~lands and minerals trust~~strategic investment and improvements fund to maintain the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve.

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

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

The income derived from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the ~~lands and minerals trust~~strategic investment and improvements fund. The corpus and

interest of such trust may be expended as the legislative assembly may provide for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government. It is the intent of the legislative assembly that moneys in the fund may be included in draft appropriation acts under section 54-44.1-06 and may be appropriated by the legislative assembly, but only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized. If the unobligated balance in the fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund. For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases.

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

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

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

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

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

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

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

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

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

There is established a special fund in the state treasury to be known as the oil and gas research fund. Before depositing oil and gas gross production tax and oil extraction tax revenues in the general fund, property tax relief sustainability, strategic investment and improvements fund, or the permanent oil tax trust~~state disaster relief~~ fund, two percent of the revenues must be deposited monthly into the oil and gas research fund, up to four million dollars per biennium. All moneys deposited in the oil and gas

research fund and interest on all such moneys are appropriated as a continuing appropriation to the council to be used for purposes stated in chapter 54-17.6.

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

State share of oil and gas taxes - Deposits.

From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:

1. The first two hundred million dollars into the state general fund;
2. The next three hundred forty-one million seven hundred ninety thousand dollars into the property tax relief sustainability fund;
3. The next one hundred million dollars into the state general fund;
4. The next one hundred million dollars into the strategic investment and improvements fund;
5. The next twenty-two million dollars into the state disaster relief fund; and
6. Any additional revenues into the strategic investment and improvements fund.

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

61-33-07. Deposit of income.

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

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

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1451 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 70 Nays 23 Absent 1

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 43 Nays 3 Absent 1

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,
at _____ o'clock _____ M.

Secretary of State