

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3049

2005 HOUSE CONSTITUTIONAL REVISION

HCR 3049

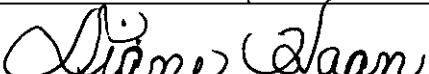
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3049

Constitutional Revision

Conference Committee

Hearing Date 2-23-05

| Tape Number               | Side A | Side B   | Meter #       |
|---------------------------|--------|--|---------------|
| 2                         |        | x  | 32.0 --- 50.7 |
|                           |        |  |               |
|                           |        |  |               |
| Committee Clerk Signature |        |  |               |

Minutes:

**Chairman Koppelman:** (32.0) opened the hearing on HCR3049.

**Rep Kretschmar:** introduced HCR3049 & referred to HCR3048 .... see attached minutes for HCR3048, P. 1, Meter #2.0

**Dale L Frink, ND State Engr & Chief Engr-Sec to the ND State Water Commission:** (33.1) appeared in opposition to HCR3049 ... see attached testimony.

**Rep Kasper:** (35.6) Where does the income that goes into this fund come from?

**Frink:** We get 20% of the oil extraction taxes into the resources trust fund, that's the biggest piece, but we also have some of the capital repayments from the SW Pipeline. We have interest money that accumulates there as well as some other sources.

**Rep Kasper:** Do you have a history of the revenue & expenditures coming into this fund in the last 10 yrs, and do you do projections of the income down the road?

**Frink:** We have all of the expenditures, I don't have them with me. The OMB does the projections ... we'll provide that information on both for you. On the resources trust fund, we basically set spending in accordance to the income & some yrs the income comes in less, which means we have to commit less money to water projects.

**Rep Klemin:** (37.9) The way I understood your testimony is that we won't be building any principal, to speak, of because if you're allowed to spend the income, you usually spend the income every yr on this appropriation bill, is that right?

**Frink:** We either spend or commit to a project, like to Grand Forks flood control or Maple River Dam & it's not necessarily built that biennium, but we did commit it for longer term. It's unusual that you only have \$7,000 left; the Water Commission's current appropriation bill includes up to \$60 M of bonding & that bonding has been delayed. As a result, we are spending down with the 2 trust funds that we have & that's why the \$7,000.

**Rep Klemin:** If this resolution passes & became part of the constitution & that sort of freezes things in time, so to speak; hypothetically, you'd only have \$7,000 in the principal if you'd already spent all of the income that's available to the appropriations. Any new income coming, all this would allow that to be spent anyway, so what we've actually done was frozen \$7,000 in this fund, which really does nothing.

**Frink:** That's the essence of my testimony.

**Chairman Koppelman:** (40.4) I'm not sure if income is a good question, whether income is defined as anything additional deposited to the fund or whether by income it means proceeds from the fund, or interest & income, as we've learned from the last couple of resolutions we've heard, has to do with the amount of money earned on the principal, as I understand it. If the oil

extraction tax were to put \$10 M or \$15 M into this fund every biennium, my read on it if this were to be part of the constitution, would be that that would stay there & the only thing that could be distributed would be any interest or income.

**Rep Klemin:** That would be a different interpretation than what you had. If your interpretation is correct, then that would leave just a very small amount of money available for *can't understand ?library?*.

**Frink:** That's right, we'd have \$15 M less than we have now.

**Rep Kasper:** (41.6) On the other side of the coin, if you had \$15 M in there that you couldn't spend, but you could spend the income, you could, theoretically, use it as collateral against the bond, so you could really get the money to spend the \$15 M, use the bond for it & have the source where you give the bond to repay the money. So really, you could do what you want to do if this passed by bonding.

**Frink:** That would work if the legislature gave us the authority to bond out of the resource trust fund; we do not have that at this point. In order for that to work, the interest that we'd receive in the resource trust fund would have to be more than the interest that we'd pay out for bond.

**Chairman Koppelman:** I've asked Jim Smith, from Legislative Council, to come. He's here as a resource person, not able to testify in support or opposition to the bill. Does the committee have any questions for him?

**Rep Conrad:** (43.7) How much of the interest from the foundation aid stabilization fund goes into general fund? What was that in the last biennium?

**Jim Smith, Legislative Council:** I'm not certain, but we'll look & get the information to you.

**Chairman Koppelman:** How are the funds invested?

**Smith:** I believe through the Bank of ND.

**Chairman Koppelman:** (44.8) This bill is referred to as a trust fund but doesn't operate that way from the testimony we've heard ... is that the history of it?

**Smith:** There's several statutory trust funds that have been called trust funds that aren't the same as the one created by the constitutional amendment. Basically, that language has been added just to designate that there's a purpose for monies that are in that fund.

**Chairman Koppelman:** (46.5) So even though the constitution calls it a trust fund & also says principle & income may be distributed.

**Rep Klemin:** What you're saying is that a trust fund doesn't necessarily mean you can't use the principle, it's just that the fund's restricted to a particular purpose.

**Chairman Koppelman:** (47.3) The distribution of the tobacco settlement monies have been partially earmarked for water projects. Is that through this resource trust fund?

**Smith:** The allocation on the tobacco settlement is: 45% water development trust fund; 45% common schools trust fund; 10% community health fund. The funds dealing with water are: resources trust fund & the water development trust fund are the 2 major ones. The 2 trust funds that come to mind were the common schools fund, only the interest can be used on that one & then the other 1 is the veterans post war trust fund, which by initiated measure, only the income off that can be used for purposes & the veterans administrative committee uses that, so that isn't even appropriated anymore. Those are the only 2 true trust funds.

**Chairman Koppelman:** Any further testimony in opposition to HCR3049, if not, we'll close the hearing.

*SEE THESE MINUTES TO GO WITH  
REP KRETSCHMAR'S INTRO OF HCR3049*

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3048

Constitutional Revision

Conference Committee

Hearing Date 2-23-05

| Tape Number               | Side A | Side B | Meter #       |
|---------------------------|--------|--------|---------------|
| 2                         |        | x      | 1.0 ---- 32.0 |
|                           |        |        |               |
|                           |        |        |               |
| Committee Clerk Signature |        |        |               |

Minutes:

**Chairman Koppelman:** (1.0) opened the hearing on HCR3048.

**Rep Kretchmar:** (2.0) I introduced HCR3048 & 3049 because I feel trust funds should be trust funds. This bill relates to Sect 24, of Article 10, of the constitution & this was within our constitution in about 1994 & I was promoting this then. When that resolution passed it did get 50% of that money into the common schools trust funds, where right now it's safe. Then 50% goes into the foundation aid stabilization fund. Under the present constitution, money can be taken out of the principle in that fund (the corpus in that part of the trust) & used for the common schools. On HCR3048, that part also would become a permanent trust fund in the legislature & could only use the interest on the income fund for the trust purposes. I don't believe you should be able to dig into a trust fund. It has always been very tempting for the legislature to take money out of the principle in the of trust funds we have. Currently, 1/2 of the resources trust funds & all of the other trust funds can be used up by the legislature as they see fit. At this time

there's about \$7,200 in the resources trust fund & about \$13.75 M in the foundation aid stabilization fund. These resolutions, if adopted, would make those 2 funds, that we call trust funds, really trust funds.

**Rep Klemin:** (5.3) This foundation aid stabilization fund in the bill we're looking at is not referred to as a trust fund; is it referred to as a trust fund somewhere else?

**Rep Kretschmar:** It's part of the 20%, the common schools trust fund is mentioned, but the other one is just a fund. I would like to have it as a trust fund.

**Rep Klemin:** So, what you're really asking is to take this fund & turn it into a trust fund?

**Rep Kretschmar:** That's correct. Oil was discovered in ND in 1951 & I believe the 1st oil tax was imposed by the 1953 session of the state legislature.

**Rep Kasper:** (6.7) Are you saying that the foundation aid fund has been raided in the past, where the principle has been taken out to be used for other things besides education?

**Rep Kretschmar:** I don't think money is taken out ... it's taken out for school purposes. I don't have a record of what's been taken out of fund at this time. There's a tendency, in the legislature, to take money out of trust funds.

**Chairman Koppelman:** We'll ask our Robert, our intern, to do some research & find out what has been taken out & for what purpose & to what extent the principle has reduced.

**Rep Conrad:** (7.5) You still want the fund to be used for foundation aid?

**Rep Kretschmar:** Certainly

**Chairman Koppelman:** (7.8) If this resolution & HCR3037, that we heard this morning, were to pass, what would be the net effect? Would one effect the other in any way?

**Rep Kretschmar:** Clearly HCR3048 would be effected, because 50% of the money goes into the funds for trust funds, but if it passed the other 50% would become permanent.

**Chairman Koppelman:** You've referred to HCR3037 ... when you define interest & income that the other resolution is trying to eliminate in the constitution; my understanding that the reason for that effort is that in today's world of investments \_\_\_?\_\_\_ can be defined as interest & income. If we only say interest & income, what can happen, as I understand it, is the value of the fund might become \$2 or \$3 or \$5 over time, but if some of that growth is not classified as income, it can't be distributed, which means that the fund they actually increased in a modern value, now can be distributed. Is that your intent, or is your intent to spend everything \_\_\_?\_\_\_?

**Rep Kretschmar:** My intent is to keep the principle or corpus of those trust funds in tact.

**Chairman Koppelman:** If the principle isn't being dipped into but it's growing; is it your intent to have it grow or protected?

**Rep Kretschmar:** As I understood Mr Preszler, on HCR3037, they use 1/2 of that fund in equity investments & those will grow or shrink. My intent in these resolutions would be for that growth to stay in the principle of the fund & they could use those extra dollars for earning more income. The growth may well be slower, but remember the old fable about the tortoise & hare.

**Rep Klemin:** This would be the opposite of HCR3037. Is this inconsistent with what's being done on the other one?

**Rep Kretschmar:** I think you could argue to a certain extent that it's inconsistent. The people that are on the land dept assured us that they will prudently manage these funds & I believe them. In 20 yrs from now, I'd say they'll be 5 different people on the land board & they will have the

authority to manage the funds as they see fit. The commons school trust funds has been around since statehood & has been managed well & done well & I'd like to keep it that way.

**Bev Nielson, NDSBA:** (11.8) appeared in opposition to HCR3048. From my perspective, the foundation aid stabilization fund is not referred to as a trust fund. The purpose of the fund is to be available to make schools whole when the state falls short in the ability to pay out their commitment in foundation aid. In my recollection, in the 28 yrs I've been at it, I think we may have used it 3 times. 2 yrs ago when the Governor made the allotment (the 10% cut); this helps schools so they don't have to cut staff in the middle of the biennium; the only thing the money is used for is to replace foundation aid when there's a shortfall in state revenue. It's not the type where there are annual payments made out of it so you could compute the interest & set the per pupil amount, so every single yr schools are receiving a payment out of the school lands trust fund; that is a trust fund. This is an emergency fund, the money needs to be liquid, it may not get high returns because you never know when there may be a need for the money. It's considerably smaller then the land trust fund & the interest that it would earn in a yr would never be sufficient to meet a shortfall. The purpose of this fund is to make up shortfalls from state funding. We don't get annual payments from this fund. The land board has nothing to do with this money, they don't invest it, it isn't in their bank account. Restricting the distribution to just interest would likely be an insufficient amount, preventing the fund from accomplishing it's very purpose. We do oppose restricting the distribution of funds to just that amount because it goes against the purpose of the fund.

**Rep Meter:** (15.3) How much money has been pd out of the school trust fund in the last 2 yrs?

**Nielson:** I don't know; I don't have the history. There may have been 3 allotments in the recent past & I don't know how much. If we can't utilize the fund to make up for the losses when we have the need, it doesn't really serve any purpose.

**Rep Kasper:** (16.3) L. 18 on the bill says if this amendment were not passed *50% of the money must be deposited in the foundation aid stabilization fund in the state treasury; the interest income of which must be transferred to the state general fund on July 1st of each year.* My 1st observation is, if current law requires us to deposit all the income into the state general fund, this fund is currently not growing, is that correct?

**Nielson:** If the interest is going into the general fund, then we're not benefiting from the interest at all & the only money we have to pay out in a shortfall would be that principle.

**Rep Kasper:** Under Rep Ketchmar's proposal, no interest or income is going to be pd out, it's going to start building up in the fund, so the fund's going to start getting bigger. On L. 20, it says *only the interest & income of the foundation aid stabilization fund may be expended, pursuant to the Governor, if there's a shortfall.* So there could be yrs where there's no shortfall, so instead of the money going to general fund, this fund is going to get bigger, so at that at that point & time when you need it for education, you're going to have whole lot more money to take out. Doesn't that make sense?

**Nielson:** It could make sense, but if we needed it next yr it wouldn't necessarily make sense, because the interest might only be \$800,000, which wouldn't meet the need at all if we had a shortfall or a 10% allotment.

**Rep Kasper:** With what you're getting out of this legislature, I don't think you're going to need it.

**Nielson:** It isn't that you didn't give us enough. If you're not able to meet the obligation of what you passed, ie: if we were to be getting a certain amount & something happens with the economy & you don't have enough money; this fund will make up the difference. It might be worth looking into what all this means, but we wouldn't be in favor of a constitutional change before we had that type of a study.

**Chairman Koppelman:** (18.8) There have been times, back in the late 1980's & early 90's, when the legislature had appropriated a certain amt of money for foundation aid & because of the economy & revenues not keeping pace with projections, the schools were actually shorted, there wasn't enough money there to meet appropriations that the state had made.

**Rep Klemin:** When was the last time this has been used?

**Nielson:** I think when Gov Hoeven had to make the 10% allotment, was 2 or 3 yrs ago. There was that 10% across the board cut in the middle of the biennium; schools weren't impacted & I think they accessed this fund at that time.

**Rep Klemin:** (20.1) You're not opposed to the interest going into the general fund, what you're opposed to is not being able to use the principle when you need it, is that right?

**Nielson:** I think that would be limiting us to a pretty small amount of money on occasion.

**Rep Conrad:** (20.5) How much is being added every yr & how much will we project that we'll add in the next 2 yrs? ... and for Rep Ketchmar, is this what you intended that we would have, is that we would have this fund that would keep growing?

**Chairman Koppelman:** (21.0) The information I've just been handed (from Intern, Robert) (see Attach "B")

**Rep Kasper:** (21.9) Wouldn't you agree, if Rep Kretschmar's proposal would work & we wouldn't need to tap the fund over a period of 3,4,5 or 6 yrs, we could build this up to a whole lot of money so you'd have some meaningful income if the fund needed to tapped & would still be building the fund? Certainly you're taking a chance, in the short term, but think of the about the long term, if you get, instead of \$13 M, you get \$80 M, which could offset shortfalls for education. You've got look beyond the short term fear & think maybe long term might be better for you.

**Nielson:** It isn't that I don't understand the concept that you're talking about & I totally agree with the land trust because we have annual payments out of that. In my opinion this fund was meant to be for emergency purposes, which is right now, whenever right now happens to occur.

**Rep Conrad:** (23.9) I'd like to see the legislation that implemented this; what are the rules & what is the purpose.

**Chairman Koppelman:** We'll have the intern (Robert) research that also, so by Monday we'll have some more answers on that. The purpose of this fund was to be a cushion when there weren't enough dollars to meet the appropriations the legislature had set.

**Rep Kasper:** I'd like to know if the money was appropriated by the legislature out of this fund or if it was pulled out of the fund by the governor's executive board. I'd like the history on that.

**Chairman Koppelman:** It's my understanding that the fund was set up, so that when the legislature appropriates money & if, in the middle of a biennium, it's not enough, the Governor can take the money out of the stabilization fund to meet with the legislature appropriate. We're giving the executive the authority to meet our obligation, so no new appropriation is required because the appropriation was already made. We will get the history on that.

**Doug Johnson, ND Counsel of Education Leaders:** (27.3) appeared in opposition to HCR3048. It should be noted that it is a foundation aid stabilization fund & that's its main purpose. It's to insure whenever there might be an economic downturn in our income in the state of ND, the foundation aid payment can be met, the obligation (that the legislature had met) in an off yr, can be pd by the state ... that's the purpose of it ... to stabilize foundation aid payment should there be a shortfall in our income in the state. If there would be a change in it, I would say to add income & interest to it, but still let it pay out the principle if you have a shortfall. It might be 20 yrs before you need it again, so you would have the compounding ability of the income interest coming off that over a period of time. That's my recommendation & with all of the questions that have come up I'd think you'd be better with a "Do Not Pass" on HCR3048.

**Chairman Koppelman:** (29.0) In answer to your question, Rep Kasper, during the 2001-2003 biennium revenues were not coming in as we hoped. The Governor had an allotment which was basically a cut that would move it over 1% in all budgets to make sure we kept pace with revenues. This fund was dipped into to make up for that so the foundation aids for our schools would be made whole & wouldn't suffer. The result was when we came into that legislative session it was with about a \$50 M shortfall.

**Rep Conrad:** (30.0) My question is for Rep Kretschmar. When the voters voted on this, it was on 2 different things; do think they understood that it was just a stabilized fund & not a trust?

**Rep Kretschmar:** They passed it in 1994.

**Rep Klemin:** Let's say that this is for a trust fund as you envisioned this resolution & you look at the revenues & expenditures from 2001-03 biennium. There's more expenditures than there

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Constitutional Revision

Bill/Resolution Number HCR3048

Hearing Date 2-23-05

was revenues; if that arises again, where you can only spend the income, where do you get the rest of the money to make up the shortfall if you can't go to the principle?

**Rep Kretschmar:** The legislature can appropriate money for it.

**Rep Klemin:** If the Governor had to call a special session for it, it could cost as much as the shortfall.

**Chairman Koppelman:** (31.4) No further testimony. Hearing on HCR3048 closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3049

Constitutional Revision

Conference Committee

Hearing Date 2-28-05

| Tape Number | Side A | Side B | Meter #       |
|-------------|--------|--------|---------------|
| 1           | x      |        | 18.5 --- 26.0 |
|             |        |        |               |
|             |        |        |               |

Committee Clerk Signature *Diane Vaan*

Minutes:

**Chairman Koppelman:** (18.5) We'll take a look at HCR3049.

**Rep Ktretschmar:** I'd like to comment that HCR3048, the amendment that I've asked LC to prepare for me, would be a hog house & it would put a cap on the amt of \$ that would go into foundation aid stabilization fund. The number I've asked them to put into the amendment is \$20 M, so that when that fund reached \$20 M & any additional \$ was eligible to go in there, that the \$ would be put into the common schools trust fund to stay. The \$20 M is an arbitrary figure, maybe it should be another number.

**Chairman Koppelman:** (20.1) That sound interesting. You should have each received a yellow covered packet. They are summaries of the Resources Trust Fund, which is in HCR3049 & also HCR3048. This should answer some of the questions.

**Rep Klemin:** (20.5) What's this memo from Joe Westby & is it part of HCR3049?

**Chairman Koppelman:** Indirectly ..... it has to do with foundation aid & total state support of K-12 education. If you recall in Mr Westby testified, originally in opposition to HCR3048, his concerns had to do partially with the amount state funding of K-12 education in ND, & he essentially gave that all to the committee in the form of percentages. We'd asked for some dollar numbers to be put with those percentages because, since the legislature doesn't control the cost of education, it's a little tough to deal with comments about the percentage of that number that we contribute. He forwarded us these numbers ... I'll keep these numbers just for information. Is there a motion or discussion on HCR3049?

**Rep Kretschmar (22.2) moved a "Do Not Pass" Rep Klemin seconded the motion**

**Rep Kretschmar:** In the testimony before the committee, there presently is \$7,200 in this fund & to put that into a permanent trust may not the thing to do at this point & time. It may be that the legislature over some period of time should look into that & see if some other direction should be given to that fund. At this point & time, I don't think we should put this resolution out to make it a permanent, untouchable trust fund.

**Rep Klemin:** I think the testimony of Dale Frink, the state engineer, was particularly illuminating as far as what this fund is used for, where the \$ comes from that's from the oil extraction tax that goes into this, which is then, in turn spent out on water projects. If we could only spend the interest we wouldn't have very much for water projects, which are very important, especially in drought yrs.

**Chairman Koppelman:** I appreciate Rep Kretschmar's point about trust funds being trust funds, I think sometimes when it comes to financing at the state level, we have a tendency to have all

sorts of little pots of money around & sometimes we refer to them as trust funds, when in reality, they're often not.

**Rep Klemin:** (24.6) I'll disagree with you on what a trust fund is. I think a trust fund means that the \$ is devoted to a specific purpose, not that you can't spend the principle, or the corpus going off it, you can't use it for general revenue.

**Chairman Koppelman:** (25.1) I agree, it may not be that you can't spend the corpus but for example Social Security, if Congress dips into the SS's so called trust fund, in order to spend money for general appropriations, it may be arguably inappropriate. Any further discussion? if none we'll call roll on a **Do Not Pass on HCR3049**.

6 Yes      0 No      1 Absent & Not Voting      Carrier: Rep Kretschmar

Date: 2-28-05

**Roll Call Vote #:**

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HCR 3049**

## **CONSTITUTIONAL REVISION**

Check here for Conference Committee

## **Legislative Council Amendment Number**

Action Taken No not pass

Motion Made By Kieteschmae Seconded By Kasper

Total (Yes) 6 No 0

Absent / .

## Floor Assignment

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

**REPORT OF STANDING COMMITTEE (410)**  
March 1, 2005 4:27 p.m.

Module No: HR-37-3914  
Carrier: Kretschmar  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HCR 3049: Constitutional Revision Committee (Rep. Koppelman, Chairman)**  
recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
HCR 3049 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

HCR 3049

## **TESTIMONY ON HOUSE CONCURRENT RESOLUTION 3049**

### **House Constitutional Revisions Committee**

**Dale L. Frink  
North Dakota State Engineer, and  
Chief Engineer-Secretary to the  
North Dakota State Water Commission**

**February 23, 2005**

Mr. Chairman and Members of the House Constitutional Revisions Committee, I am Dale Frink, North Dakota State Engineer, and Chief Engineer-Secretary to the North Dakota State Water Commission. I appear with concerns regarding House Concurrent Resolution 3049.

Clearly, House Concurrent Resolution 3049 was crafted with good intentions. It is designed to provide a viable long-term funding source for water projects and, for this, I thank the sponsors.

I do have, however, a few concerns and maybe some questions regarding this resolution. First, the resolution implies that there is a large principal balance in the Resources Trust Fund. As of February 21, 2005, the balance was only \$7,220. The resolution allows the expenditure of all new income, which is currently estimated to be \$15.4 million during the 2005-2007 biennium.

Second, water projects are notoriously slow to develop and implement. Typically, funding involves multiple sources - local, state and federal, and projects can be delayed by a reduction of funds at any level. Permits, lawsuits, and other issues also delay projects. As a result, funds are often committed but remain unspent for several years. The question is whether this amendment to the Constitution would allow for funds to carry over from biennium to biennium without becoming part of the protected principal.

Third, the State Water Commission's appropriation bill, House Bill 1021, appropriates all of the money in the Resources Trust Fund. This has been the procedure for years. This is largely due to the large demand for funding water projects like the Grand Forks Flood Control, Southwest Pipeline Project, Northwest Area Water Supply (NAWS) Project, Fargo Flood Control, Maple River Dam, Devils Lake, and a host of smaller projects. Because the list of projects grows every biennium, it will be difficult to build up a principal balance in the Resources Trust Fund.

Because of these issues, I do not support House Concurrent Resolution 3049.

**Koppelman, Kim A.**

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**From:** Frink, Dale L.  
**Sent:** Thursday, February 24, 2005 2:58 PM  
**To:** Koppelman, Kim A.  
**Subject:** FW: Resources Trust Fund

Representative Koppelman...This is the information requested for the Resources Trust Fund regarding House Concurrent Resolution 3049. Feel free to contact me with questions or for additional information.

Dale Frink  
State Water Commission

-----Original Message-----

**From:** Laschkewitsch, David A.  
**Sent:** Thursday, February 24, 2005 9:05 AM  
**To:** Frink, Dale L.  
**Subject:** Resources Trust Fund

The House Constitutional Revision committee has requested expenditure history of the Resources Trust Fund. I have gone back to the 1993 biennium (July 1, 1993 – June 30, 1995.)

|                   |              |
|-------------------|--------------|
| 1993 Biennium     | \$ 8,045,000 |
| 1995 Biennium     | 10,631,606   |
| 1997 Biennium     | 2,857,000    |
| 1999 Biennium     | 4,511,000    |
| 2001 Biennium     | 5,263,000    |
| <br>2003 Biennium |              |
| Through Dec. 31   | 29,675,000   |

Revenue projections for the Resources Trust Fund in the 2005 – 2007 biennium include the following:

|                            |               |
|----------------------------|---------------|
| Oil Extraction Taxes       | \$12,555,437  |
| Interest Revenue           | 824,050       |
| MRI Loan Repayments*       | 995,000       |
| Southwest Pipeline Revenue | 1,000,000     |
| Mineral Royalties          | <u>10,000</u> |
| Total                      | \$15,384,487  |

\*Municipal, Rural and Industrial water supply program (MRI)

David Laschkewitsch  
Accounting Manager  
ND State Water Commission  
328-1956

HCR 3040  
HCR 3049

**SUMMARIES OF**  
**RESOURCES TRUST FUND**  
**AND**  
**FOUNDATION AID STABILIZATION FUND**

## ANALYSIS OF THE RESOURCES TRUST FUND 2003-05 AND 2005-07 BIENNIUMS (REFLECTING THE 2005-07 BIENNIAL EXECUTIVE BUDGET RECOMMENDATIONS)

|                                   | 2003-05 Biennium                | 2005-07 Biennium                |
|-----------------------------------|---------------------------------|---------------------------------|
| Beginning balance                 | \$20,129,911                    | \$37,492,816                    |
| Add estimated revenues            |                                 |                                 |
| Oil extraction tax collections    | \$15,424,146                    | \$12,555,437                    |
| Repayments and reimbursements     | 1,805,000                       | 2,005,000                       |
| Investment earnings/miscellaneous | 133,759                         | 824,050                         |
| Reimbursement from bond proceeds  | <u>31,150,000<sup>3</sup></u>   |                                 |
| Total estimated revenues          | <u>\$48,512,905<sup>1</sup></u> | <u>\$15,384,487</u>             |
| Total available                   | \$68,642,816                    | \$52,877,303                    |
| Less estimated expenditures       |                                 |                                 |
| State Water Commission            |                                 |                                 |
| Grants and administration         | <u>\$31,150,000<sup>2</sup></u> | <u>\$52,863,116<sup>4</sup></u> |
| Total estimated expenditures      | <u>\$31,150,000</u>             | <u>\$52,863,116</u>             |
| Ending balance                    | <u>\$37,492,816</u>             | <u>\$14,187</u>                 |

**NOTE:** The resources trust fund was created pursuant to passage of measure No. 6 in the November 1980 general election. Measure No. 6 created a 6.5 percent oil extraction tax, 10 percent of which was to be allocated to the resources trust fund. In June 1990 the Constitution of North Dakota was amended to establish the resources trust fund as a constitutional trust fund and provide that the principal and income of the fund could be spent only upon legislative appropriations for:

- Constructing water-related projects, including rural water systems.
- Energy conservation programs.

In November 1994 the voters of North Dakota approved a constitutional amendment, which is now Article X, Section 24, of the Constitution of North Dakota, to provide that 20 percent of oil extraction taxes be allocated as follows:

- Fifty percent (of the 20 percent) to the common schools trust fund.
- Fifty percent (of the 20 percent) to the foundation aid stabilization fund.

North Dakota Century Code Section 57-51.1-07 provides that oil extraction tax revenues be distributed as follows:

- Twenty percent to the resources trust fund.
- Twenty percent allocated as provided in Article X, Section 24, of the Constitution of North Dakota.
- Sixty percent to the state general fund.

**'Estimated revenues - 2003-05 -** The estimated revenues for the 2003-05 biennium reflect actual revenues through September 30, 2004, and estimated revenues for the remainder of the biennium. The current estimate of revenues for the biennium is \$6,074,202 more than the estimate of \$11,288,703 made at the close of the 2003 legislative session. The increase is attributable to the following changes:

|  |                    |
|--|--------------------|
| Increase in oil extraction tax collections                               | \$6,026,109        |
| Increase in repayments for previously funded water projects              | 4,296              |
| Increase in investment income  | 43,797             |
| <b>Net increase from revenue amount previously estimated for 2003-05</b> | <b>\$6,074,202</b> |

<sup>2</sup>The 2003 Legislative Assembly appropriated \$13,650,000 from the resources trust fund to the State Water Commission for water development projects. Section 10 of Senate Bill No. 2022 provides that if 2003-05 biennium revenues are in excess of \$13,650,000, any excess is appropriated to the State Water Commission, subject to Emergency Commission approval. In January 2004 the Emergency Commission and Budget Section approved a transfer of \$14.5 million of spending authority within the special funds line item from the water development trust fund to the resources trust fund for water projects. The transfer of spending authority was requested to more accurately reflect the actual beginning balances of each of the funds. Actual expenditures during the 2001-03 biennium were higher than projected from the water development trust fund and less than projected from the resources trust fund (the July 1, 2003, beginning balance of the resources trust fund was estimated to be \$3.7 million at the close of the 2003 legislative session). In addition, the Emergency Commission and Budget Section approved an additional \$3 million of spending authority from the resources trust fund for water projects based on 2003-05 biennium estimated revenues. The adjusted spending authority for water projects is approximately \$13 million (excluding estimated bond payments) from the water development trust fund and \$31,150,000 from the resources trust fund.

<sup>3</sup>Based on the executive budget recommendation, the State Water Commission plans to reimburse the 2003-05 biennium expenditures incurred from the resources trust fund with bond proceeds prior to the end of the 2003-05 biennium. Actual expenditures of \$29.6 million have been incurred from the resources trust fund as of December 15, 2004.

<sup>4</sup>Section 4 of House Bill No. 1021 (2005) provides \$52,863,116, or any additional amount that becomes available, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission.

## ANALYSIS OF THE RESOURCES TRUST FUND 2001-03 AND 2003-05 BIENNIUMS

|  | <b>2001-03 Biennium</b>         | <b>2003-05 Biennium</b>         |
|--|---------------------------------|---------------------------------|
| Beginning balance                                      | \$14,727,288                    | \$3,695,891                     |
| Add estimated revenues                                 |                                 |                                 |
| Oil extraction tax collections                         | \$8,173,330                     | \$9,398,037                     |
| Repayments and reimbursements                          | 1,815,739                       | 1,800,704                       |
| Investment earnings/miscellaneous                      | <u>697,565</u>                  | <u>89,962</u>                   |
| Total estimated revenues                               | <u>10,686,634</u>               | <u>11,288,703</u>               |
| Total available  | \$25,413,922                    | \$14,984,594                    |
| Less estimated expenditures                            |                                 |                                 |
| State Water Commission                                 |                                 |                                 |
| Grants and administration (2001 HB 1023; 2003 SB 2022) | <u>\$21,718,031<sup>1</sup></u> | <u>\$13,650,000<sup>2</sup></u> |
| Total estimated expenditures                           | <u>21,718,031</u>               | <u>13,650,000</u>               |
| Ending balance   | <u>\$3,695,891</u>              | <u>\$1,334,594</u>              |

**NOTE:** The resources trust fund was created pursuant to passage of measure No. 6 in the November 1980 general election. Measure No. 6 created a 6.5 percent oil extraction tax, 10 percent of which was to be allocated to the resources trust fund. In June 1990 the Constitution of North Dakota was amended to establish the resources trust fund as a constitutional trust fund and provide that the principal and income of the fund could be spent only upon legislative appropriations for:

- Constructing water-related projects, including rural water systems.
- Energy conservation programs.

In November 1994 the voters of North Dakota approved a constitutional amendment, which is now Article X, Section 24, of the Constitution of North Dakota, to provide that 20 percent of oil extraction taxes be allocated as follows:

- Fifty percent (of the 20 percent) to the common schools trust fund.
- Fifty percent (of the 20 percent) to the foundation aid stabilization fund.

North Dakota Century Code Section 57-51.1-07 provides that oil extraction tax revenues be distributed as follows:

- Twenty percent to the resources trust fund.
- Twenty percent allocated as provided in Article X, Section 24, of the Constitution of North Dakota.
- Sixty percent to the state general fund.

<sup>1</sup> Section 3 of 2001 House Bill No. 1023 appropriated \$21,718,031 from the resources trust fund to the State Water Commission. The State Water Commission has available 2001-03 biennium spending authority from the water development trust fund and the resources trust fund and has indicated the actual ending balance may be higher depending on the funding source used for remaining water project expenditures.

<sup>2</sup> The Legislative Assembly appropriated \$13,650,000 from the resources trust fund to the State Water Commission for water development projects. Section 10 of Senate Bill No. 2022 provides if 2003-05 biennium revenues are in excess of \$13,650,000, any excess is appropriated to the State Water Commission, subject to Emergency Commission approval.

## **ANALYSIS OF THE RESOURCES TRUSTED FOR 1999-2001 AND 2001-03 BIENNIAWS**

**NOTE:** The resources trust fund was created pursuant to passage of measure No. 6 in the November 1980 general election. Measure No. 6 created a 6.5 percent oil extraction tax, 10 percent of which was to be allocated to the resources trust fund. In June 1990 the Constitution of North Dakota was amended to establish the resources trust fund as a constitutional trust fund and provide that the principal and income of the fund could be spent only upon legislative appropriations for:

- Constructing water-related projects, including rural water systems.  
Energy conservation programs.**

In November 1994 the voters of North Dakota approved a constitutional amendment, which is now Article X, Section 24, of the Constitution of North Dakota to provide that 20 percent of oil extraction taxes be allocated as follows:

- Fifty percent (of the 20 percent) to the common schools trust fund.  
Fifty percent (of the 20 percent) to the foundation aid stabilization fund.**

**North Dakota Century Code Section 57-51.1-07 provides that oil extraction tax revenues be distributed as follows:**

- Twenty percent to the resources trust fund.  
Twenty percent allocated as provided in Article X, Section 24, of the Constitution of North Dakota.  
Sixty percent to the state general fund.

<sup>1</sup> Capital construction carryover - 1999-2001 - The State Water Commission had \$2.3 million of unexpended 1997-99 biennium appropriation authority carried over to the 1999-2001 biennium for various water projects.

<sup>2</sup> Ending balance - 1999-2001 - The estimated June 30, 2001, ending balance is anticipated to include approximately \$10.3 million of obligations for the following projects:

|                              |                     |
|------------------------------|---------------------|
| Maple River Dam              | \$3,500,000         |
| Nesson Valley Irrigation     | 1,300,000           |
| Elk Charbon Irrigation       | 1,000,000           |
| Miscellaneous water projects | <u>4,500,000</u>    |
| Total                        | <u>\$10,300,000</u> |

<sup>3</sup> Estimated expenditures - 2001-03 - House Bill No. 1023 (2001) provides that any 2001-03 resources trust fund revenues in excess of \$21,718,031 are appropriated to the State Water Commission, subject to Emergency Commission approval.

**ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 1997-99 AND 1999-2001 BIENNIUMS**

|  | <b>1997-99 Biennium</b>        | <b>1999-2001 Biennium</b>      |
|--|--------------------------------|--------------------------------|
| Beginning balance  | \$1,449,273 <sup>1</sup>       | \$6,668,159 <sup>4</sup>       |
| Add estimated revenues   |                                |                                |
| Oil extraction tax collections   | \$5,238,744                    | \$4,494,890                    |
| Repayments and reimbursements  | 2,522,399                      | 1,800,000                      |
| Investment earnings/miscellaneous  | <u>214,743</u>                 | <u>292,746</u>                 |
| Total estimated revenues   | <u>7,975,886<sup>2</sup></u>   | <u>6,587,636</u>               |
| Total available  | \$9,425,159                    | \$13,255,795                   |
| Less estimated expenditures  |                                |                                |
| State Water Commission - Grants and administration<br>(1997 HB 1025, 1999 SB 2023) | \$2,757,000                    | \$11,547,104                   |
| Total estimated expenditures   | <u>2,757,000<sup>3</sup></u>   | <u>11,547,104<sup>5</sup></u>  |
| Estimated ending balance   | <u>\$6,668,159<sup>4</sup></u> | <u>\$1,708,691<sup>5</sup></u> |

<sup>1</sup> Beginning balance - July 1, 1997 - The actual July 1, 1997, balance of \$1.4 million was \$335,613 less than estimated at the close of the 1997 legislative session due to the 1995-97 completion of water development projects the Water Commission had anticipated funding during 1997-99.

<sup>2</sup> Estimated revenues - 1997-99 - The estimated revenues for the 1997-99 biennium reflect actual revenues through April 30, 1999, and estimated revenues for the remainder of the biennium. The current estimate of revenues for the biennium is \$3.8 million less than the estimate made at the close of the 1997 legislative session. The decrease is primarily attributable to the following changes:

|  |                      |
|--|----------------------|
| Decrease in oil extraction tax collections   | (\$2,148,324)        |
| Bank of North Dakota transfer (1997 House Bill No. 1482 authorized a transfer of \$2 million from the Bank of North Dakota to the resources trust fund for principal and interest payments on bonds issued by the Water Commission for an outlet to Devils Lake or for a comprehensive statewide water development program. The Water Commission does not anticipate the issuance of the bonds during the current biennium, and consequently, the transfer is not anticipated to occur.) | (2,000,000)          |
| Increase in repayments for previously funded water projects  | 139,399              |
| Increase in investment income  | <u>183,646</u>       |
| Decrease from revenue amount previously estimated for 1997-99  | <u>(\$3,825,279)</u> |

<sup>3</sup> Estimated expenditures - 1997-99 - The agency has transferred a total of \$3.8 million from the resources trust fund from July 1, 1997, to April 30, 1999. However, the agency has indicated that \$1 million of that amount has not been spent and will be transferred back to the resources trust fund during the 1997-99 biennium resulting in expenditures from the resources trust fund of \$2.8 million. The estimated expenditures of \$2.8 million for the 1997-99 biennium are \$12.7 million less than the \$15,473,548 amount appropriated from the resources trust fund for the 1997-99 biennium. The \$12.7 million reduction includes the following:

|   |                     |
|---|---------------------|
| Bond repayments (1997 House Bill No. 1482 authorized a transfer of \$2 million from the Bank of North Dakota to the resources trust fund for principal and interest payments on bonds issued by the Water Commission for an outlet to Devils Lake or for a comprehensive statewide water development program. The Water Commission does not anticipate the issuance of the bonds during the current biennium, and consequently, the transfer and expenditure of the funds is not anticipated to occur.) | \$2,000,000         |
| Carryover for 1999-2001 (anticipated amount obligated for water development projects but unspent as of June 30, 1999)   | 6,668,159           |
| Southwest water pipeline bond repayment (Appropriation authority from the resources trust fund included approximately \$1.4 million related to the repayment of bonds for the Southwest Pipeline Project. The authority was provided to allow user fees to be deposited in the fund, then used to repay the bonds. However, the user fees were used to repay the bonds without depositing them in the resources trust fund, resulting in a corresponding decrease in expenditures.)                     | 1,400,000           |
| Projects not funded (water development projects not funded during 1997-99 due to lower than anticipated revenue or project completion during 1995-97)   | 2,648,389           |
| Total unspent 1997-99 appropriation authority   | <u>\$12,716,548</u> |

<sup>4</sup> Ending balance - 1997-99 - The estimated June 30, 1999, ending balance is anticipated to be obligated for the following projects:

|                                   |                    |
|-----------------------------------|--------------------|
| Maple River dam                   | \$2,000,000        |
| Nesson Valley irrigation          | 1,500,000          |
| Southwest Pipeline Project        | 500,000            |
| Available storage acreage program | 900,000            |
| Walsh County ring dikes           | 175,000            |
| Cass County ring dikes            | 163,000            |
| Cass County drain reconstruction  | 150,000            |
| Miscellaneous water projects      | <u>1,280,159</u>   |
| Total                             | <u>\$6,668,159</u> |

<sup>5</sup> Estimated expenditures - 1999-2001 - Estimated expenditures for the 1999-2001 biennium include \$6.7 million appropriated for the 1997-99 biennium which is anticipated to be obligated but unspent as of June 30, 1999. Senate Bill No. 2023 (1999) provides that any 1999-2001 resources trust fund revenue in excess of \$11,547,104 is appropriated to the Water Commission, subject to Emergency Commission approval.

The [redacted] Legislative Assembly provided in House Bill No. 1475 that 45 percent of the tobacco settlement dollars deposited in the tobacco settlement trust fund must be allocated to the water development trust fund to be used to address the long-term water development and management needs of the state. Senate Bill No. 2188 provides that the principal and interest on bonds issued for flood control or reduction projects, the Southwest Pipeline Project, and construction of an outlet to Devils Lake are payable from moneys appropriated by the Legislative Assembly from the water development trust fund. The 1999 Legislative Assembly did not appropriate any moneys from the water development trust fund for the 1999-2001 biennium. However, approximately \$25.9 million is anticipated to be available to be transferred to the water development trust fund from the tobacco settlement trust fund during the 1999-2001 biennium.

**NOTE:** The resources trust fund was created pursuant to passage of measure No. 6 in the November 1980 general election. Measure No. 6 created a 6.5 percent oil extraction tax, 10 percent of which was to be allocated to the resources trust fund. In June 1990, the Constitution of North Dakota was amended to establish the resources trust fund as a constitutional trust fund and provide that the principal and income of the fund could be spent only upon legislative appropriations for:

- Constructing water-related projects, including rural water systems.
- Energy conservation programs.

In November 1994, the voters of North Dakota approved a constitutional amendment, which is now the Constitution of North Dakota Article X, Section 24, to provide that 20 percent of oil extraction taxes be allocated as follows:

- Fifty percent (of the 20 percent) to the common schools trust fund.
- Fifty percent (of the 20 percent) to the foundation aid stabilization fund.

North Dakota Century Code Section 57-51.1-07 currently provides that oil extraction tax revenues be distributed as follows:

- Twenty percent to the resources trust fund.
- Twenty percent allocated as provided in the Constitution of North Dakota Article X, Section 24.
- Sixty percent to the state general fund.

**ANALYSIS OF THE RESOURCES TRUST FUND  
FOR THE 1995-97 AND 1997-99 BIENNIUMS**

|  | <b>1995-97 Biennium</b>          | <b>1997-99 Biennium</b>           |
|--|----------------------------------|-----------------------------------|
| <b>Beginning balance</b>                               | \$2,336,686 <sup>1</sup>         | \$1,784,886                       |
| <b>Add estimated revenues:</b>                         |                                  |                                   |
| Oil extraction tax collections                         | \$7,065,197                      | \$7,387,068                       |
| Repayments and reimbursements                          | 2,770,000                        | 2,383,000 <sup>6</sup>            |
| Transfer from the Bank of North Dakota (1997 HB 1482)  |                                  | 2,000,000                         |
| Investment earnings                                    | <u>147,084</u>                   | <u>31,097</u>                     |
| <b>Total estimated revenues</b>                        | <u>\$9,982,281</u> <sup>2</sup>  | <u>\$11,801,165</u>               |
| <b>Total available</b>                                 | \$12,318,967                     | \$13,586,051                      |
| <b>Less estimated expenditures:</b>                    |                                  |                                   |
| State Water Commission                                 |                                  |                                   |
| Grants and administration (1995 SB 2025, 1997 HB 1025) | \$10,446,181                     | \$13,473,548                      |
| Bond principal and interest payments (1997 HB 1482)    |                                  | 2,000,000                         |
| Devils Lake office (1995 SB 2463)                      | <u>87,900</u>                    |                                   |
| <b>Total estimated expenditures</b>                    | <u>\$10,534,081</u> <sup>3</sup> | <u>\$15,473,548</u> <sup>6</sup>  |
| <b>Ending balance</b>                                  | <u>\$1,784,886</u> <sup>4</sup>  | <u>(\$1,887,497)</u> <sup>7</sup> |

**NOTE:** The resources trust fund was created pursuant to passage of measure No. 6 in the November 1980 general election. Measure No. 6 created a 6.5 percent oil extraction tax, 10 percent of which was to be distributed to the resources trust fund. In June 1990 the Constitution of North Dakota was amended to establish the resources trust fund as a constitutional trust fund and provide that the principal and income of the fund could be spent only upon legislative appropriations for:

Constructing water-related projects, including rural water systems.

Energy conservation programs.

In November 1994 the voters of North Dakota approved a constitutional amendment, which is now Section 24 of Article X of the Constitution of North Dakota, to provide that 20 percent of oil extraction taxes assessed against oil produced after June 30, 1995, be allocated as follows:

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

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

The 1997 Legislative Assembly passed House Bill No. 1025, which provides that oil extraction tax revenues be distributed in the same manner as provided in 1995 Senate Bill No. 2025 for the 1995-97 biennium as follows:

Twenty percent to the resources trust fund.

Twenty percent allocated as provided in Section 24 of Article X of the Constitution of North Dakota.

Sixty percent to the state general fund.

<sup>1</sup> July 1, 1995, balance - The actual July 1, 1995, balance of \$2,336,686 was \$836,686 more than the estimated balance of \$1,500,000 projected at the close of the 1995 legislative session.

<sup>2</sup> 1995-97 biennium estimated revenues - The estimated revenues for the 1995-97 biennium reflect actual revenues through March 31, 1997, and estimated revenues for the remainder of the biennium. The current estimate of revenues for the 1995-97 biennium is \$2.5 million more than the estimate made at the close of the 1995 legislative session. The increase is attributable to the following estimated revenue increases:

|                                |             |
|--------------------------------|-------------|
| Oil extraction tax collections | \$1,640,000 |
| Repayments and reimbursements  | \$780,000   |
| Investment earnings            | \$111,000   |

<sup>3</sup> 1995-97 biennium estimated expenditures - Estimated expenditures for the 1995-97 biennium are based on the following:

|  |                            |
|--|----------------------------|
| Legislative appropriation from the resources trust fund for 1995-97          | \$9,384,081                |
| Add Emergency Commission approvals   | <u>2,350,000</u>           |
| Total 1995-97 biennium appropriation authority from the resources trust fund | \$11,734,081               |
| Less estimated amount obligated but unexpended as of June 30, 1997           | <u>1,200,000</u>           |
| Estimated 1995-97 biennium expenditures from the resources trust fund        | <u><u>\$10,534,081</u></u> |

- <sup>4</sup> Estimated June 30, 1997, balance - The estimated June 30, 1997, balance is \$2.2 million more than the (\$421,284) balance estimated at the close of the 1995 legislative session. The increase is attributable to the increased revenues listed in footnote 2.
- <sup>5</sup> 1997-99 biennium repayments and reimbursements - The repayments and reimbursements to the resources trust fund, as included in the executive recommendation for the 1997-99 biennium, totaled \$3,783,000. However, 1997 House Bill No. 1170 authorizes the Water Commission to issue bonds for water projects related to the Southwest Pipeline Project. The bonds will be repaid through user fees paid by Southwest pipeline users that were anticipated in the executive recommendation to be deposited in the resources trust fund. Consequently, repayments and reimbursements to the resources trust fund will be approximately \$2,383,000 for the 1997-99 biennium, \$1.4 million less than previously estimated.
- <sup>6</sup> 1997-99 biennium estimated expenditures - The executive recommendation for the 1997-99 biennium included Water Commission expenditures of \$13.47 million from the resources trust fund, the same as the amount appropriated in House Bill No. 1025. The executive recommendation for the 1997-99 biennium included \$2 million of resources trust fund appropriation authority which the Water Commission estimated would be obligated but not spent at the end of the 1995-97 biennium. However, current estimated expenditures for the 1995-97 biennium will be approximately \$800,000 more than previously estimated, resulting in obligated but unspent appropriation authority of \$1.2 million at the end of the 1995-97 biennium.

The estimated expenditures for the 1997-99 biennium also include the authority to spend \$2 million from the resources trust fund, which will be transferred from the Bank of North Dakota, to pay the principal and interest on bonds issued by the Water Commission for the development of a comprehensive statewide water development program or to construct an outlet from Devils Lake, pursuant to 1997 House Bill No. 1482.

Section 11 of 1997 House Bill No. 1025 provides legislative intent that funding for the operation of the Water Commission be primarily from the state general fund rather than the resources trust fund. It is anticipated that the majority of the resources trust fund appropriation for the 1997-99 biennium will be used for water projects through the agency's water development division.

<sup>7</sup> Estimated June 30, 1999, balance - Appropriated expenditures from the resources trust fund for the 1997-99 biennium exceed estimated revenues by \$1,887,497. If actual revenues do not exceed projections, actual expenditures will be limited to \$13,586,051, the current estimate of total funds available for the 1997-99 biennium.

ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 1993-95 AND 1995-97 BIENNIUMS

|  |                                 |
|--|---------------------------------|
| Unobligated balance - July 1, 1993                                   | \$ 5,544,591 <sup>1</sup>       |
| <b><u>1993-95 Estimated Revenues</u></b>                             |                                 |
| Oil extraction tax collections (10 percent)                          | \$2,883,845 <sup>2</sup>        |
| Repayments and reimbursements  | 1,446,472                       |
| Investment earnings  | <u>242,000</u>                  |
| Total 1993-95 biennium estimated revenues                            | <u>4,572,317</u>                |
| Total available - 1993-95 biennium                                   | \$10,116,908                    |
| <b><u>1993-95 Estimated Expenditures</u></b>                         |                                 |
| State Water Commission - Administration - 1993 HB 1015               | \$ 199,314                      |
| State Water Commission - Planning and education - 1993 HB 1015       | 155,754                         |
| State Water Commission - Water Appropriation Division - 1993 HB 1015 | 1,233,408                       |
| State Water Commission - Water development projects - 1993 HB 1015   | 6,461,432 <sup>3</sup>          |
| Southwest Water Pipeline Project - 1993 HB 1015                      | <u>567,000<sup>4</sup></u>      |
| Total 1993-95 biennium estimated expenditures                        | <u>8,616,908<sup>5</sup></u>    |
| Estimated balance - June 30, 1995                                    | \$ 1,500,000                    |
| <b><u>1995-97 Estimated Revenues</u></b>                             |                                 |
| Oil extraction tax collections (20 percent)                          | \$5,425,777 <sup>6</sup>        |
| Repayments and reimbursements  | 1,988,020                       |
| Investment earnings  | <u>49,000</u>                   |
| Total 1995-97 biennium estimated revenues                            | <u>7,462,797</u>                |
| Total available - 1995-97 biennium                                   | \$ 8,962,797                    |
| <b><u>1995-97 Estimated Expenditures</u></b>                         |                                 |
| State Water Commission - Administration - 1995 SB 2025               | \$ 225,667                      |
| State Water Commission - Planning and education - 1995 SB 2025       | 180,754                         |
| State Water Commission - Water Appropriation Division - 1995 SB 2025 | 1,065,033                       |
| State Water Commission - Water development projects - 1995 SB 2025   | 6,874,727                       |
| Southwest Water Pipeline Project - 1995 SB 2025                      | 950,000                         |
| Devils Lake office - 1995 SB 2463                                    | <u>87,900</u>                   |
| Total 1995-97 biennium estimated expenditures                        | <u>9,384,081<sup>7</sup></u>    |
| Estimated balance - June 30, 1997                                    | <u>\$ (421,284)<sup>8</sup></u> |

NOTE: The resources trust fund was created pursuant to passage of Measure No. 6 in the November 1980 election. Measure No. 6 created a 6.5 percent oil extraction tax, 10 percent of which has been distributed to the resources trust fund. Measure No. 2, a constitutional amendment approved in the June 1990 primary election, established the resources trust fund as a constitutional trust fund and provided that the principal and income of the fund may be spent only pursuant to legislative appropriations for:

1. Constructing water-related projects, including rural water systems; and
2. Funding for programs for energy conservation.

The 1993 Legislative Assembly passed Senate Concurrent Resolution No. 4011, which proposed a constitutional amendment relating to the distribution of oil extraction tax revenues. The constitutional amendment was approved by the voters of the state in the November 1994 general election and is now Article X, Section 24, of the Constitution of North Dakota. The constitutional amendment, which relates to oil produced after June 30, 1995, provides that 20 percent of the oil extraction tax revenues are to be used as follows:

1. Fifty percent (of the 20 percent) to the common schools trust fund.
2. Fifty percent (of the 20 percent) to a foundation aid stabilization fund.

The 1995 Legislative Assembly passed Senate Bill No. 2025, which provides that oil extraction tax revenues be distributed as follows:

1. Twenty percent to the resources trust fund (increased from 10 percent).
2. Twenty percent allocated as provided in Article X, Section 24, of the Constitution of North Dakota.
3. Sixty percent to the state general fund (reduced from 90 percent).

<sup>1</sup> July 1, 1993, beginning balance - The estimated July 1, 1993, balance of \$4,911,565, projected at the close of the 1993 legislative session, was \$633,026 less than the actual July 1, 1993, balance of \$5,544,591. The increase in the beginning fund balance is primarily attributable to the unspent 1991-93 appropriation authority of \$500,000 for the Missouri West Water Supply Project, carried forward to the 1993-95 biennium pursuant to Section 4 of 1991 Senate Bill No. 2017.

<sup>2</sup> 1993-95 oil extraction tax collections - The estimated oil extraction tax collections of \$2,883,845 reflect actual collections through April 30, 1995, and estimated collections for the remainder of the biennium. The original estimate of \$4,609,333, based on the March 1993 executive revenue forecast, is \$1,725,488 more than the current estimate, based on the March 1995 executive revenue forecast.

<sup>3</sup> 1993-95 estimated expenditures - The 1993-95 biennium appropriation included \$9,329,824 for water development projects and \$500,000 of appropriation authority carried forward from the 1991-93 biennium, for a total of \$9,829,824 for 1993-95 water development projects. Estimated expenditures for 1993-95 water development projects are reduced by \$1,868,392 due to reduced revenues available and by \$1,500,000 for projects in progress, for a total reduction of \$3,368,392 from the appropriated amount.

<sup>4</sup> 1993-95 estimated expenditures - Estimated expenditures for the Southwest Pipeline Project are reduced by \$16,281 due to a reduction in revenues available.

<sup>5</sup> 1993-95 estimated expenditures - Appropriated expenditures from the resources trust fund for the 1993-95 biennium of \$12,001,581 (appropriation of \$11,501,581 and carryover appropriation authority from the 1991-93 biennium of \$500,000) exceed estimated expenditures by \$3,384,673. Estimated expenditures for water development projects and the Southwest Pipeline Project will be reduced as stated in notes 3 and 4 to limit expenditures to \$8,616,908.

- 6 1995-97 oil extraction tax collections - Estimated oil extraction tax collections to be deposited in the resources trust fund are based on 20 percent of estimated oil extraction tax collections for the 1995-97 biennium. The estimate is based on the March 1995 NEFA forecast. Senate Bill No. 2025 amended North Dakota Century Code Section 57-51.1-07 to change the percentage of tax collections deposited in the resources trust fund from 10 to 20 percent for the 1995-97 biennium.
- 7 1995-97 estimated expenditures - Estimated expenditures from the resources trust fund include \$9,296,181 appropriated in Senate Bill No. 2025 and \$87,900 appropriated in Senate Bill No. 2463, for a total appropriation of \$9,384,081.
- 8 June 30, 1997, estimated balance - Appropriated expenditures from the resources trust fund for the 1995-97 biennium exceed estimated revenues by \$421,284. If actual revenues do not exceed projections, actual expenditures will be limited to \$8,962,797, the current estimate of total funds available. Any required reduction is planned to be from the State Water Commission - water development projects line.

## ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

|                                    | 2001-03 Biennium               | 2003-05 Biennium               |
|------------------------------------|--------------------------------|--------------------------------|
| Beginning balance                  | \$10,517,143                   | \$9,071,563                    |
| Add estimated revenues             |                                |                                |
| Oil extraction tax allocations     | <u>\$4,055,059<sup>1</sup></u> | <u>\$4,758,764<sup>3</sup></u> |
| Total available                    | \$14,572,202                   | \$13,830,327                   |
| Less estimated expenditures        |                                |                                |
| Transfer to foundation aid program | <u>\$5,500,639<sup>2</sup></u> | <u>\$0<sup>2</sup></u>         |
| Estimated ending balance           | <u>\$9,071,563</u>             | <u>\$13,830,327</u>            |

<sup>1</sup> 2001-03 estimated revenues - Based on actual oil extraction tax allocations through April 2003 and estimated allocations for the remainder of the 2001-03 biennium per the April 2003 executive revenue forecast.

<sup>2</sup> Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. For the 2001-03 biennium, funding of \$5,500,639 was transferred to the Department of Public Instruction to offset a reduction in state school aid and special education payments resulting from a 1.05 percent budget allotment ordered by Governor Hoeven in July 2002. No revenue shortfall is currently anticipated for the 2003-05 biennium.

<sup>3</sup> 2003-05 estimated revenues - Based on the estimated allocations for the 2003-05 biennium per the April 2003 executive revenue forecast.

### FUND HISTORY

The foundation aid stabilization fund was created in 1994 when the voters of North Dakota approved a constitutional amendment, now Article X, Section 24, of the Constitution of North Dakota, to provide that 20 percent of oil extraction tax revenue be allocated as follows:

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

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

The principal of the foundation aid stabilization fund may only be spent upon order of the Governor to offset foundation aid reductions made by executive action due to a revenue shortfall. North Dakota Century Code Section 54-44.1-12 provides that the director of the budget may order an allotment to control the rate of expenditures of state agencies. This section provides that an allotment must be made by specific fund and all departments and agencies that receive money from a fund must be allotted on a uniform percentage basis, except that appropriations for foundation aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund.

Article X, Section 24, of the Constitution of North Dakota, provides that the interest income of the foundation aid stabilization fund must be transferred to the state general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the 2001-03 biennium, through May 2003, \$219,053 of interest from the foundation aid stabilization fund has been allocated to the state general fund.

**ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND  
FOR THE 1999-2001 AND 2001-03 BIENNIAWS**

|                                    | <b>1999-2001 Biennium</b> | <b>2001-03 Biennium</b> |
|------------------------------------|---------------------------|-------------------------|
| Beginning balance                  | \$5,983,091               | \$10,630,441            |
| Add estimated revenues             |                           |                         |
| Oil extraction tax allocations     | <u>\$4,647,350</u>        | <u>\$4,444,573</u>      |
| Total available                    | \$10,630,441              | \$15,075,014            |
| Less estimated expenditures        |                           |                         |
| Transfer to foundation aid program | <u>\$0<sup>1</sup></u>    | <u>\$0<sup>1</sup></u>  |
| Estimated ending balance           | <u>\$10,630,441</u>       | <u>\$15,075,014</u>     |

<sup>1</sup> Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No revenue shortfall is currently anticipated for the 1999-2001 or 2001-03 biennium.

**FUND HISTORY**

The foundation aid stabilization fund was created in 1994 when the voters of North Dakota approved a constitutional amendment, now Article X, Section 24, of the Constitution of North Dakota, to provide that 20 percent of oil extraction tax revenue be allocated as follows:

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

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

The principal of the foundation aid stabilization fund may only be spent upon order of the Governor to offset foundation aid reductions made by executive action due to a revenue shortfall. North Dakota Century Code Section 54-44.1-12 provides that the director of the budget may order an allotment to control the rate of expenditures of state agencies. This section provides that an allotment must be made by specific fund and all departments and agencies that receive moneys from a fund must be allotted on a uniform percentage basis, except that appropriations for foundation aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund.

Article X, Section 24, of the Constitution of North Dakota provides that the interest income of the foundation aid stabilization fund must be transferred to the state general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the 1999-2001 biennium, through May 31, 2001, \$606,340 of interest from the foundation aid stabilization fund has been allocated to the state general fund.

**ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND  
FOR THE 1997-99 AND 1999-2001 BIENNIAWS**

|                                    | 1997-99 Biennium               | 1999-2001 Biennium             |
|------------------------------------|--------------------------------|--------------------------------|
| Beginning balance                  | \$3,343,837                    | \$5,853,073                    |
| Add estimated revenues             |                                |                                |
| Oil extraction tax allocations     | <u>\$2,509,236<sup>1</sup></u> | <u>\$2,247,445<sup>1</sup></u> |
| Total available                    | \$5,853,073                    | \$8,100,518                    |
| Less estimated expenditures        |                                |                                |
| Transfer to foundation aid program | <u>\$0<sup>2</sup></u>         | <u>\$0<sup>2</sup></u>         |
| Estimated ending balance           | <u>\$5,853,073</u>             | <u>\$8,100,518</u>             |

<sup>1</sup> Estimated revenues - Although Section 24 of Article X provides that the interest income of the foundation aid stabilization fund must be transferred to the state general fund on July 1 of each year, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. The assets of the foundation aid stabilization fund are pooled with other funds invested by the State Treasurer and the interest income is allocated monthly to each fund, if the fund retains the interest, or to the general fund, if pursuant to law the fund's interest income is general fund income. Consequently, the interest income generated by the foundation aid stabilization fund is not actually deposited in the fund. For the 1997-99 biennium, through April 1999, \$279,967 of interest from the foundation aid stabilization fund has been allocated to the state general fund.

<sup>2</sup> Estimated expenditures - As provided in Section 24 of Article X, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No revenue shortfall is currently anticipated for the 1997-99 or 1999-2001 biennium.

**NOTE:** The foundation aid stabilization fund was created in 1994 when the voters of North Dakota approved a constitutional amendment, now Section 24 of Article X of the Constitution of North Dakota, to provide that 20 percent of oil extraction taxes be allocated as follows:

- Fifty percent (of the 20 percent) to the common schools trust fund.
- Fifty percent (of the 20 percent) to the foundation aid stabilization fund.

Section 24 of Article X provides that the interest income of the foundation aid stabilization fund must be transferred to the state general fund on July 1 of each year. The principal of the foundation aid stabilization fund may only be spent upon order of the Governor to offset foundation aid reductions made by executive action due to a revenue shortfall.

North Dakota Century Code Section 54-44.1-12 provides that the director of the budget may order an allotment to control the rate of expenditures of state agencies. This section provides that an allotment must be made by specific fund and all departments and agencies that receive moneys from that fund must be allotted on a uniform percentage basis, except that appropriations for foundation aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund.

**DISTRIBUTION OF ESTIMATED OIL EXTRACTION AND OIL AND GAS PRODUCTION TAXES FOR THE 1995-97 BIENNIUM (MILLIONS OF DOLLARS)**

SCHEDULE 1C  
(cont.)

| Tax                                    | General Fund          | Common Schools Trust Fund <sup>2</sup> | Foundation Aid Stabilization Fund <sup>2</sup> | Resources Trust Fund | Oil Impact Grant Fund | Counties              | Total                 |
|--|-----------------------|--|--|----------------------|-----------------------|-----------------------|-----------------------|
| Oil extraction tax - 6.5 percent       | \$22.21               | \$2.80                                 | \$2.80   | \$2.37               |                       |                       | \$30.18               |
| Oil and gas production tax - 5 percent | 16.51                 | —                                      | —  | —                    | \$2.40                | \$17.56               | 36.47                 |
| <b>Total</b>                           | <b><u>\$38.72</u></b> | <b><u>\$2.80</u></b>                   | <b><u>\$2.80</u></b>                           | <b><u>\$2.37</u></b> | <b><u>\$2.40</u></b>  | <b><u>\$17.56</u></b> | <b><u>\$66.65</u></b> |

<sup>1</sup> The amounts shown are as included in the 1995-97 executive budget.

<sup>2</sup> The 1993 Legislative Assembly passed Senate Concurrent Resolution No. 4011, which contained a constitutional amendment relating to the distribution of oil extraction tax revenues. The constitutional amendment was approved by the voters of the state in the November 1994 general election. The constitutional amendment provides that 20 percent of the oil extraction tax revenues are to be allocated as follows:

1. Fifty percent (of the 20 percent) to the common schools trust fund.
2. Fifty percent (of the 20 percent) to a foundation aid stabilization fund.

The executive budget applies the 20 percent for the common schools trust fund and the foundation aid stabilization fund first and then distributes the remaining 80 percent as follows:

1. Ninety percent (of the remaining 80 percent) to the general fund.
2. Ten percent (of the remaining 80 percent) to the resources trust fund.