

2009 HOUSE CONSTITUTIONAL REVISION

HCR 3049

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3049

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 02/26/09

Recorder Job Number: 9825

Committee Clerk Signature

*Lou Engelson*

Minutes:

**Chairman Koppelman** opened the hearing on HCR 3049.

**Rep. Larry Bellew:** (A large portion of this testimony is inaudible.) All this does is sets limits on governmental spending in the CPI index. As this committee knows in the state legislature we have no control over what we do.

**Rep. Griffin:** You said it could go higher than the CPI if there was a disaster.

**Rep. Bellew:** That is correct.

**Rep. Conrad:** Accounting has a fund they set aside for small disasters. That would still be allowed?

**Rep. Bellew:** I believe it would be.

**Chairman Koppelman:** Referencing the consumer price index, is that a concern if that entity or that measure should ever change. Maybe it gets abolished in three years, and they come up with something new and CPI no longer means anything. Would it make sense to entertain if you were to approve this or give it a do pass recommendation, some sort of reference that would say a measure of inflationary measure to be determined by the legislature? We talked earlier about putting a dollar amount in the constitution because of inflation. I'm wondering if these specific references would be wise.

**Rep. Bellew:** I don't have any thoughts on that.

**Robert Hale** testified in support of HCR 3049. See Attachment #1.

**Rep. Hatlestad:** What happens if the CPI is in the negative side which doesn't happen very often? Would we expect a decrease in the budget then?

**Mr. Hale:** Actually in the last two months the CPI has been negative. Let's assume it stays negative for the next two years. That's a possibility. That would mean there would be less for the state to spend. I think that's exactly what should happen because the citizens who are after the funding are going to have less money. Everybody should cut back including government. It is possible although historically that's never happened.

**Rep. Griffin:** The language in the proposed amendment says that it would have to go on the ballot, the budget increase the previous general election I believe. So I'm thinking for the state this last November we would have had to have proposals out there if we want to increase spending like the governor's budget suggested? That would have had to have been on the ballot or any other potential increases submitted by others. And then the public would have voted on it and then we would be authorized up to that amount?

**Mr. Hale:** It would be put on the ballot by the legislative body, not the executive. The legislative body. That's the body that approves spending. If this body wanted to increase spending beyond the CPI, you would present that to the voters. Just like is done in the school bond issue. What I would be asking is, is every single thing we are currently spending as high a priority as what you're asking for additional money. What would happen is the body that asks for the money is the one that determines it.

**Rep. Griffin:** If it passed, how would it work for the legislation because the rule says you can go above without first having to vote. You'd have to do two budgets. One budget if you don't

get it through and then have another budget that if we did get approval next November, that budget takes effect.

**Mr. Hale:** What you described is exactly how it would happen. What we currently have is what we currently funded plus that CPI. We picked the CPI because that's what the average citizen has in terms of their increased income. The purpose of it is, is to see if the fund is growing faster than our incomes when we are at a very high economic inflationary times. People are going to feel it. This is going to prohibit that from happening. The question here is what happens if there is an emergency. We took a look at the funds on every single county. On average the counties have 64% of their total annual budget in cash reserve savings unallocated. Some counties have more than six years of their annual budget in cash savings. Most counties have reserve funds for emergencies.

**Chairman Koppelman:** I'm reading the wording of the resolution and since it says that neither the state nor any political subdivision shall increase its budget expenditure, does refer to spending. I'm wondering in the case of an emergency, even if you have the reserves, could you spend beyond that level without voter approval?

**Mr. Hale:** Yes, because those are reserves you have for emergencies. That's what they are there for.

**Chairman Koppelman:** But it talks about budget expenditure.

**Mr. Hale:** The current of every town shows the reserves. That's a part of the budget. It's expendable. It doesn't sequester that and say now you can't touch it. It's a part of the budget.

**Chairman Koppelman:** So theoretically we've had other proposals to sequester money in the permanent oil trust fund. The way that currently works, except for the common schools trust fund and the foundation aid stabilization fund, the permanent oil trust fund is not really permanent. So theoretically there might be potentially hundreds of millions of dollars in that

fund. So if this were in effect now and the legislature had the surplus it has now, based on your answer to my most recent question, as long as the legislature declared an emergency, we could spend an extra billion dollars if it was on hand.

**Mr. Hale:** A trust fund is a budgeted item. We're talking about additional revenues that you have, the surplus revenues, the approximately \$1.3 billion. That is the money that is sequestered. If 3% of the CPI of that is \$200 million, what do you do with the balance? I presume what would happen is the taxpayers would say, our taxes are high enough as it is.

**Chairman Koppelman:** My concern is, as we did this session, we said there's an emergency in Northwood, North Dakota because they had a tornado there and we're trying to help make the community whole and the majority of the legislature said let's spend some money to do that and took it out of that fund.

**Mr. Hale:** If there is a fund to fund those, that's available to be spent. It's not to sequester. It's that additional revenue, the budget plus the CPI that comes in.

**John Fjeldahl:** My name is John Fjeldahl from Berthold. I had sent you all an email earlier asking for your support for this and I'm asking you again. (See Attachment #2) Most county budgets have a 13<sup>th</sup> month in their budget. It's already built into the budget in case of emergencies or ideas that something may happen. That's part of what Mr. Hale is talking about in these funds. That money is accessible should a situation arise. That is part of the budget. To go beyond that, in other words if you use that money in an emergency, you take that fund and you allocate it to put that money back. To replace that money you might have to go back to a vote of the people. Most counties have a considerable reserve for those things. The snow emergency being one of them. Most budgets are built with an extra 13<sup>th</sup> month in the budget as allocated funds for those purposes.

**Rep. Conrad:** If you have that situation with the snow, in order to replace it you are saying you want that to come to a vote of the people.

**Mr. Fjeldahl:** Not necessarily. (Inaudible) to develop the budgets. You'll have to decide where you're going to take this. For instance, we have a million dollar budget, and the CPI index is 5. You can increase it up to that million dollars plus 5%. You could put it back in that budget if you chose to without a vote of the people. You still have this 13<sup>th</sup> month. It will be up to the local government body (inaudible) to make that decision. If you go beyond that, then it's right to go to the people and tell them why we need more. I think the communication between how things happen is going to improve because if you ask the local political subdivisions to fund the program before it's been decided to start and don't fund it, you're asking that political subdivision to increase their budget.

**Chairman Koppelman:** If this were to pass, what you just described would be problematic also if the state were to mandate something and fund it, I don't know if you would be able to do it unless the people voted and approved that because we'd be sending the money but we'd be increasing the budget expenditure level more than that CPI would allow. Or if the federal government says to the schools, you have to do XY and Z in the classroom over the next five years and schools have to spend more. Am I interpreting that correctly?

**Mr. Fjeldahl:** Essentially what you're saying is it's a possibility. Even if you spent all the money it would increase the budget drastically. It may have to come to a vote of the people. But the discussion if you want to start with this body and pass it on will take place. I think the public is going to have to be involved in that. I don't see that as being a problem necessarily.

**Paul Henderson:** My name is Paul Henderson. I just testify in support of this house bill. My 83 year old mother is really tied to the CPI. We really struggle with that. She has been forced to curtail some of her activities as we have. We all agree that we are going to see periods of

expanding budgets and periods of contracting budgets. If you look around the country today, you'll see all the states that are contracting their budgets. Here we've increased our budgets by just about 50% the last two bienniums. If you miss a pay raise that's an inconvenience. But if we have to cut your job, that's a painful experience. We as people have to balance and adjust the budgets according to what's going on with the CPI.

**Chairman Koppelman:** Further support for HCR 30490. (Charlene Nelson and Keith Colville submitted written testimony in support of HCR 3049. See Attachments #3 and #4) Any opposition to HCR 3049.

**Greg Burns** testified in opposition to HCR 3049. See Attachment #5.

**Chairman Koppelman:** Is it your opinion based on your testimony that in order for public education to thrive or local political subdivisions or the state to move forward that we have to outspend inflation?

**Mr. Burns:** The problem with these measures is the consumer price index measures goods. The government provides services. These services develop in different ways than the consumer price index. (Inaudible)

**Jerry Hjelmstad:** My name is Jerry Hjelmstad. I'm here on behalf of the North Dakota League of Cities. I have a couple concerns with 3049. One being is a mechanical issue. The cities are required to submit their budgets to the county auditor by the 10<sup>th</sup> of October in order for the taxes to be levied for that budget. The cities submit their budgets every year and the general election is only every other year. A philosophical issue, this requires a 50% vote to change it. That means that 49% of the people can put a stop to it. The elected officials are answerable to the voters, and we feel they should have some flexibility.

**Stuart Savelkoul** offered testimony in opposition to HCR 3049. See Attachment #6. There are a lot of reasons to oppose this resolution. By their very nature public employees would like

to see a 5% salary increase this year. The rate of inflation is only 2.5% percent. This prohibits the legislature's ability to deliver on promises that were made in meager times with regard to salary increases. Taking care of public employees isn't the only reason you should oppose this resolution. In the manner in which health care costs are growing far faster than inflation and populations are aging limiting the degree of spending growth of inflation forces annual reductions in the level of government services.

**Linda Wurtz** offered testimony in opposition to HCR 3049. See Attachment #7.

**Chairman Koppelman:** Earlier this session some folks testified who indicated they were representing organizations and were kind of grilled about, did you really ask the organization if this is their position? Does AARP have a policy against spending limits in terms of inflation? Are you representing those folks?

**Ms. Wurtz:** No. Every year our membership are querying about issues that they feel are important and we should have policy or change policy. That information goes to our offices of policy integration which staffs a 25-member volunteer advisory committee that is called the national policy council. Those 25 people spend a year researching policies. They talk to experts. They read papers and spend a year deciding what is the best policy that is broad and flexible and would work for all 53 states. At the end of that year they make recommendations to our board of directors and that board of directors votes on that policy and then that goes in the policy book which we have 13 chapters of. This reflects our specific policy that we spent much time developing.

**Rep. Conrad:** Is it the TABOR in Colorado that your policy is rejecting?

**Ms. Wurtz:** Our policy was not created because of Colorado. They were in place before Colorado, we opposed them before they happened in Colorado.



**Bill Woeken:** (A large portion of this testimony was inaudible.) I'm Bill Woeken, city administrator for the city of Bismarck. I think it's a well intentioned resolution. Bismarck has been blessed with growth, and I'm afraid this resolution as I review it would give (inaudible) for the city to respond to growth issues. There are other issues too. Health care, workers' compensation, etc. I think the way the resolution is written, the city for example, where we submit budgets every year so we can only have an election every other year it might force the expenditures to increase. Our city budget last year had a 3.96% increase. I'm very proud of that and worked very hard to get it there. Can we do it within the CPI. I'm hopeful, but I don't want to have our hands tied so that if we (inaudible) spend money on something that has changed, that we would not be able to do so. The city commission is very aware of this. I think the present system does work. So I'm going to ask you for a do not pass on HCR 3049.

**Chairman Koppelman:** Further opposition to HCR 3049. Neutral testimony on HCR 3049.

**Dustin Gawrylow, Executive Director for the North Dakota Taxpayers' Association**

offered neutral testimony: HCR 3049. See Attachment #8.

**Robert Hale:** People brought the term TABOR. We're very familiar with TABOR. First there's 37 states in the United States that have one form of TABOR or another. This isn't something strange. The second thing is Colorado's problem had three factors. (inaudible) If the voters want to spend more money they can. (Inaudible) The last speaker, we felt 60% made sense because that's what's required in school bond issues. (Inaudible testimony)

**Chairman Koppelman:** Any other folks here wishing to testify? We'll close the hearing on HCR 3049

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3049

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 03/04/09

Recorder Job Number: 10213

Committee Clerk Signature

*Lou Engelson*

Minutes:

**Chairman Koppelman** opened the hearing on HCR 3049.

**Chairman Koppelman:** This is the budgetary one dealing with the CPI. My only concern aside from the merits or lack thereof, it's questionable to reference CPI in the constitution. If the committee's wishes were to adopt it, I think I would prefer personally to have something like an inflationary index as determined by the legislature.

**Rep. Kretschmar:** I would like to move a do not pass.

**Rep. Griffin:** I second it.

A roll call vote was taken by the clerk.

**9 yes, 0 no, 0 absent and not voting. Rep. Meier was assigned to carry the resolution.**

Date: 03/04/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 3049

**HOUSE CONSTITUTIONAL  
REVISIONS COMMITTEE**

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  DP  DNP  DP AS AMEND  DNP AS AMEND

Motion Made By Kretsch Seconded By Rep. Griffin

| Representatives          | Yes | No | Representatives | Yes | No |
|--------------------------|-----|----|-----------------|-----|----|
| Chairman Koppelman       | ✓   |    | Rep. Conrad     | ✓   |    |
| Vice Chairman Kretschmar | ✓   |    | Rep. Griffin    | ✓   |    |
| Rep. Hatlestad           | ✓   |    | Rep. Schneider  | ✓   |    |
| Rep. Meier               | ✓   |    |                 |     |    |
| Rep. Schatz              | ✓   |    |                 |     |    |
| Rep. Uglem               | ✓   |    |                 |     |    |
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Total Yes 9 No 0

Absent 0

Floor Carrier: Meier

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

REPORT OF STANDING COMMITTEE (410)  
March 5, 2009 9:46 a.m.

Module No: HR-39-4084  
Carrier: L. Meler  
Insert LC: . Title: .

library

**REPORT OF STANDING COMMITTEE**  
**HCR 3049: Constitutional Revision Committee (Rep. Koppelman, Chairman)**  
recommends **DO NOT PASS** (9 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HCR 3049 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HCR 3049

**TESTIMONY HCR 3046**

Chairman Kim Koppelman – House Constitutional Revisions Committee

Presented by Robert Hale – North Dakota citizen and taxpayer  
1919 2<sup>nd</sup> Street SE  
Minot, ND 58701  
701-721-9782

**HCR No. 3049 – DO PASS**

Mr. Chairman and members of the Committee, my name is Robert Hale. I testified earlier urging a DO PASS on HCR No. 3046. I again am here to urge you to vote **DO PASS on HCR No. 3049.**

I believe one of the most difficult tasks you face is dealing with those who come here to lobby you to approve rules/ repeal rules and spend precious taxpayer dollars for on worth cause or another. I do not envy your task. Nor do I envy that task for city and county legislative bodies.

HCR 3049 would place spending limits on governmental entities. It would limit spending increases to the budgets in place when enacted **PLUS** an annual increase equal to the Urban Midwest CPI **UNLESS** spending beyond that were approved by the voters.

Like HCR 3049 – this would be a significant departure from how spending is currently determined. You are not being asked to approve or reject what HCR 3049 proposes.

You are being asked to give every voter in North Dakota the opportunity over the next 21 months to hear and participate in the discussion and debate on the pros and cons of this proposed limitation on increases in spending and then deciding for ourselves if we wish to enact it.

I urge you to support and give a unanimous **DO PASS to HCR No. 3046.**

The most meaningful and important way we as citizens have to participate in our democracy is to discuss, debate and decide how we will be taxed. The essence of a democratic form of government is to decide how we are to live and how we are taxed.

**AGAIN the question today isn't whether or not we limit spending with out voter participation – the issue is whether or not you will provide the forum to discuss, debate and decide for ourselves.**

The question is whether or not each and every voter in North Dakota will have the opportunity over the next 21 months to hear and participate in the discussion and debate on the pros and cons of doing that and then deciding if we wish to do so.

Again there are some here that are opposed to engaging in this debate. I understand their fear of the unknown; their fear of doing things differently; their lack of trust and confidence in the voters. But those are the best reasons to facilitate this debate and urge your colleagues to vote to put this issue on the ballot.

It would like to restate my belief that there is nothing healthier than serious debate on serious questions and issues impacting North Dakota families.

You have all felt the pressure to spend and spend and spend. This measure if it became the law of North Dakota would change your role from one of having to try to fend off special interests seeking our tax dollars to prioritizing how you will spend the precious tax dollars we chose to give.

As with HCR 3046 those who are afraid of debate on this measure and testify urging you to recommend a NO NOT PASS demonstrate a discouraging lack of faith in our system of democracy and those who elect you to office. Their opposition, whether intentional or not, demonstrates a attitude that taxpayers and voters are unable to decide for themselves what their tax burden will be.

The truth of the matter is that 2 years ago this body - increased state spending more than 23 ½% while the CPI and taxpayers incomes rose less than 1/4<sup>th</sup> that amount.

You are being asked to do precisely the same thing this session. Why?

Because sales and income taxes raised a billion and a quarter dollars more than needed to fund needed state spending. If this measure were the law of North Dakota rather than having to fend off special interests seeking to spend those excess tax revenues you could say no and either put aside the excess revenue or reduce our taxes.

If HCR 3046 had been in place 4 years ago North Dakota taxpayers would see a state budget almost \$3 billion dollars less than it is now and their families would have had that money in their budgets and not in the pockets of special interests.

**AGAIN** – placing spending limits on government isn't what you are being asked to vote on today. You are asked to recommend to your colleagues that this measure be presented to the voters of North Dakota to decide for themselves in November of 2011.

You are being asked to vote to initiate 21 months of debate on the pros and cons of this measure. You are being asked to provide a forum so the issues surrounding this measure can be fully, discussed, debated and understood.

I know you and City and County officials are fearful of what this may mean. I realize that change frightens many. I also know once begun we all adapt readily and comfortably to change.

We all know that this proposal, if supported by the voters of North Dakota, like HCR 3046 would make our state unique. However, the most important thing you can do is to give the voters of North Dakota – the opportunity to explore the pros and cons and then decide for ourselves.



I urge you to vote a **DUE PASS** on HCR 3049. I urge you to trust those who sent you here to debate whether or not to they want this change.

The best decision on whether to put limits on spending increases will come from vigorous, discussion and debate and then putting it in the hands of the voters.

I urge you to put aside fear of the unknown. You have the power to do this – I urge you to honor those who sent you here and give us the opportunity to debate and decide this issue in November of 2011.

**THANK YOU.**

Hello Representatives,

I would appreciate your support of both HCR 3049 and 3046. The reasons I would like both of these given a do pass and follow on to adoption is that they do not conflict with each other as stated by the public employee representative. I believe a representative for the public employees said these were in conflict because one HCR says they want caps to the rates of inflation and HCR one allows abolition of property taxes. The common denominator in both of these is that the **public** will choose between eliminating property taxes and the **public** will be able to vote for increased property taxes when budgets increase beyond the rate of inflation. It is true democratic government. Being afraid of unintended circumstances should not be the major problem for these measures. Do any of you know what amount of taxable valuation is currently being exempted in this state?

That is why these resolutions need and will have a public discussion on whether either one would be adopted. Nobody likes taxes except those that don't pay them and receive many benefits from them. That hopefully never becomes the majority of people. The discussion on these resolutions can be so useful for our state and local subdivisions, it should happen. As I stated in my comments to you in the hearing, property taxes have gotten so out of whack by manipulations and uses that the should be abolished or reigned in. I would think you should agree. The one concern expressed by the school boards representative was the local control issue. Both these measures address local control. It will be the local control (PEOPLE) that will either approve or disapprove these measures if put on the ballot. I urge you to give these resolutions a do pass.

Thanks for your time. John Fjeldahl.

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**<http://www.pctools.com/spyware-doctor-antivirus/>**

Mr. Chairman and members of the committee, my name is Charlene Nelson. I live in Casselton where I am a homemaker and homeschooling mother to three.

I have been watching with interest the discussions of what to do with the \$1.3 billion surplus. I am dismayed to see how quickly this money is being spent. Just like last session, very little of it will be returned to the citizens to whom it rightfully belongs.

That is why I urge you to vote Do Pass on HCR 4049. This bill, if passed would place on the ballot a constitutional amendment that limits spending increases to the rate of inflation.

In the last 10 yrs state spending has increased nearly 70%. During that same time inflation has risen nearly 43% but the average wages have only increased 41%. So while state spending has outpaced inflation, the average wages of the citizens of North Dakota have not even kept up with inflation. While we are earning less our government is spending more.

This cannot continue in any healthy economy. And with the bleak economy that is on the horizon, it is reckless.

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|--------------------------------------|----------|
| Annual Avg. Wages in ND 1996         | \$21,236 |
| Annual Avg. Wages in ND 2005         | \$29,955 |
| Percent Wage Increase 1996-2005      | 41%      |
| Percent Inflation 1996-2005          | 42.8%    |
| Increase in State Spending 1996-2005 | 67.9%    |

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And this is only spending at the state level. When we look at the county and city level, the trend is just as alarming, more so because it is compounded with state increases.

This legislative session has produced all sorts of bills addressing taxes: sales tax exemptions, tax rebates, income tax reductions, property tax equalizations and exemptions. None of these bills, if passed, will do any good for North Dakotans facing economic stress if spending increases continue unabated. Like squeezing one end of

the balloon, the air just all moves to the other end. We need to quit debating where to squeeze and start limiting the size of the balloon. The problem isn't whether there's too much sales or income tax. It isn't who's paying what for property tax. The problem is government budgets are increasing faster than the family budgets.

You may not agree with this measure. The biggest objection I hear when we discuss this is "It will hamstring local government." Since when should government have unlimited access to taxpayer's money? Our government should not have unlimited access to our money. Instead government leaders should wisely allocate what limited funds we entrust them with and if there is a need for more, leaders need to give a compelling reason to the citizens for why they need to further reduce the family budget.

This measure does not cut any budgets. It only means that government budgets should not increase more than the family budget. Neither does it mean that there can never be any increase in spending. It just means that if there is a need for taking more from families, the taxpayer gets a say in the matter.

You do not need to agree with the idea of putting reasonable restrictions on spending increases. But surely you can agree that the economic downturn we are all facing requires a second look at the budgeting and spending process that impacts every family in North Dakota. Surely you can agree that we cannot continue spending business as usual.

So I ask you to put the question to the people. Let those who pay the cost of increased budgets have a say in the matter. Let us all debate the pros and cons of our current budget process. After a full airing and thorough debate of the measure, let's trust the citizens to come to the right decision.

I urge you to vote Do Pass on HCR 3049.

**Koppelman, Kim A.**

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**From:** Valley City CCI [valleycitycci@yahoo.com]  
**Sent:** Thursday, February 26, 2009 12:02 PM  
**To:** Koppelman, Kim A.; Kretschmar, William E.; Conrad, Kari L.; Griffin, Chris D.; Hatlestad, Patrick; Meier, Lisa M.; Schatz, Mike A.; Schneider, Jasper; Uglem, Gerald P.; Bellew, Larry D.  
**Subject:** Testimony HCR 3049

**Testimony HCR 3049** **2-26-09**  
**Chairman Kim Koppleman**  
**Prepared by Keith Colville, Communications Officer**  
**Committee for Community Involvement (CCI)**  
**Valley City, North Dakota**  
**website-[www.valleycitycci.com](http://www.valleycitycci.com) e-mail-[valleycitycci@yahoo.com](mailto:valleycitycci@yahoo.com)**

**Mr. Chairman, my name is Keith Colville and I am with the Committee for Community Involvement out of Valley City. I am representing CCI to encourage a DO PASS on House Concurrent Resolution No. 3049**

**After reading a letter from a city auditor from a city in North Dakota to your committee explaining the cost increases that her city is experiencing and how it would be unfair to cap their budget with increases linked to the Consumer Price Index (CPI). We immediately thought of two things. First, this auditor did not put into the equation that the people who pay the bill for her and her city are also experiencing cost increases and unexpected costs. For instance, a friend of mine lives on a fixed income, when he gets hit with unexpected expenses he has to adjust his budget to make up for them. His snow removal costs have increased this year too. Additionally, just yesterday he had to spend over 500.00 to fix his water conditioner, a expense he wasn't expecting. Last summer he had to replace his 10 year old lawnmower, the year before he had to replace his furnace. Of course there are many more examples that we could list but we think the point is made that the people are hurting too.**

**Secondly we thought of statements made by former Governor Ed Shaffer. He was asked on a talk show a while back about the 95% budgets that he proposed back when he was governor and he was asked, looking back how that all turned out. He said that when he left office we had a lower cost of Government, we had fewer state employees and people had more money in their pockets and better jobs and a better economy in the State of North Dakota.**

**Governor Shaffer went on to say that the people that look at this and said, you know what we have a limited amount of resources, we are going to create the best university, the best city or what ever the case is, they do well. The people who say it's never enough money we need more. Those people never focus on creating an excellent university or city within the revenue that they have and Governor Shaffer said that's a problem and that's why we're seeing costs spiral out of control today.**

**We would like to see 95% budgets mandated not just capping them with CPI adjustments. We looked back and read the minutes from some of the higher education meetings when the 95% budgets were proposed and while some thought it was the end of the world others looked at it as an opportunity to prioritize and cut waste.**

**Although we don't think this legislation goes far enough we do encourage a DO PASS on HCR 3049 and the people of North Dakota decide if this is what they want.**

Sincerely,  
**Keith Colville**  
**Committee for Community Involvement**

MISSION STATEMENT

The COMMITTEE FOR COMMUNITY INVOLVEMENT is an inclusive nonpartisan coalition of Valley City area citizens working together for the following purposes:

- To encourage local government to listen to and implement the wishes of the citizens
- To encourage local government to provide accurate and complete information to the citizens
- To encourage citizen involvement in local decision making
- To encourage all members of local government to maintain high ethical standards and to remember always their accountability to the citizens they represent
- To strengthen our community by protecting the individual liberties of citizens and their posterity.
- To provide citizens with a means to: STAND UP AND BE HEARD

Testimony re: HCR 3049

House Constitutional Review Committee

February 26, 2009

Greg Burns, Executive Director, North Dakota Education Association

Mr. Chairman, members of the committee, on behalf of the membership of the NDEA I wish to voice opposition to this proposed measure. This measure seeks to limit the growth of the state budget and the growth of political subdivision budgets to the Consumer Price Index (CPI). This seems like a reasonable goal, but such a measure is not prudent public policy. It is a demonstrated failure where it has been tried.

In 1992 Colorado voters enacted a measure very much like this one. According to the NEA some of the results of this measure were:

Colorado declined from 35<sup>th</sup> to 49<sup>th</sup> in the nation in K-12 spending as a percentage of personal income.

Colorado's average per pupil funding fell by more than \$400 relative to the national average.

Colorado fell to 48<sup>th</sup> in the nation in taxpayer support for higher education.

Colorado went from 23<sup>rd</sup> in the nation in pre-natal health care to 48<sup>th</sup> place, and dead last in childhood immunizations.

This measure in Colorado became so burdensome and unworkable that in 2005, the voters adopted a measure to take a time-out from the budget limitation measure for five years because the state was undergoing huge financial difficulty.

By our analysis HCR 3049 is what has become known as a "TEL" or a Tax Expenditure Limit. The problem with these measures is that they lock in place a rigid spending formula that eventually underfunds critical services that all citizens depend on. TELs can hold the line on spending to the point that critical public services, like public education, have a hard time recovering.

That is the lesson that was learned the hard way in Colorado. It is not a lesson that the citizens of North Dakota need to learn. We urge you to vote no on HCR 3049.



NORTH DAKOTA  
PUBLIC EMPLOYEES ASSOCIATION

AMERICAN FEDERATION  
OF TEACHERS LOCAL 4660 AFL-CIO



3333 EAST BROADWAY AVE, SUITE 1220  
BISMARCK, NORTH DAKOTA 58501-3396

701-223-1964  
1-800-472-2698

EMAIL: [comments@ndpea.org](mailto:comments@ndpea.org)  
WEBSITE: [www.ndpea.org](http://www.ndpea.org)

Testimony on House Concurrent Resolution 3049  
Before the House Constitutional Revision Committee  
Stuart Savelkoul, Executive Director, NDPEA  
February 26, 2009

Good afternoon Chairman Koppelman and members of the committee. My name is Stuart Savelkoul and I am the Executive Director of the North Dakota Public Employee Association. NDPEA is strongly opposed to HCR 3049 because if such a constitutional amendment were adopted, it would severely limit our state government's ability to operate efficiently.

HCR 3049 bears a striking resemblance to Colorado's "Taxpayer Bill of Rights" or TABOR. In 1992, Colorado adopted a plan very similar to this, and since then public services have worsened significantly. The state watched its K-12 and Higher Education funding levels decrease significantly. It also saw its proportion of uninsured children double between the years of 1991 and 2004. Allowing revenue or expenditures to grow with inflation may sound logical, but it falls short of being able to fund the ongoing cost of government. In an era in which health care costs are growing far faster than inflation and populations are aging, limiting the rate of spending growth to inflation forces annual reductions in the level of government services.

TABOR shrinks the scope of what government can accomplish and creates conditions that each year pit programs and services against each other for survival. And once such limits are embedded in a state constitution, they usually cannot be removed or modified. They undermine existing services for children, youth, and families and make any new initiatives virtually impossible to undertake. In Colorado, voters decided in November 2005 to suspend their TABOR amendment for five years so that the state could begin restoring cuts in public services and avoid making even more drastic cuts. Since then, TABOR proposals have popped up all over the nation, but thankfully, none have passed.

The problems with this bill are very similar to the problems that proposed TABOR amendments have all over this country. However, HCR 3049 is worse than Colorado's amendment because it does not allow for an increase in population. If passed, this bill would prevent expenditures to increase in relation to our population. Fiscal responsibility and restraint is an admirable quality embodied in most of North Dakota's population. This bill simply goes too far and the negative effects of HCR 3049 would be far reaching and permanent. I urge you to assign a "do not pass," recommendation and will stand for any questions that you might have.

| TOTAL JOB GROWTH DURING AND AFTER THE LAST RECESSION<br>UNTIL TABOR'S SUSPENSION<br>(March 2001 — January 2006) |             |
|---|-------------|
| Arizona   | 12.8%       |
| <b>Colorado</b>   | <b>0.2%</b> |
| Idaho   | 10.3%       |
| Nebraska  | 7.5%        |
| Nevada  | 19.1%       |
| New Mexico  | 8.7%        |
| Utah  | 8.0%        |
| Wyoming   | 9.8%        |
| Source: Bureau of Labor Statistics  |             |

*Quality Services from Quality People*

# Testimony





February 26, 2009

HCR 3049

House Constitutional Revision Committee

Chairman Koppelman and members of the House Constitutional Revision Committee. My name is Linda Johnson Wurtz. I am associate state director for advocacy for AARP North Dakota, and today I am representing our over 88,000 North Dakota members.

I stand in opposition of HCR 3049. State expenditure levels vary not only by action of the legislature, but also because of growth or decline of the economy, changes in price and wage levels, federal legislation, disasters, and many other foreseeable and unforeseeable factors. Placing rigid constitutional limits on state expenditures does not take into account a state's need to accommodate those varying dynamics.

State budgets should be negotiated documents that reflect the values of the state in light of projected revenues and expenditures. Such negotiation must be done by legislators, and is the very essence of the task for which they are elected. That task is undermined if it is constrained by constitutional mandates specifying maximum or minimum amount of expenditures.

In short, states should avoid placing restrictive tax policy in the constitution, we should resist establishing supermajority voting requirements for budgetary matters, and we should not refer tax and spending matters to the electorate.

Thank you for your attention.

# North Dakota Taxpayers' Association

HCR 3049 Testimony and Supporting Data

- February 26<sup>th</sup>, 2009 -

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Mr. Chairman and Members of the Committee,

The bill before you, HCR 3049 is an extreme approach; there really is no denying this fact. However, just because it is extreme does not mean it is automatically an over-reaction. While comparing to state spending to inflation is a legitimate metric, a more compelling argument can be made by comparing state spending to Aggregate Personal Income in the state.

Two weeks ago, the Minneapolis Federal Reserve released a report indicating that personal income in North Dakota would fall by 15.4% in 2009 and return to 2007 levels. What this shows is that the economic growth of the last two years was, in fact, a bubble.

In the last 10 years, we've seen the internet bubble burst, the credit bubble burst, and now the personal income bubble burst.

How long till the state spending bubble bursts?

In 1989, after the budget and tax referrals pushed down state spending, general fund expenditures were just over \$1 billion. Ten years later, the 1999-2001 general fund budget pegged in at \$1.6 billion - a 52% increase over 10 years while personal income increased 71%.

Contrast that with the current crossover budget of \$3.1 billion which represents a potential 93% increase in spending while personal income in that same time has increased by 48%.

It does not take an advance degree in economics to realize that when state spending outgrows the increased income of the people that fund state government, evidentially there will be either a revenue shortfall or a backlash. HCR 3049 represents the latter.

## Proposed Amendments

- Midwest CPI + 2% (accounting for population and area growth)
- Simple Majority rather than 60% threshold

## Attached Data

1. Data – Personal Income vs. State Spending (1989-2009)\*
2. Graphs
  - a. Personal Income vs. General Fund Spending (1989-2009)\*
  - b. General Fund Spending as a Percentage of Personal Income (1989-2009)\*
3. General Fund Revenues By Source (1998-2008)\*\*
4. General Fund Revenues by Major Source (1998-2008)\*\*
5. State vs. Local Tax Collections (2007)\*\*

\*Source: North Dakota Taxpayers' Association Analysis

\*\*Source: N.D. Tax Commissioner's Office

# North Dakota

## Personal Income vs. General Fund Spending

### 1989-2009

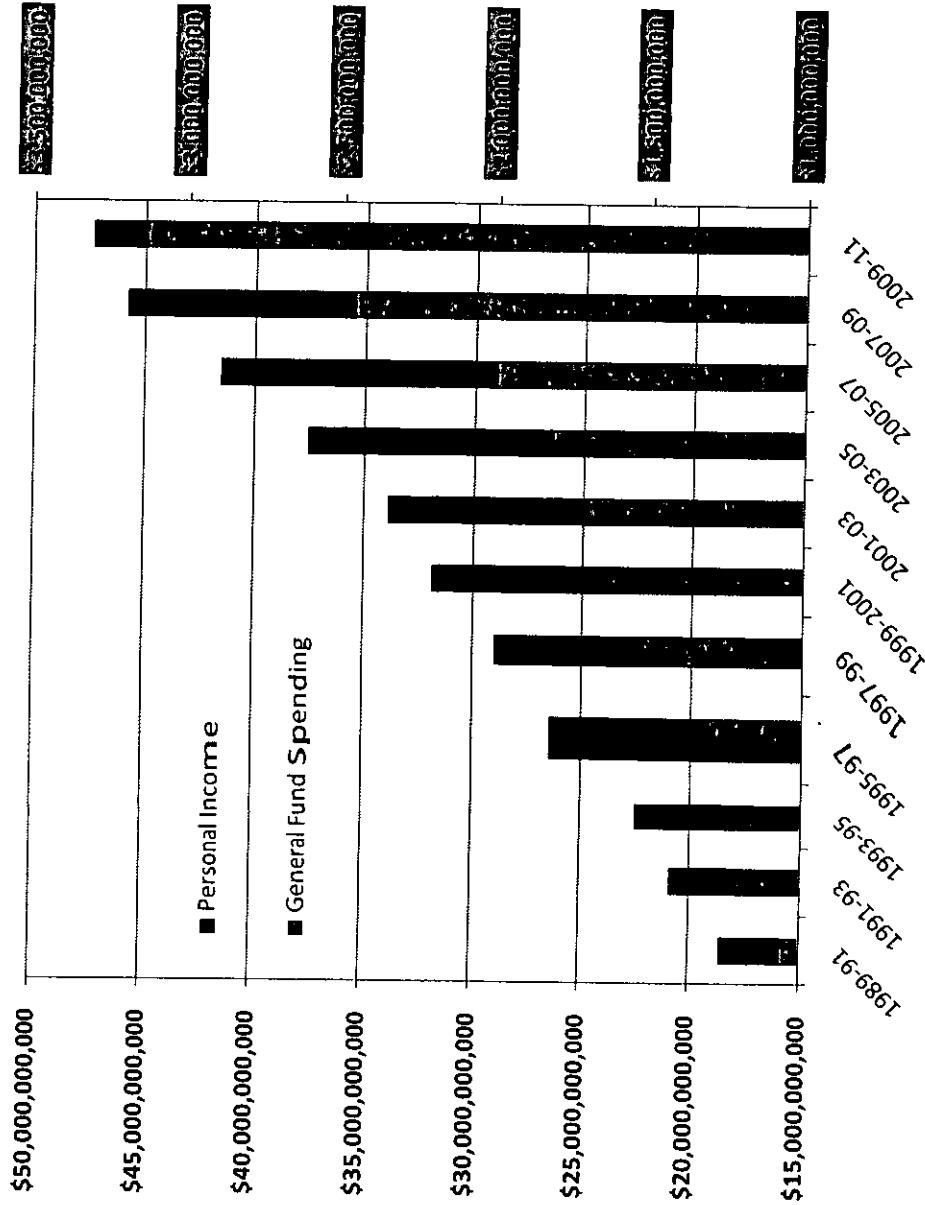
|           | <u>General Fund Spending</u> <sup>1</sup> | <u>General Fund Change %</u> | <u>Personal Income</u> <sup>1</sup> | <u>Income Change %</u> | <u>General Fund Spending As Percentage of Personal Income</u> |
|-----------|---|------------------------------|-------------------------------------|------------------------|---|
| 1989-91   | \$1,061,507,822                           | 0.26%                        | \$18,600,000,000                    | 10.1%                  | 5.71%   |
| 1991-93   | \$1,202,891,103                           | 13.3%                        | \$20,900,000,000                    | 12.4%                  | 5.76%   |
| 1993-95   | \$1,251,925,967                           | 4.1%                         | \$22,500,000,000                    | 7.7%                   | 5.56%   |
| 1995-97   | \$1,352,467,281                           | 8.0%                         | \$26,462,000,000                    | 17.6%                  | 5.11%   |
| 1997-99   | \$1,510,747,421                           | 11.7%                        | \$29,003,000,000                    | 9.6%                   | 5.21%   |
| 1999-2001 | \$1,614,882,210                           | 6.9%                         | \$31,879,000,000                    | 9.9%                   | 5.07%   |
| 2001-03   | \$1,728,640,384                           | 7.0%                         | \$33,908,000,000                    | 6.4%                   | 5.10%   |
| 2003-05   | \$1,816,885,505                           | 5.1%                         | \$37,571,000,000                    | 10.8%                  | 4.84%   |
| 2005-07   | \$2,000,537,074                           | 10.1%                        | \$41,553,000,000                    | 10.6%                  | 4.81%   |
| 2007-09   | \$2,461,973,956                           | 23.1%                        | \$45,799,000,000                    | 10.2%                  | 5.38%   |
| 2009-11   | \$3,135,581,237 <sup>2</sup>              | 27.4%                        | \$47,381,472,900 <sup>3</sup>       | 3.5% <sup>3</sup>      | 6.62%   |

<sup>1</sup> <http://www.legis.nd.gov/fiscal/biennium-reports/f60-2007/budgetanalysis/legislative/pdf/legislativebudget/apprpersonalincome.pdf>

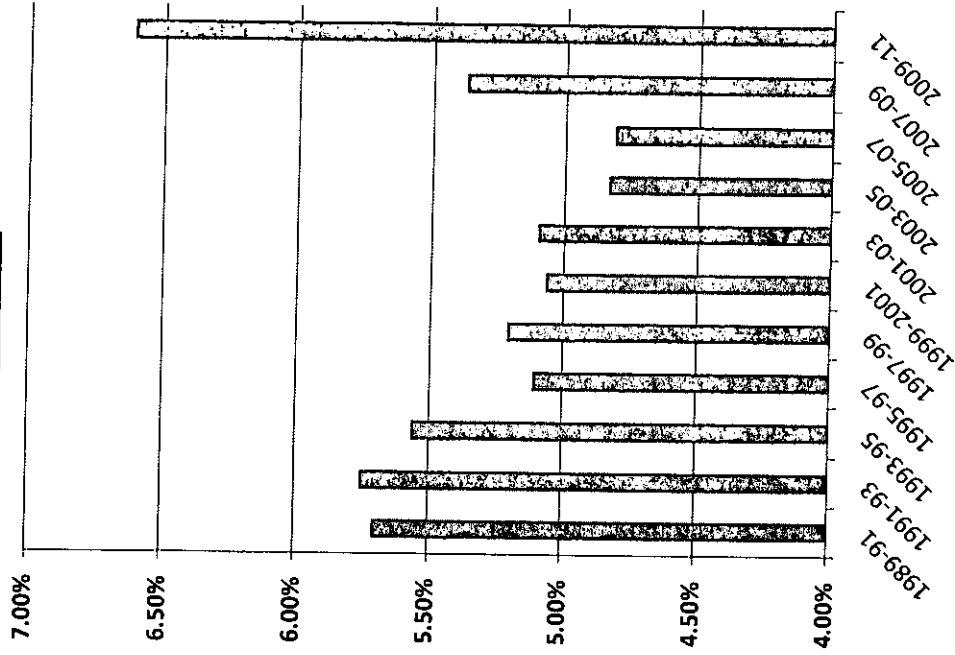
<sup>2</sup> <http://www.legis.nd.gov/fiscal/biennium-reports/f61-2009/budget-status/prevapprops.pdf>

<sup>3</sup> Based on 15.4% reduction in 2009 (Source: [http://www.minneapolisfed.org/news\\_events/rel/2009/forecast.cfm](http://www.minneapolisfed.org/news_events/rel/2009/forecast.cfm)), and a 6% increase in 2010

### Personal Income vs. General Fund Spending (1989-2009)

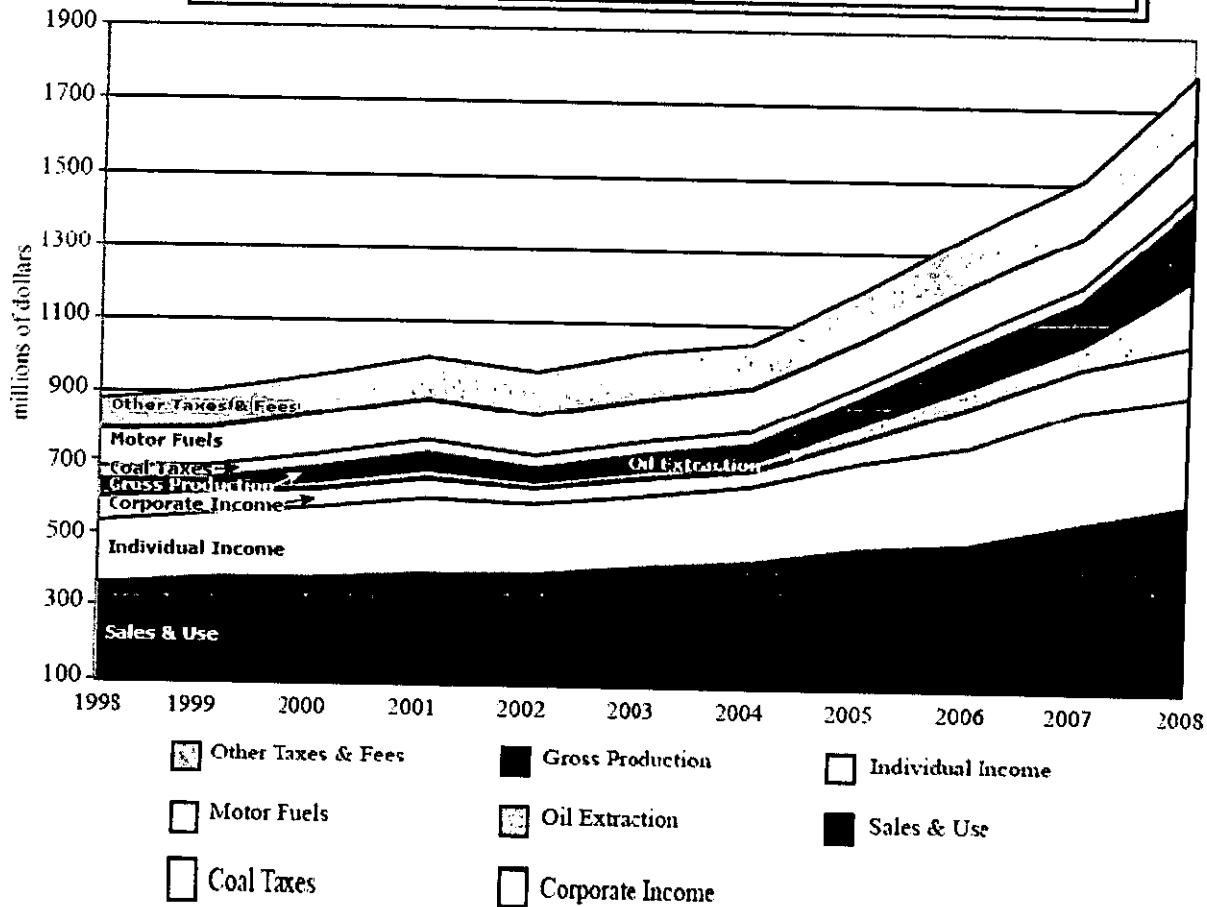


### General Fund Spending As Percentage of Personal Income



- 2009-11 General Fund spending on-pace for a 55% increase over the 2005-07 budget.
- 2009-11 Personal Income on-pace for a 14% increase over 2005-07 levels.
- General Fund Spending as a percentage of Personal Income on-pace to exceed 20-year highs.

## Office of State Tax Commissioner Net Collections Fiscal Years 1998-2008

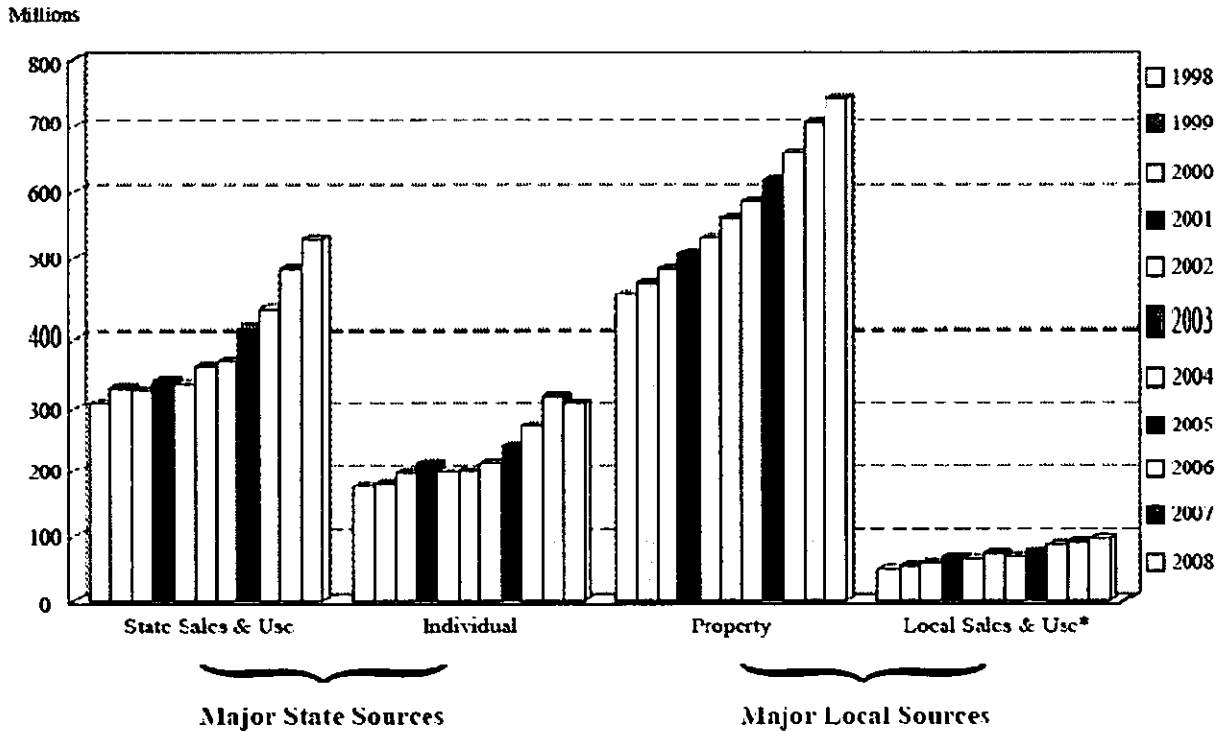


| Tax Type                      | 1998         | 1999         | 2000         | 2001          | 2002         | 2003          | 2004          | 2005          | 2006          | 2007           | 2008           |
|-------------------------------|--------------|--------------|--------------|---------------|--------------|---------------|---------------|---------------|---------------|----------------|----------------|
| Sales & Use                   | 363.2        | 383.2        | 386.6        | 398.6         | 401.6        | 424.9         | 441.4         | 480.6         | 495.6         | 556.0          | 611.6          |
| Ind. Income                   | 177.9        | 181.4        | 198.3        | 213.4         | 198.9        | 200.5         | 214.1         | 241.3         | 274.6         | 318.4          | 308.9          |
| Corp. Income                  | 65.5         | 57.9         | 47.5         | 51.6          | 41.6         | 46.0          | 40.3          | 62.7          | 111.8         | 120.0          | 140.7          |
| Oil Extraction                | 15.3         | 12.1         | 21.0         | 24.8          | 171          | 22.6          | 25.6          | 45.6          | 61.8          | 67.2           | 182.4          |
| Gross Production              | 29.5         | 22.7         | 38.0         | 46.0          | 36.5         | 43.5          | 47.5          | 74.0          | 104.4         | 118.8          | 209.4          |
| Coal Taxes                    | 37.3         | 38.3         | 39.0         | 39.5          | 38.2         | 39.4          | 40.6          | 37.7          | 39.8          | 40.9           | 39.0           |
| Motor Fuels                   | 105.1        | 103.1        | 111.8        | 112.7         | 111.7        | 115.3         | 119.9         | 122.2         | 134.1         | 140.0          | 144.0          |
| Other Taxes & Fees            | 86.0         | 106.9        | 108.9        | 117.7         | 121.3        | 131.2         | 121.9         | 135.5         | 148.0         | 158.5          | 165.3          |
| <b>Total Net Collections*</b> | <b>879.8</b> | <b>905.4</b> | <b>951.1</b> | <b>1004.3</b> | <b>966.9</b> | <b>1023.4</b> | <b>1051.3</b> | <b>1199.7</b> | <b>1370.0</b> | <b>1,519.8</b> | <b>1,801.3</b> |

\*Totals may not sum due to rounding

SOURCE: Office of State Tax Commissioner

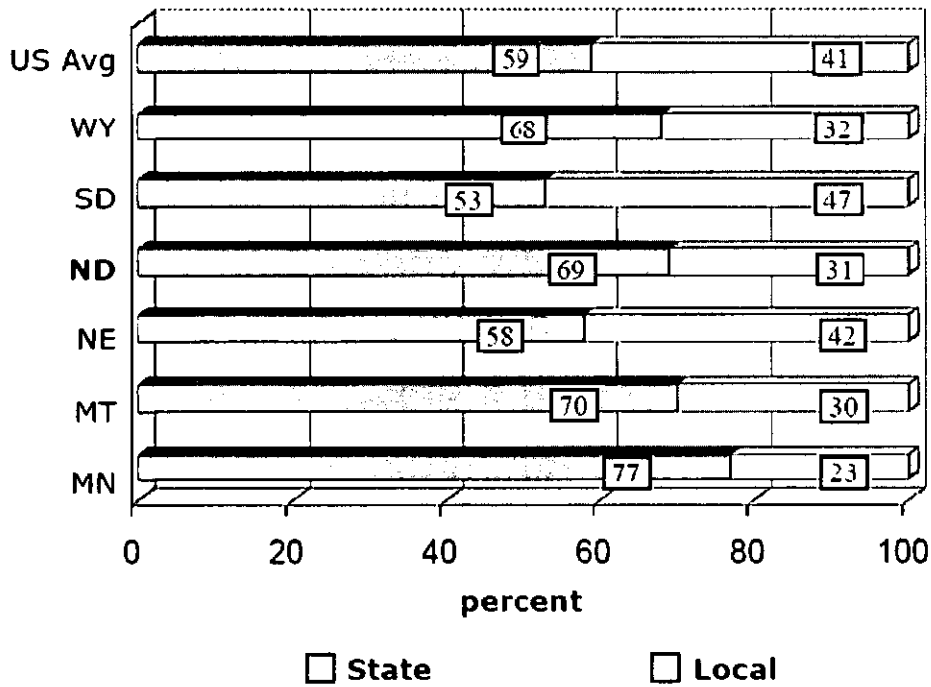
## Source of Major State and Local Taxes 1998-2008



| <u>Fiscal Year</u> | <u>State Sales &amp; Use Tax</u> | <u>Individual Income Tax</u> | <u>Property Tax</u> | <u>Local Sales &amp; Use Tax*</u> |
|--------------------|----------------------------------|------------------------------|---------------------|-----------------------------------|
| 1998               | 308,636,871                      | 177,904,251                  | 447,582,274         | 48,929,646                        |
| 1999               | 331,027,359                      | 181,389,034                  | 465,203,396         | 54,058,001                        |
| 2000               | 326,261,978                      | 197,101,325                  | 486,194,264         | 58,711,253                        |
| 2001               | 340,114,569                      | 213,442,150                  | 509,032,721         | 66,961,363                        |
| 2002               | 335,598,693                      | 198,922,525                  | 532,629,675         | 65,368,838                        |
| 2003               | 360,908,220                      | 200,528,205                  | 560,751,909         | 73,666,551                        |
| 2004               | 368,323,637                      | 214,145,899                  | 586,412,017         | 68,644,854                        |
| 2005               | 411,553,514                      | 241,319,731                  | 618,065,693         | 78,761,154                        |
| 2006               | 428,906,406                      | 274,621,741                  | 659,789,376         | 87,563,544                        |
| 2007               | 485,986,114                      | 318,433,494                  | 706,427,621         | 92,143,032                        |
| 2008               | 530,283,623                      | 308,889,352                  | 740,540,738         | 96,566,720                        |

\* The local sales tax figures do not include city occupancy or city restaurant and lodging taxes.

**State vs. Local Tax Collections**  
**Regional Comparison - 2007**



SOURCE: State Government Tax Collections: 2007 [www.census.gov/govs/statetax](http://www.census.gov/govs/statetax)