

DISTRIBUTION OF ESTIMATED OIL EXTRACTION AND OIL AND GAS PRODUCTION TAXES FOR THE 2007-09 BIENNIUM (AMOUNTS ARE SHOWN IN MILLIONS OF DOLLARS)¹

Tax	General Fund ²	Permanent Oil Tax Trust Fund ²	Common Schools Trust Fund ³	Foundation Aid Stabilization Fund ³	Resources Trust Fund	Oil and Gas Impact Grant Fund	Counties	Oil and Gas Research Fund ⁴	Total
Oil extraction tax ⁵	\$31.16	\$91.16*	\$20.50	\$20.50	\$41.01			\$0.70	\$205.03
Oil and gas production tax ⁶	39.84	75.88*				\$6.00	\$94.82*	0.60	217.14
Total	\$71.00	\$167.04*	\$20.50	\$20.50	\$41.01	\$6.00	\$94.82*	\$1.30	\$422.17

***NOTE: Based on preliminary review, it appears the executive forecast may be overstating the counties' share of oil and gas production tax collections and understating the state's share. We have asked the Office of Management and Budget and the Tax Department to review the projection.**

¹The amounts shown are as recommended in the 2007-09 executive budget.

²North Dakota Century Code (NDCC) Section 57-51.1-07.2 (1997 Senate Bill No. 2366) establishes a permanent oil tax trust fund and provides that all revenues deposited in the general fund during a biennium derived from taxes imposed on oil and gas under Chapters 57-51 (Oil and Gas Gross Production Tax) and 57-51.1 (Oil Extraction Tax) which exceed \$71 million are to be transferred by the State Treasurer to the permanent oil tax trust fund. The State Treasurer is to transfer the interest earnings on the fund to the general fund at the end of each fiscal year. The principal of the permanent oil tax trust fund may only be spent upon a two-thirds vote of the members elected to each house of the Legislative Assembly.

The revised revenue forecast for the 2005-07 biennium projects oil and gas production tax and oil extraction tax revenues deposited into the general fund to exceed \$71 million by \$158,543,405. Therefore, \$158,543,405 is projected to be transferred to the permanent oil tax trust fund during the 2005-07 biennium.

The revenue forecast for the 2007-09 biennium projects oil and gas production tax and oil extraction tax revenues deposited in the general fund to exceed \$71 million by \$167,036,607. Therefore, \$167,036,607 is projected to be transferred to the permanent oil tax trust fund during the 2007-09 biennium.

³The 1993 Legislative Assembly passed Senate Concurrent Resolution No. 4011, which contained a constitutional amendment relating to the distribution of oil extraction tax revenues. The constitutional amendment was approved by the voters in the November 1994 general election. The constitutional amendment provides that 20 percent of the oil extraction tax revenues are to be allocated as follows:

Fifty percent (of the 20 percent) to the common schools trust fund.

Fifty percent (of the 20 percent) to a foundation aid stabilization fund.

⁴North Dakota Century Code Section 57-51.1-07.3 (2003 Senate Bill No. 2311) establishes an oil and gas research fund and provides that 2 percent of the state's share of oil and gas gross production tax and oil extraction tax revenues, up to \$1.3 million per biennium, are to be deposited in the oil and gas research fund. All money deposited in the oil and gas research fund is appropriated as a continuing appropriation to the Oil and Gas Research Council.

⁵The oil extraction tax rate is 6.5 percent of the gross value at the well for wells drilled prior to April 27, 1987. For oil produced from wells drilled after April 27, 1987, there is no extraction tax levied for 15 months and thereafter the rate is 4 percent. The initial production of oil from a well is exempt from any oil extraction tax for a period of 60 months if it meets any of the following conditions: (1) is located within the boundaries of an Indian reservation; (2) is on lands held in trust for an Indian tribe or individual Indian; or (3) is on lands held by an Indian tribe as of August 1, 1997. For oil produced from any well drilled and completed as a horizontal well after April 27, 1987, there is no extraction tax levied for 24 months, and thereafter the rate is 4 percent. The oil extraction tax rate is 4 percent for qualifying secondary and tertiary recovery projects, and production from stripper wells and enhanced oil production methods is exempt. If the average price of a barrel of oil exceeds the trigger price for each month in any consecutive five-month period, the oil extraction tax will become 6.5 percent. The tax rate reverts to 4 percent if the average price of a barrel of oil is less than the trigger price for each month in any consecutive five-month period. The trigger price is defined in statute as \$35.50 as indexed for inflation, and the Tax Commissioner computes the indexed trigger price by December 31 of each year to be applied for the

following calendar year.

The average price per barrel of oil exceeded the trigger price throughout the 2005-07 biennium, resulting in an oil extraction tax rate of 6.5 percent for the biennium. The adjusted trigger price for 2006 is \$39.36.

The oil extraction tax is allocated 20 percent to the resources trust fund for water development projects, 10 percent to the common schools trust fund, 10 percent to the foundation aid stabilization fund, and 60 percent to the state general fund.

⁶The gross production tax on oil is 5 percent of the gross value at the well on oil produced. The gross production tax on gas is four cents times the gas base rate adjustment for each fiscal year as calculated by the Tax Department.

The oil and gas production tax is distributed per formula to the oil and gas impact grant fund (up to \$6 million per biennium), to the state general fund, and to political subdivisions within producing counties. North Dakota Century Code Section 57-51-15.1 (effective after June 30, 2007) (2005 House Bill No. 1404) changes the cap for distribution to the oil and gas impact grant fund from \$5 million per biennium to \$6 million per biennium.