

**FISCAL NOTE**  
**Requested by Legislative Council**  
**12/21/2018**

Bill/Resolution No.: SB 2104

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			\$700,000,000	\$(700,000,000)	\$700,000,000	\$(700,000,000)
<b>Expenditures</b>						
<b>Appropriations</b>						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Senate Bill 2104 amends NDCC 57-51.1-07.5 by adjusting the amounts of oil and gas tax revenues to be deposited into the general fund.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of the bill increases the amounts going into the two general fund buckets. For the 2019-2021 biennium and each biennium going forward, this bill would increase the general fund deposits by \$700,000,000. This is accomplished by increasing the first general fund bucket from \$200M to \$500M and the second general fund bucket from \$100M to \$500M.

Assuming sufficient oil and gas tax revenue to fill all but the final "state share" buckets, this change would result in a reduction in the amounts being deposited into the strategic investment and improvements fund by the same (\$700,000,000).

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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**Date Prepared:** 12/27/2018

**2019 SENATE FINANCE AND TAXATION**

**SB 2104**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Finance and Taxation Committee**  
Lewis and Clark Room, State Capitol

SB 2104  
1/9/2019  
Job # 30566

- Subcommittee  
 Conference Committee

Committee Clerk: Alicia Larsgaard
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## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 57-51.1-07.5 of the North Dakota Century Code, relating to the state's share of oil and gas taxes; and to provide an effective date.

## Minutes:

Attachments: 1
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**Chairman Cook:** Opened the hearing on SB 2104.

**Joe Morrissette:** (Refer to Attachment #1). This is a bill that was introduced by O and B. It is part of the governor's budget. It does not deal with the rate of tax or the total amount of tax that will be collected, it is just simply with the allocation of the oil and gas tax revenues. Into the general fund from the state share, under current law for the current name that share is \$400 million in prior bienniums it has been \$300 million. Without a statutory change it would revert back for next biennium to \$300 million. This bill would increase the general fund allocation for oil and gas taxes to \$1 billion. Although that sounds like a big increase, when you look at all the different sources of general fund revenue from oil and gas taxes, which consist of direct allocations from the oil and gas taxes and transfers from special funds, it's really just kind of holding the status quo. In fact, if you look at the chart (Attachment 1) you can see the actual totals that went into the general fund in the last 4 bienniums including the current one and what is proposed for the next one. That includes the direct allocation of the 300 or 400 million and transfers from investment funds and from the tax relief funds. The \$1 billion is actually the average of the four bienniums. In 2019-2021, that \$1 billion would be about 22% of all oil taxes and would be about 20% of general fund revenues. We believe that is a reasonable amount and it provides transparency in the sources of general fund revenues and balance in the budget. The table attached on the back shows that based on the executive forecasts, all the different allocations of oil taxes for the current biennium based on the original forecast and then for the next one. It shows that even after billion dollars is allocated, there will still be \$271 million that would accumulate and would not be allocated and would be available for this legislative assembly to decide uses for. Oil has been volatile in the last couple of months. We believe the executive budget forecast is still a reasonable forecast for oil. Our price for the ND is around 46 for the remainder of this biennium and the next three quarters of the next fiscal year and then it would increase to about \$50. That was a conservative number because it has production slightly lower than where we were at in the most recent month. Depending on the discount applied, it could be anywhere from around

50 to closer to 60 and that matches up closely with what the economic consultant that was contracted with by the legislature in, the one that is contracted by the executive branch. Both are saying for long term outlook of around \$60. If it turns out that those forecast numbers are too robust, even with the \$5 slide in oil prices, there would still be money to fund the billion-dollar transfer. There would still be 100 million that would accumulate. I would urge your support for SB 2104. We think it provides transparency in general fund revenue sources and provides structural balance to the budget between ongoing revenues and expenses which is an important consideration for bond rating agencies and it can lower borrowing cost for both the state and the political subdivisions that rely on the states bond ratings. I would take any questions at this time.

**Senator Patten:** The transfers that took place in previous session, did they come with spending direction where they targeted spending?

**Joe Morrisette:** That would be a case with the tax relief fund. In the current biennium there was money from the tax relief fund that went to the general fund and in that case, those transfer into the general fund mix. There is also a transfer that went directly to social services finance fund to fund those costs. The executive budget would propose that money that is accumulating in the relief fund, would continue to be transferred to the social services finance fund and not go through the general fund which is the approach the legislature used for the current biennium to fund those costs. This continues the same bucket approach in just increases the two general fund shares from 200 million to 500 million.

**Chairman Cook:** You are taking \$700 million that isn't spent unless it is in the bank and spending it rather than budgeting it correct? We paid cash for the State Pen. And for the new Heritage Center and well as the medical center in Grand Forks. Instead of paying cash you would say that those would be budgeted items, correct?

**Joe Morrisette:** This would assume that money would be able to be spent base on the forecast just like it would for other general fund revenue sources. It wouldn't have any impact on the 800 million accumulating during this biennium but you are correct, it would assume the forecast and the estimates for the next biennium.

**Senator Dotzenrod:** The line towards that bottom that says strategic investment improvement fund, I assume the difference between the first and second column on that line is mostly because it increases oil volume and better prices so we ended up with more on that line than we had. On the next line over, we have executive forecast and a change and I assume the reason it is down is because the fourth number above that is at that increase. So you are just moving what would've been to a different place where it would be in the general fund now.

**Joe Morrisette:** That is correct.

**Senator Unruh:** Joe, I would like to see this bucket chart. You also mentioned that the deficit would fill in the upcoming biennium but in previous bienniums, it wouldn't have, is that correct?

**Joe Morrissette:** No, what is being proposed is no additional transfer, it is just the direct allocation so in those previous bienniums, there was a combination of the direct allocations and those transfers. So there still would've been money that accumulated.

**Chairman Cook:** Further testimony in support? Any testimony opposed to the bill? Hearing none, we will close the hearing on SB 2104.

# 2019 SENATE STANDING COMMITTEE MINUTES

**Finance and Taxation Committee**  
Lewis and Clark Room, State Capitol

SB 2104  
1/29/2019  
Job #31643

- Subcommittee  
 Conference Committee

Committee Clerk: Alicia Larsgaard
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## **Explanation or reason for introduction of bill/resolution:**

A BILL for an Act to amend and reenact section 57-51.1-07.5 of the North Dakota Century Code, relating to the state's share of oil and gas taxes; and to provide an effective date.

## **Minutes:**

Attachments: 0
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**Chairman Cook:** Called the committee to order on SB 2104.

**Senator Patten:** Moved a Do Not Pass on SB 2104.

**Senator Unruh:** Seconded.

**Chairman Cook:** Called for Discussion.

**Senator Unruh:** I appreciate what is attempting to be done. I think it is a little bit too much of a jump to put that much money all into one bucket without having to think about what it means to spend that money.

**Senator Dotzenrod:** This is going to provide us to comply with Governor Burgum's budget message to have a larger share of our state's General Fund be covered will oil revenue. Has there been any thought about reducing the numbers of what we currently do now to \$200. Or is it just a yes, no as far as the committee is concerned.

**Chairman Cook:** I believe right now we are at about \$400 million into the General Fund. I do not know if there is any desire to change that.

**Senator Dotzenrod:** I would like to see us try to attempt to use the oil money for those things we thing are above the normal operations of government. We have transferred out of our savings accounts. We are all citizens pretty much on Welfare. We are getting more benefits out of state government that we are paying for. We are using the oil money to pay for it. It would be ideal that the citizen contribute enough through their sales and income and conventional taxes to pay for the benefits they get. We keep on thinking that we are just going to lean on the oil companies.

**Chairman Cook:** We already pay 50% of our oil on our taxes. I would like to get the money in the bank and then pay.

**Senator Dotzenrod:** Maybe that is a better way. In the long wrong we should try to get to a point where we are willing to pay for the services we get. I will be with the Do Not Pass.

**Senator Patten:** The risk with it moves money out of the SIF Fund and into the General Fund and you narrow the tax phase for general operating expenses for the state. You reduce the cash available for those long term projects. Not all General Fund money is spent on operating. You transferred that decision making from the SIF Fund which is legislative into a General Fund bucket that is more driven by the executive branch.

**Senator Dotzenrod:** Besides just weighing in this question about the dollars right now, we are laying down a way to see our government work. I think this bill is more important that it looks on the surface. I think that if you are against this bill, you are saying that you would like to approach the idea that we want to see the services covered by conventional revenues. If we have to take from some of our savings, maybe we will do that but the goal is to try to get more of a conventional way of funding things.

**Chairman Cook:** Senator Dotzenrod, we were both on the conference committee that created these buckets. I remember a bucket is a function of two things; raising revenue, and how much we spend. That is why there is another committee right down the hall.

**A Roll Call Vote Was Taken. 6 yeas. 0 nays, 0 absent.**

**Motion Carried.**

**Senator Unruh will carry the bill.**

Date: 1-29-18<sup>9</sup>  
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2104**

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Patten Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Unruh

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2104: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2104 was placed on the Eleventh order on the calendar.

**2019 TESTIMONY**

**SB 2104**

**Testimony in Support of Senate Bill No. 2104**  
**Joe Morrissette, Director**  
**Office of Management and Budget**  
**January 9, 2019**

Good morning Senator Cook and members of the Senate Finance and Taxation Committee. I am Joe Morrissette, Director of the Office of Management and Budget. I am here to testify in support of Senate Bill 2104 which increases the allocation to the general fund from the state share of oil and gas taxes.

This bill does not affect the rate of tax or the total amount of tax collected on oil and gas activity. It merely increases the allocation to the state general fund, which in turn reduces the amount that will accumulate in the Strategic Investment and Improvements Fund (SIIF).

In the current biennium, the general fund share of oil and gas taxes is \$400 million. Without this proposed statutory change, the general fund share will revert to \$300 million for the 2019-21 biennium. Senate Bill 2104 would increase the general fund share to \$1 billion, while maintaining the legislatively established buckets and priority order for allocations.

Although this may sound like a significant increase, it simply holds the general fund even with the share of oil taxes actually deposited in the general fund in recent bienniums. Allocating those revenues directly to the general fund creates transparency in the state budget. In past bienniums, the general fund share has been a combination of direct oil tax allocations and transfers from various oil tax special funds.

<b>Oil Taxes</b>	<b>2011-13</b>	<b>2013-15</b>	<b>2015-17</b>	<b>2017-19</b>	<b>2019-21</b>
Allocated to general fund	\$300.0	\$300.0	\$300.0	\$400.0	\$1,000.0
Transferred from SIIF	305.0	520.0	155.0	248.0	0
Transferred from Tax Relief	<u>295.0</u>	<u>341.8</u>	<u>657.0</u>	<u>183.0</u>	<u>0</u>
<b>Total oil taxes allocations and oil revenue transfers to the general fund</b>	<b>\$900.0</b>	<b>\$1,161.8</b>	<b>\$1,112.0</b>	<b>\$831.0</b>	<b>\$1,000.0</b>
<b>General fund share of oil taxes as a percent of all oil taxes</b>	<b>22%</b>	<b>19%</b>	<b>38%</b>	<b>18%</b>	<b>22%</b>
<b>General fund share of oil taxes as a percent of all general fund revenue</b>	<b>18%</b>	<b>20%</b>	<b>23%</b>	<b>18%</b>	<b>20%</b>

This proposed \$1 billion allocation is equal to the average amount allocated to the general fund in the previous four bienniums. It represents 20% of all general fund revenue and 22% of all oil tax revenue anticipated to be received during the 2019-21 biennium, based on the executive forecast. This is a reasonable and sustainable amount and is lower than some recent bienniums. Even after this allocation to the general fund, over \$270 million is still expected to accumulate in the SIF during the 2019-21 biennium, as shown on the attached schedule.

The executive forecast is based on flat oil production, slightly lower than actual October production, and a North Dakota price of around \$46 per barrel between now and the fourth quarter of fiscal year 2020, then increasing to \$50 for the remainder of the 2019-21 biennium. We believe, based on input from industry experts and the forecasting consultants used for both the executive and legislative forecasts, this is a reasonable forecast in line with the long-term outlook for the oil market. However, even if North Dakota oil prices were \$5 per barrel lower than the executive forecast, there would still be adequate oil tax revenue to allocate the proposed \$1 billion to the general fund and allow for over \$100 million to be accumulated in SIF.

I urge your support for SB2104 to provide for the clear and transparent use of oil taxes in the state general fund. This type of direct allocation provides assurance to bond rating agencies that our ongoing revenues are in balance with our ongoing expenses. It strengthens North Dakota's financial position and has the potential to increase our bond rating. An improved state bond rating lowers borrowing costs for the state and political subdivisions.

Mr. Chairman and committee members, that concludes my testimony. I would be happy to answer any questions.

# 2019-21 BIENNIUM OIL REVENUES

## Compared to Original Legislative Forecast

### OFFICE OF MANAGEMENT & BUDGET

	2017-19			2019-21	
	2017 Legislative Forecast	Revised Forecast	Change	Executive Forecast	Change from 2017-19 Revised Forecast
<b>Allocation</b>					
Counties and Cities	\$499,644,769	\$666,544,287	\$166,899,518	\$653,679,958	(\$12,864,329)
Three Affiliated Tribes	233,972,756	437,886,514	203,913,758	444,222,069	6,335,555
Legacy Fund	865,827,862	1,226,615,997	360,788,135	1,254,927,345	28,311,348
Foundation Aid Stabilization Fund	130,926,961	175,762,291	44,835,330	185,016,202	9,253,911
Common Schools Trust Fund	130,926,961	175,762,291	44,835,330	185,016,202	9,253,911
Resources Trust Fund	258,653,919	348,324,583	89,670,664	365,832,404	17,507,821
Renewable Energy Development Fund	3,000,000	3,000,000		3,000,000	
Energy Conservation Grant Fund	200,000	200,000		1,200,000	1,000,000
Oil and Gas Research Fund	10,000,000	10,000,000		10,000,000	
Oil and Gas Impact Fund	29,145,670	28,353,446	(792,224)	5,000,000	(23,353,446)
North Dakota Outdoor Heritage Fund	10,871,198	10,799,177	(72,021)	30,219,313	19,420,136
Abandoned Well and Site Reclamation Fund	8,435,599	8,399,588	(36,011)	14,806,073	6,406,485
General Fund	400,000,000	400,000,000		1,000,000,000	600,000,000
Tax Relief Fund	200,000,000	200,000,000		200,000,000	
Budget Stabilization Fund	75,000,000	75,000,000			(75,000,000)
State Disaster Relief Fund					
Energy Impact Fund	4,000,000	4,000,000			(4,000,000)
Lignite Research Fund	3,000,000	3,000,000		3,000,000	
Strategic Investment and Improvement Fund	256,459,929	752,958,329	496,498,400	271,393,654	(481,564,675)
<b>Total Oil and Gas Taxes</b>	<b>\$3,120,065,624</b>	<b>\$4,526,606,503</b>	<b>\$1,406,540,879</b>	<b>\$4,627,313,220</b>	<b>\$100,706,717</b>

Oil Price Range for the Remainder of the 2017-19 Biennium:

\$55.00 per barrel decreasing to \$46.00 per barrel

Average: \$49.75

Oil Price Range for 2019-21:

\$46.00 - \$50.00 per barrel

Average: \$48.59

Oil Production Assumption:

Gradually increasing from 1.30 million barrels per day to 1.35 million by the end of 2019-21

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