

North Dakota REV-E-NEWS



Joe Morrisette, Director

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**OFFICE OF MANAGEMENT AND BUDGET
600 EAST BOULEVARD AVE — DEPT. 110 BISMARCK, ND 58505-0400**

MESSAGE FROM THE DIRECTOR

The state sales and use tax is the largest revenue source for North Dakota's general fund. For the 2017-19 biennium it makes up nearly 50 percent of all general fund tax revenue. The sales and use tax is not only an important revenue source for the state, the cities and counties rely heavily on this revenue to fund local government activities.

The reports included in this newsletter show the 91.3 percent of these revenues allocated to the state general fund. The other 8.7 percent of sales, use, and motor vehicle excise taxes is distributed directly to cities and counties and not deposited in the state general fund. In addition, many cities and counties exercise home rule authority and impose a separate local sales tax, typically in the range of an additional 1 to 2 percent.

Through February, state revenue collections are tracking extremely close to the legislative forecast, with a positive variance of less than 2 percent. Sales tax collections are even closer to forecast, with a variance of only .2 percent. However, sales and use tax collections are still considerably lower than they were at this same point in the prior biennium.

Although a significant portion of sales and use tax is attributable to business-to-business transactions, consumer retail purchases continue to be the largest single category of taxable activity. However, as internet sales continue to grow and erode local retail sales, states across the country have growing concerns about the future of the retail sales and use tax base.

Online retail sales are subject to the same sales and use tax laws that apply to local retail sales. If

the retailer is not required to collect and remit the sales tax, it is the responsibility of the purchaser to remit the appropriate use tax. However, the reality is most consumers never consider this use tax responsibility. It is difficult to estimate the impact of lost tax collections due to online sales, but by all estimates it is significant. Estimates for North Dakota are in the range of \$30 to \$50 million of lost revenue per year.

All states will be closely watching the U.S. Supreme Court as it considers the issue of state authority to collect sales tax from online retailers in the South Dakota v. Wayfair Inc. case. In anticipation of this issue, the 2017 legislature passed Senate Bill No. 2298. This bill becomes effective if the U.S. Supreme Court issues an opinion overturning Quill v. North Dakota or otherwise affirms a state's ability to collect its sales and use tax from out of state retailers. If the bill becomes effective, North Dakota will be able to collect sales and use tax from out of state retailers that meet the following two tests:

- They have North Dakota sales of taxable goods that exceed \$100,000 per year, or
- They have North Dakota sales of taxable goods in 200 or more separate transactions.

Although online sellers will continue to have an impact on local "bricks and mortar" retailers, the Supreme Court decision could level the playing field in terms of compliance with state sales tax law. Because of the passage of 2017 SB 2298, the U.S. Supreme Court decision this year could have an impact on North Dakota sales and use tax collections in the current biennium and in the years to come.

OIL ACTIVITY Statistical Information



	Jan 2018	Dec 2017	Nov 2017
Actual average price per barrel	\$59.67	\$54.41	\$53.61
Production (barrels/day)	1,175,638	1,182,836	1,196,976
Drilling permits	106	86	119
Producing wells	14,313	14,313	14,338
Rig count	56	52	54

Tax Allocations (in Millions)

	Biennium to Date Feb 28, 2018
Political Subs	\$ 174.3
Tribes	101.1
Legacy Fund	280.9
General Fund	200.0
Education Funds	78.8
Resources Trust Fund	76.2
Oil and Gas Impact Fund	28.4
Tax Relief Fund	74.8
Other Allocations	23.1
Total	\$1,037.6

STATEMENT OF GENERAL FUND REVENUES AND FORECASTS Compared to the Legislative Forecast 2017-19 Biennium February 2018

Revenues and Transfers	Fiscal Month				Biennium To Date			
	May 2017 Leg. Forecast	Actual	Variance	Percent	May 2017 Leg. Forecast	Actual	Variance	Percent
Sales Tax	62,568,000	61,695,683	(872,317)	-1.4%	572,075,000	570,983,670	(1,091,330)	-0.2%
Motor Vehicle Excise Tax	7,257,000	8,075,899	818,899	11.3%	71,422,000	73,578,908	2,156,908	3.0%
Individual Income Tax	14,362,000	15,089,649	727,649	5.1%	204,919,000	218,580,065	13,661,065	6.7%
Corporate Income Tax	774,000	2,492,747	1,718,747	222.1%	18,101,000	30,883,633	12,782,633	70.6%
Insurance Premium Tax	16,816,725	14,854,355	(1,962,370)	-11.7%	37,507,931	35,022,929	(2,485,002)	-6.6%
Oil & Gas Production Tax*					93,885,665	93,885,665		
Oil Extraction Tax*					106,114,335	106,114,335		
Gaming Tax	589,804	460,855	(128,949)	-21.9%	2,664,609	2,281,997	(382,612)	-14.4%
Lottery								
Cigarette & Tobacco Tax	1,967,000	1,979,333	12,333	0.6%	18,407,000	18,132,453	(274,547)	-1.5%
Wholesale Liquor Tax	658,269	618,816	(39,453)	-6.0%	5,766,299	5,966,154	199,855	3.5%
Coal Conversion Tax	1,691,000	1,929,205	238,205	14.1%	11,713,000	12,560,590	847,590	7.2%
Mineral Leasing Fees	1,357,309	1,416,391	59,082	4.4%	11,740,334	10,556,736	(1,183,598)	-10.1%
Departmental Collections	2,641,108	2,088,606	(552,502)	-20.9%	26,303,870	29,799,018	3,495,148	13.3%
Interest Income	128,500	236,247	107,747	83.8%	1,474,000	1,466,891	(7,109)	-0.5%
State Mill & Elevator-Transfer								
Bank of North Dakota - Transfer					70,000,000	70,000,000		
Legacy Fund - Transfer								
Tax Relief Fund - Transfer					183,000,000	183,000,000		
SIIF - Transfer					124,000,000	124,000,000		
Gas Tax Administration					756,045	756,045		
Miscellaneous	265,625	268,246	2,621	1.0%	31,443,750	31,627,558	183,808	0.6%
Total Revenues and Transfers	111,076,340	111,206,032	129,692	0.1%	1,591,293,838	1,619,196,647	27,902,809	1.8%

* The General Fund cap for oil and gas taxes contains two tiers. The first tier of \$200.0 million was reached in January 2018. Additional oil taxes will flow to the Tax Relief Fund until that fund receives \$200.0 million, and then to the Budget Stabilization Fund until that fund reaches its cap of \$75.0 million. After this, the General Fund will receive an additional \$200.0 million.

STATEMENT OF GENERAL FUND REVENUES AND FORECASTS
Compared to the Previous Biennium Revenues
2017-19 Biennium
February 2018

Revenues and Transfers	Fiscal Month				Biennium To Date			
	February 2016	February 2018	Variance	Percent	2015-17	2017-19	Variance	Percent
Sales Tax	75,471,822	61,695,683	(13,776,139)	-18.3%	681,189,565	570,983,670	(110,205,895)	-16.2%
Motor Vehicle Excise Tax	7,424,627	8,075,899	651,273	8.8%	73,999,135	73,578,908	(420,227)	-0.6%
Individual Income Tax	26,558,579	15,089,649	(11,468,929)	-43.2%	215,088,655	218,580,065	3,491,410	1.6%
Corporate Income Tax	3,391,767	2,492,747	(899,020)	-26.5%	38,233,329	30,883,633	(7,349,696)	-19.2%
Insurance Premium Tax	18,273,487	14,854,355	(3,419,131)	-18.7%	36,169,809	35,022,929	(1,146,879)	-3.2%
Financial Institutions Tax					253,363		(253,363)	-100.0%
Oil & Gas Production Tax*					83,379,177	93,885,665	10,506,489	12.6%
Oil Extraction Tax*					116,620,823	106,114,335	(10,506,489)	-9.0%
Gaming Tax	544,804	460,855	(83,950)	-15.4%	2,457,608	2,281,997	(175,611)	-7.1%
Lottery								
Cigarette & Tobacco Tax	1,920,910	1,979,333	58,423	3.0%	19,976,115	18,132,453	(1,843,663)	-9.2%
Wholesale Liquor Tax	518,250	618,816	100,566	19.4%	6,124,826	5,966,154	(158,672)	-2.6%
Coal Conversion Tax	1,774,559	1,929,205	154,646	8.7%	13,404,051	12,560,590	(843,461)	-6.3%
Mineral Leasing Fees	1,207,309	1,416,391	209,083	17.3%	10,705,589	10,556,736	(148,854)	-1.4%
Departmental Collections	3,024,049	2,088,606	(935,444)	-30.9%	28,264,660	29,799,018	1,534,358	5.4%
Interest Income	210,491	236,247	25,755	12.2%	1,720,362	1,466,891	(253,471)	-14.7%
State Mill & Elevator-Transfer								
Major Special Fund Transfers					657,000,000	377,000,000	(280,000,000)	-42.6%
Other Transfers	(10)	268,246	268,256	-100.0%	836,557	32,383,603	31,547,045	3771.1%
Total Revenues and Transfers	140,320,643	111,206,032	(29,114,611)	-20.7%	1,985,423,626	1,619,196,647	(366,226,979)	-18.4%

VARIANCES (Compared to 2017 Legislative Forecast)

February 2018 revenues totaled \$111.2 million, which is \$129,692, or 0.1 percent above forecast. Biennium-to-date revenues of \$1.62 billion are \$27.9 million, or 1.8 percent more than projected. When transfers from major special funds are excluded, 2017-19 revenues to date are tracking 6.5 percent behind the same time period in the 2015-17 biennium. Significant monthly variances are as follows:

- **Sales tax** collections of \$61.7 million were \$872,317, or 1.4 percent, lower than anticipated for the month. Biennium-to-date revenues are \$1.1 million, or 0.2 percent, lower than forecast. In a year over year comparison, biennium-to-date revenues are \$110.2 million, or 16.2 percent, less than the same time period in Fiscal Year 2016 but are \$22.9 million, or 4.2 percent, more than the same time period in Fiscal Year 2017.
- **Individual income tax** collections of \$15.1 million were \$727,649, or 5.1 percent above forecast, due

to higher than expected estimated payments and withholding. Biennium-to-date collections of \$218.6 million are \$13.7 million, or 6.7 percent higher than forecast and \$3.5 million, or 1.6 percent, more than the same time period in the 2015-17 biennium.

- **Corporate income tax** collections of \$2.5 million were \$1.7 million, or 222.1 percent above forecast due to higher than expected estimated payments. Biennium-to-date collections of \$30.9 million are \$12.8 million, or 70.6 percent higher than forecast and \$7.3 million, or 19.2 percent less than the same time period in the 2015-17 biennium.
- **Oil and gas taxes** reached \$200.0 million in January – the first tier of the biennial cap. The state share will be deposited in the tax relief fund until that fund reaches its cap of \$200.0 million and then deposits will be made to the budget stabilization fund until that fund reaches its cap of \$75.0 million. After this, the general fund will receive an additional \$200.0 million.