

## **OIL PRODUCTION, OIL MARKET PRICE, AND OIL TAX REVENUE INFORMATION FOR THE 2007-09 BIENNIUM**

This memorandum provides information regarding oil production, oil market prices, and oil tax revenues, including information on the statutory provisions relating to oil and gas gross production tax, oil extraction tax, the permanent oil tax trust fund, the oil and gas research fund, oil production and revenues for the 2007-09 biennium, and the history of oil activity in North Dakota.

### **OIL AND GAS GROSS PRODUCTION TAX (NORTH DAKOTA CENTURY CODE CHAPTER 57-51)**

The 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. Shallow gas produced during the first 24 months of production from and after the date of first sales of gas from a well completed or recompleted in a shallow gas zone after June 30, 2003, is exempted from the gross production tax. The oil and gas gross 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.

### **OIL EXTRACTION TAX (NORTH DAKOTA CENTURY CODE CHAPTER 57-51.1)**

The oil extraction tax is 6.5 percent of the gross value at the well for wells drilled prior to April 27, 1987. For oil produced from any well drilled and completed as a vertical well after April 27, 1987, there is no extraction tax levied for 15 months, and thereafter the rate is 4 percent. 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, except the first 75,000 barrels of oil produced during the first 18 months after completion from a horizontal well drilled and completed in the Bakken formation after June 30, 2007, and before July 1, 2008, is subject to a reduced tax rate of 2 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. 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. 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. The current trigger price is \$43.92.

Twenty percent of the oil extraction tax is allocated 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.

### **PERMANENT OIL TAX TRUST FUND (NORTH DAKOTA CENTURY CODE SECTION 57-51.1-07.2)**

North 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 a special 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.

During the 2005-07 biennium, approximately \$169.8 million was deposited into the permanent oil tax trust fund, resulting in a July 1, 2007, fund balance of approximately \$143.3 million. The 2007 legislative revenue estimate anticipated approximately \$146 million to be deposited into the fund during the 2007-09 biennium and expenditures and transfers of approximately \$145.7 million from the fund. As of May 31, 2008, approximately \$158.8 million has been deposited in the fund for the 2007-09 biennium. In October 2007, \$115 million was transferred to the general fund pursuant to Section 12 of Senate Bill No. 2032 (2007).

The 2007 Legislative Assembly enacted House Concurrent Resolution No. 3045, which will be measure No. 1 on the 2008 general election ballot and which proposes creation of a new section to Article X of the Constitution of North Dakota to create a new permanent oil tax trust fund. If approved by the voters, the measure will become effective July 1, 2009. The constitutional measure provides that all revenues deposited in the general fund during a biennium derived from taxes imposed on oil and gas which exceed \$100 million be transferred to the constitutional permanent oil tax trust fund. The principal of the permanent oil tax trust fund may only be spent upon a three-fourths vote of the members elected to each house of the Legislative Assembly and limits the amount spent during a biennium to 20 percent of the principal. Senate Bill No. 2178 (2007) repeals the statutory provisions in NDCC Section 57-51.1-07.2 upon the effective date of the constitutional measure. The measure does not address what will happen to the balance in the statutory permanent oil tax trust fund if the constitutional permanent oil tax trust fund becomes effective and the statutory fund is repealed.

**OIL AND GAS RESEARCH FUND (NORTH DAKOTA CENTURY CODE SECTION 57-51.1-07.3)**

North Dakota Century Code Section 57-51.1-07.3 (2003 Senate Bill No. 2311) establishes an oil and gas research fund. Section 57-51.1-07.3 provides that 2 percent of the state's share of the oil and gas gross production tax and oil extraction tax revenues, up to \$3 million per biennium, is to be deposited into 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.

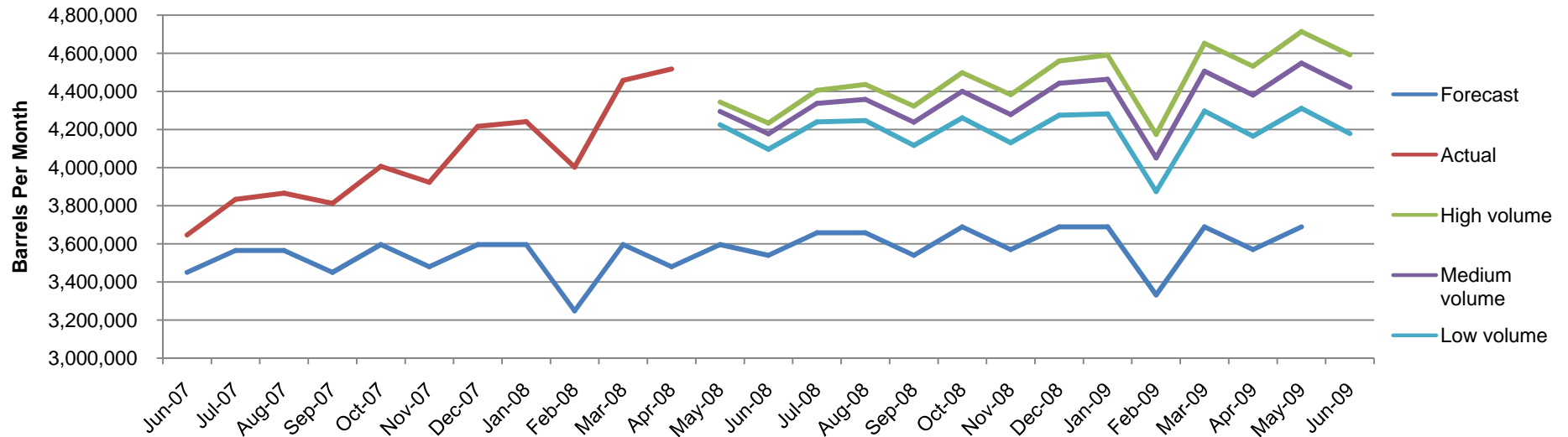
**OIL AND GAS TAX REVENUE DISTRIBUTION FLOWCHART**

Attached as an [appendix](#) is a flowchart reflecting the distribution of oil and gas tax revenues for the 2007-09 biennium based on current law.

**PRODUCTION PROJECTIONS FOR THE REMAINDER OF THE 2007-09 BIENNIUM**

The following chart provides information on the forecasted, actual, and projected number of barrels of oil produced by month for the 2007-09 biennium, based on the 2007 legislative forecast and information provided by the Industrial Commission's Department of Mineral Resources:

**Barrels of Oil Produced Per Month**





## OIL AND GAS TAX REVENUES

The following table provides information on actual monthly distributions of oil and gas tax revenues from July 2007 through May 2008:

Actual Monthly Distributions									
	General Fund	Permanent Oil Tax Trust Fund	Oil and Gas Research Fund	Oil and Gas Impact Fund	Resources Trust Fund	Common Schools Trust Fund	Foundation Aid Stabilization Fund	Political Subdivisions	Total
July 2007	\$14,329,306		\$83,215						\$14,412,521
August 2007	13,815,581		479,683		\$1,386,909	\$693,455	\$693,455	\$4,837,307	22,761,298
September 2007	15,191,875		303,838		2,514,277	1,257,139	1,257,139		21,403,164
October 2007	16,843,990	\$18,211	336,880		2,446,301	1,223,150	1,223,150		23,013,223
November 2007	10,819,248	8,152,296	216,385		2,566,630	1,283,315	1,283,315	14,729,764	40,064,968
December 2007		21,593,757	594,345		2,890,790	1,445,395	1,445,395	3,899,814	32,971,918
January 2008		21,870,525	437,148		3,119,515	1,559,757	1,559,757	3,236,833	32,897,361
February 2008		24,109,985	491,253		2,970,661	1,485,330	1,485,330	2,645,897	33,302,848
March 2008		24,149,877	57,253		3,172,037	1,586,018	1,586,018	2,729,050	33,280,253
April 2008		27,232,238			3,111,590	1,555,795	1,555,795	2,578,429	36,033,847
May 2008		31,667,233			3,779,162	1,889,581	1,889,581	3,139,959	42,365,516
<b>Total</b>	<b>\$71,000,000</b>	<b>\$158,794,122</b>	<b>\$3,000,000</b>	<b>\$6,000,000</b>	<b>\$27,957,872</b>	<b>\$13,978,935</b>	<b>\$13,978,935</b>	<b>\$37,797,053</b>	<b>\$332,506,917</b>

The following table provides information on distributions of estimated oil and gas tax revenues for the 2007-09 biennium based on actual distributions from July 2007 through May 2008 and estimated distributions based on oil production and price per barrel projections for the remainder of the 2007-09 biennium:

	General Fund	Permanent Oil Tax Trust Fund	Oil and Gas Research Fund	Oil and Gas Impact Fund	Resources Trust Fund	Common Schools Trust Fund	Foundation Aid Stabilization Fund	Political Subdivisions	Total
Legislative forecast	\$71,000,000	\$146,017,407	\$3,000,000	\$6,000,000	\$33,981,165	\$16,990,583	\$16,990,583	\$53,617,861	\$347,597,599
Projections									
High volume									
\$61 per barrel	\$71,000,000	\$398,446,712	\$3,000,000	\$6,000,000	\$58,236,099	\$29,127,048	\$29,127,048	\$81,658,767	\$676,595,674
\$85 per barrel	\$71,000,000	\$506,280,408	\$3,000,000	\$6,000,000	\$70,148,844	\$35,083,421	\$35,083,421	\$85,371,682	\$811,967,775
\$109 per barrel	\$71,000,000	\$614,780,678	\$3,000,000	\$6,000,000	\$82,061,588	\$41,039,793	\$41,039,793	\$88,418,024	\$947,339,877
Medium volume									
\$61 per barrel	\$71,000,000	\$391,452,015	\$3,000,000	\$6,000,000	\$57,459,754	\$28,729,876	\$28,729,876	\$81,384,058	\$667,755,580
\$85 per barrel	\$71,000,000	\$496,471,831	\$3,000,000	\$6,000,000	\$65,287,890	\$34,533,525	\$34,533,525	\$85,050,759	\$795,877,531
\$109 per barrel	\$71,000,000	\$602,129,478	\$3,000,000	\$6,000,000	\$76,895,188	\$40,337,174	\$40,337,174	\$88,079,630	\$927,778,644
Low volume									
\$61 per barrel	\$71,000,000	\$381,459,816	\$3,000,000	\$6,000,000	\$56,350,691	\$28,175,344	\$28,175,344	\$80,991,391	\$655,152,587
\$85 per barrel	\$71,000,000	\$482,478,564	\$3,000,000	\$6,000,000	\$67,521,636	\$33,760,817	\$33,760,817	\$84,573,312	\$782,095,146
\$109 per barrel	\$71,000,000	\$584,005,294	\$3,000,000	\$6,000,000	\$78,692,581	\$39,346,290	\$39,346,290	\$87,647,250	\$909,037,705

## DISTRIBUTION OF OIL AND GAS GROSS PRODUCTION TAXES TO COUNTIES

Oil and gas gross production taxes are apportioned to the state and counties pursuant to NDCC Section 57-51-15. Counties with a population of 3,000 or less may receive no more than \$3.9 million per fiscal year, counties with a population over 3,000 but less than 6,000 may receive no more than \$4.1 million per fiscal year, and counties with a population over 6,000 may receive no more than \$4.6 million per fiscal year. However, pursuant to provisions of 2007 Senate Bill No. 2178, any county that levies a total of at least 10 mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes may receive an additional \$1 million. Based on information received from the State Treasurer's office, all counties except Ward County are levying at least 10 mills for roads and bridges and are therefore eligible to receive the additional \$1 million. The table below provides information on the distribution of the oil and gas gross production taxes for oil produced from July 2007 through May 2008 for counties that are expected to reach the revenue distribution caps pursuant to Section 57-51-15, based on information from tax distribution tables on the State Treasurer's website. The amounts include distributions to cities and school districts within the counties:

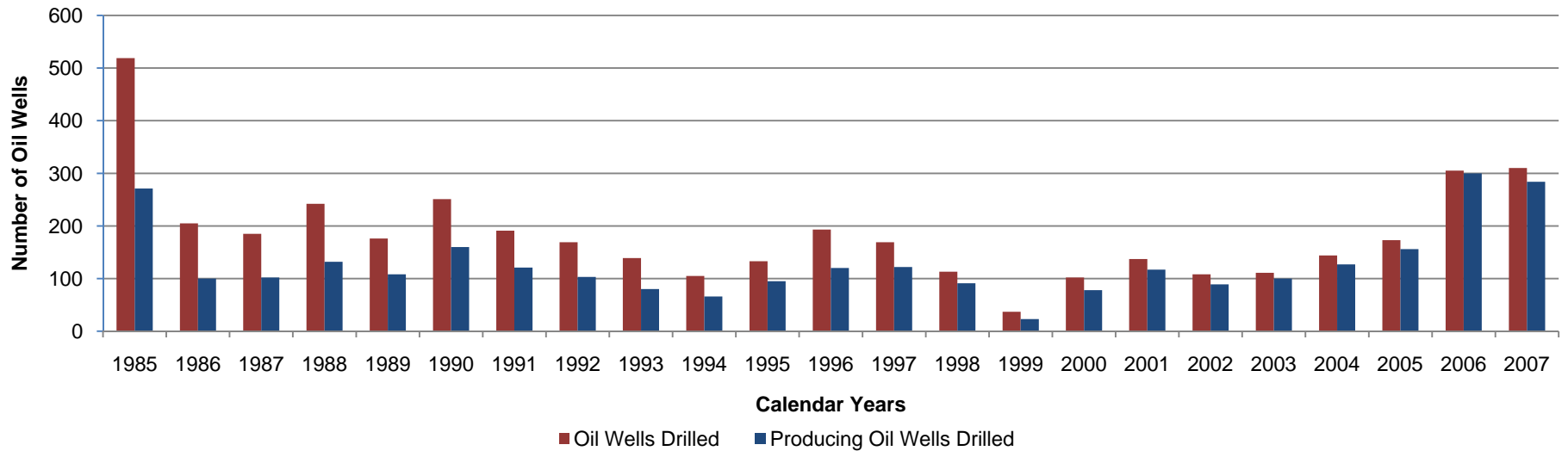
County	Actual Revenue for Oil Production Through May 2008	Estimated Revenue for Fiscal Year 2008 <sup>1</sup>	Estimated Revenue for Fiscal Year 2009 <sup>1</sup>
Billings	\$3,588,451	\$4,900,000	\$4,900,000
Bowman	\$5,100,000	\$5,100,000	\$5,100,000
McKenzie	\$4,880,664	\$5,100,000	\$5,100,000
Mountrail	\$3,584,961	\$5,600,000	\$5,600,000
Williams	\$4,264,482	\$5,600,000	\$5,600,000

<sup>1</sup>Estimated revenues reflect an additional \$1 million received by the counties for levies of a total of at least 10 mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.

### HISTORY OF OIL ACTIVITY

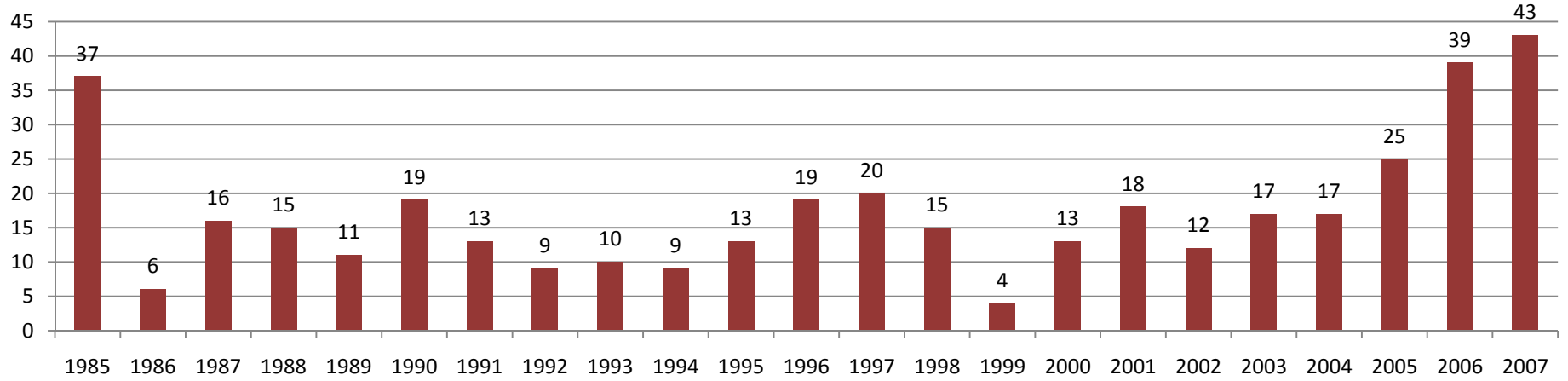
The following schedules provide information on the history of oil activity, including information on oil wells drilled in North Dakota and the average number of oil rigs working in North Dakota:

**Oil Wells Drilled in North Dakota Since January 1, 1985**



	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Oil wells drilled	519	205	185	242	176	251	191	169	139	105	133	193	169	113	37	102	137	108	111	144	173	305	310
Producing oil wells drilled	271	100	102	132	108	160	121	103	80	66	95	120	121	91	23	78	117	89	100	127	156	300	284

Average Number of Oil Rigs in North Dakota



ATTACH:1