

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3045

2007 HOUSE CONSTITUTIONAL REVISION

HCR 3045

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HCR 3045**

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 2-21-07

Recorder Job Number: 3617

Committee Clerk Signature

Trina Shan

Minutes:

Chairman Koppelman: Opened the hearing on HCR 3045.

Rep Weiler, District 30: Sen Stenejehm is a co-sponsor regrets not being able to be here and if he was he would certainly lend his support. HCR 3045 seeks to create a new section, article 10, of the Constitution of North Dakota making the permanent oil tax trust fund permanent. The name is misleading since it says that it's permanent but it's not. From now on throughout my testimony, I'll refer to this as the "P2 Bill" ... permanent, permanent. Currently, of the oil tax revenue that the state receives, the first \$71M goes into the general fund and the rest of it (through a formula) goes into the permanent oil tax trust fund, where because it's not permanent, it gets spent. This resolution seeks to maintain that first \$71M into the general fund and increase that amount each biennium by the CPI. The balance would then go into the P2 oil tax trust fund and the principal amount of that fund would stay in the P Squared trust fund, spending only the interest of that fund, plus the first \$71M plus each biennium. SEE ATTACHED 2 PAGE HANDOUT FORMULA handed out and reviewed. This would not go into effect until July 1, 2009. The first page of the handout is the future and the second page is the past. This session we have \$550M to do as we see fit ... and the last several sessions we got along with a lot less than what we're doing now. Unfortunately government spends what

government gets and then some. The common schools trust fund, which was established before the year 1900, now has a principal balance of about \$800-\$850M. This oil tax trust fund, which would be permanent, permanent could get us to that amount in about 10-12 years. This resolution is about stability ... oil won't be here forever. It would take a $\frac{3}{4}$ vote by each chamber to dip into the principal amount of this fund and this provision is only there for some type of catastrophe or an emergency in the state.

Representative Conrad: The 8% return ... is that from something specific or is that an estimate?

Rep Weiler: It's a number that I picked out of the sky ... it may or may not be a little high.

Representative Conrad: I did a little research on the budget stabilization fund and we get 5% for your information.

Representative Klemin: If I understand your testimony we'd do this so we could live off the interest for purposes of higher education?

Rep Weiler: I only mentioned this because there will come a time, if we pass this, this fund would have \$5B in it and the interest might be around \$400M. We can't depend on oil revenues to be steady.

Rep Skarphol, Dist 2: I have felt quite strongly about this for years but since I represent an oil rich district I haven't felt comfortable doing it myself because it could be perceived to be inappropriate. It is appropriate for this committee to realize that when oil was discovered in the state of Texas did exactly this, with a few variations. They've never spent their money that's been derived from oil in the manner that North Dakota has ... the principal from their trust fund can only be spent on buildings on the universities of Texas campuses ... that's the only use for that principal. I requested the figures that Rep Weiler got from OMB and what they utilized was the numbers that are projected for this next biennium and are not reflective of their opinion

10 years from now ... it's a what if scenario. This permanent oil tax trust fund could provide us with some revenue to replace a loss ... it's the appropriate thing to do.

Rep Kasper, Dist 46: One thing that is permanent is the oil resource itself; someday the golden goose will quit laying eggs. Will we have the vision and the foresight to begin to preserve the only item that we can preserve from our current oil reserves for the long term and that is cash, because when the resource is gone, if we have nothing left and we've spent it, we have nothing left. If we've set aside cash, we will have a legacy for the future North Dakotans to come. I've been told that the state of Wyoming has over \$3B in their permanent, permanent trust fund ... I hope this committee has the foresight to say that our time in North Dakota is now here.

Rep Boehning, Dist 27: appeared in support of HCR 3045. This is a forward thinking constitutional amendment; it's a good resolution for our kids, the elderly, college students and the citizens of North Dakota.

Representative Griffin: If we passed this and it was voted on favorably, would the property tax relief that we just passed through be sustained through the future?

Rep Boehning: This could probably be a key role into that, as far as I know, this money is not designated into that. My understanding is that it could also be used for property tax.

Representative Conrad: My first year is projected at the 8%, which is fine, is \$83M and the property tax relief is what I'm (*can't understand*), right?

Rep Boehning: Yes, I do believe that property tax goes at \$116M, but I think there's about \$20M taken out for income tax relief for marriage penalty. I think a lot of it this year within the state of North Dakota we should be able to sustain at it's current pace. I think this year we would have another mechanism in order to help sustain that.

Representative Schneider: This question is for Rep Weiler, in looking at your chart, the projected oil revenue for the next 5-6 biennium's, but yet the PT fund grows quite remarkably and so does the general fund ... is that just the beauty of compound interest working?

Rep Weiler: If you keep the small number that is the 4th column of \$160,837 and then there's the large number ... the small number is the amount that's been deposited into that trust fund that biennium. The large number is then the balance so if you look at the 2011/2113 biennium ... \$231.8M minus the \$73.1M is a \$158.7M ... that \$158.7M is transferred into the fund and that's added to the current balance of \$160M, that makes \$319.5M.

Representative Schneider: *(can't understand)* bringing more dollars to the revenue fund, is that correct?

Weiler: That is correct.

Robert Harms on behalf of the Northern Alliance of Independent Producers: appeared in support of HCR3045. In 1995 the Legislature and the Governors office created the permanent trust fund and today you can see the results of that forward thinking that all of you participated in and I think that will pay off well for the tax payers of North Dakota. Secondly, Measure 1 was passed in 1980 with the notion that we were essentially using a nonrenewable resource, i.e. the oil and gas resources of North Dakota, so that was part of which Measure 1 was passed, but since then we have not treated the revenues from oil and gas resources as nonrenewable ... we're really spending them more on an ongoing basis which has been demonstrated by the tables that Rep Weiler presented. I think that the prudence that his measure reflects is something that would serve the public well over the long haul. The third point I want to make and I meant to bring a table showing the state's oil and gas production over the last number of years. Essentially what oil revenues have been doing both in North Dakota and across the country have been on a steady decline and that's likely to continue,

only because we've gotten into some unconventional oil resources in the last few years have we been able to turn that corner, so I think converting those barrels of oil to dollars and saving the dollars makes good, clean financial sense for the people of North Dakota.

Jack Dalrymple, Lt Governor of North Dakota: I'm not sure I should be up here in opposition, but more so to raise some questions about this resolution for the consideration of the committee. I'm probably the person in the Governor's Office that's most involved in the preparation of the state budget, other than the profession as OMB, themselves. What we find is that we are recommending budget to you this session that does include a large amount of reserve funding for future use. Approximately \$200M in budget stabilization fund, about \$150M in the permanent oil tax trust fund and about \$50M of regular carry over funding. We believe that we are in a strong period of revenue collections and we think it's prudent to hang on to some of this money, but we also believe that looking forward we have many needs that we'll need to take care of in the future ... for instance, looking at the K-12 education situation we know that we're taking care of the equity issue in this section, but many of our school districts are being patient, knowing that this is the first step and the second step in the process will be to provide adequate funds or funds that will move all school districts into a situation where they rely less heavily on local property tax. That's probably aiming us toward a large increase in K-12 funding requirements in 2009, possibly again, in that \$80M increase range. As we look at Human Services, the demand for Medicaid and Medicare services does not show any signs of leveling off. We anticipate that part of Human Services will again be looking at tremendous needs in 2009. Higher education requirements don't show any signs of abating, particularly when we see interest in providing more tuition relief, rather than less ... the state's requirements will probably continue to be very strong, so we see strong revenue now, but we also see needs for farms down the road (I mean 2 or 4 years). We also have proposed and

the House has passed a property tax relief measure for all of our citizens ... we feel that's something the public feels very strongly about and they're not happy with the increases they've seen in their local property tax bills and I think the legislature is trying to respond to that, not only for two years, but in a way that can be sustained over time. We think that looking at the permanent oil tax trust fund, we will be able to provide that property tax relief and we will also be able to watch that fund grow further from it's current cash balance. The reason we think that is that unlike past cycles when we saw big spikes in oil prices followed by big drops, we think that we are looking at a different scenario at this point and time. First of all we think that the worlds supply/demand picture for petroleum is different then it has been in the past, the extremely high prices did not produce the surge and supplies we've seen in past cycles. The other thing that we know is that the production in North Dakota that we once thought was permanent declining is now increased and the new reality there is that we've discovered a new geologic formation, (*can't understand*) formation , which we believe has the potential to lead to increased production for years to come, so to get concerned about a drop off in oil tax revenue would have to assume either a sudden drop in prices or production ... our forecasters see neither of those scenarios developing. As we look at the HCR 3045, the provision of the \$71M threshold with the CPI inflator, it's probably a reasonable provision ... that's where we are today, to see an inflationary increase in the availability of those funds for the general funds is probably reasonable. When you look at the 20% limitation on transfers and you look at the 75% (*can't understand*), I think you have to ask the question, is the legislature looking at putting shackles on themselves, for no reason other then just doing that. These decisions are ultimately made by legislature, yourselves, on whether you'd want to transfer additional funds from the permanent oil tax fund and whether you'd want to vote by majority rule. It would seem that if you're putting higher thresholds or higher standards on your own actions that you

are somehow trying to limit your own authority to make these decisions. I think that's really the question that we want to raise with the committee, why do that, why would we think that the legislature is not able to in the future, to make these decisions about how much money they want available for a particular purpose. If you would choose to not recommend this resolution to the full legislature, that would be perfectly fine, I think, to those of us in the Governor's office. On the other hand, if you feel that you do want to do something with this resolution, I'd like to offer the assistance of the Office of Management and Budget to visit with you about what parameters would be appropriate ... in terms of the percentage of principal that you'd want access over time or any kind of super majority that you think is necessary ... we might be able to offer some insights there.

Chairman Koppelman: If there is no further testimony in support or opposition to HCR 3045, we'll close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3045

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 2-26-07

Recorder Job Number: 3911 & 3912

Committee Clerk Signature

Diane O'Leary

Minutes:

Chairman Koppelman: Rep Weiler is here with his proposed amendment

Rep Weiler: After meeting with several members of the bill sponsors and the Majority Leader, there's a concern that taking everything above \$71M from the oil trust fund is really going to do damage to the possible property tax bill 1051 that we passed ... in essence, we can't do both unless we really cut back on some other spending. The amendment in front of you (SEE ATTACHED PROPOSED AMENDMENT 73091.0202) removes 71 on Page 1, Line 16 where it references to the 1st \$71M of (?) revenue goes to the general fund and replaces that with \$100M. Page 1, Line 18 & 19-21 and the word statistics on Line 23 would be removed ...dealing with the CPI ... so it won't be 100, plus the CPI it's just going to be 100 every biennium. After meeting with the same group of people, we felt that \$100M directly into the general fund would make it a better bill ... we could take that \$100M and pay for the property tax relief package that we passed on HB 1051. I have another set of amendments that just say \$110M ... this would be my preference.

Chairman Koppelman: Why don't you pass those out so we can look and consider both.

Rep Weiler: Distributed amendment (SEE ATTACHED PROPOSED AMENDMENT 73091.0201) At this time I'll let Rep Kasper make a few comments.

Rep Kasper, Dist 46: We had a meeting about these amendments and I would echo Rep Weiler ... I would much more prefer the \$100M ... frankly, I prefer the original bill but we begin to talk about the political realities of where we're at in the session and some of the bad frenzy we're experiencing about spending the surplus that we have this biennium that we may not have in the future. The idea of this concurrent resolution is to make that permanent oil trust fund permanent and have something for the future members of the state of North Dakota and our children, grandchildren and great grandchildren. The \$100M is a compromise that allows some earmarks, whether it's HB 1051 or SB 2032 (or whatever it is) where the tax relief comes down ... it's a compromise. The House co-sponsors approved of the amendments.

Representative Conrad: Did you have a chance to visit with Lt Governor Dalrymple about this?

Rep Kasper: Not directly ... we met with leadership on our side of the House and you sort of get the message without being there.

Representative Conrad: If the property tax bill had been \$130M instead of \$116M, would you have committed \$120M?

Rep Kasper: Not me.

Representative Conrad: In your group?

Rep Kasper: I don't think so, I think this was as far as the co sponsors wanted to go and it didn't come easy.

Rep Weiler: I think the reason we didn't go all the way to \$116 is because part of that bill will try to keep a certain portion of the money in the state by not giving it to non residents in North Dakota and the numbers that we received are somewhere between \$15 & \$20M so we feel that \$100M will cover that. The total cost of this property tax package, the property tax portion

of it ... we're thinking it should be somewhere around \$100-105M and the \$100M, plus the interest off of that should be enough to cover.

Representative Klemin: If I were going to be asked to explain why \$100M or \$110M, I would want to be able to provide a rational basis type of answer to the party that asked me and I'm not sure I've heard a rational basis yet, other than it's a compromise based on the possibility of another bill passing. Bearing in mind that this is getting fixed into the constitution if it passes and is something that won't be changed without changing the constitution again, whereas the other property tax bill was subject to change every 2 years.

Rep Weiler: I think the 1st number was a little low and we thought we'd have a better chance of this passing if we put more money into it right out of the chute ... instead of 71 we moved it up to 100. It was the feeling of leadership and other members that thought if we have this property tax package that will cost X amount of dollars and that money is coming from the permanent oil trust fund ... if we take all the money beyond \$71M away from the permanent oil trust fund, we're not going to have enough money to fund the property tax bill, so we moved it up \$30M to fund the property tax bill.

Rep Kasper: Let me give my answer, which is different then Rep Weiler's. The oil resource that we have in the state of North Dakota is only permanent if we set aside dollars that will be there for the future of the people of North Dakota. The OMB estimates around \$230M in biennium dollars for growth oil taxes coming into the state of North Dakota. I believe the majority of those dollars should be set aside for the future of the people of our state; therefore, as a co sponsor, regardless of what we're going to do with property tax reform (because that is a separate issue) I think \$100M coming out of this oil trust fund is enough ... the rest of it should be used and kept for the people of our state because this is a resource which is

depleting and will continue depleting. I think its wise public policy that we establish that number, set it aside and build the trust fund.

Representative Klemin: This wouldn't be effective until July 1, 2009 anyway, so whatever happens on this tax bill between now and then is ?secondary?, isn't it?

Rep Kasper: I agree with that.

Vice Chairman Kretschmar: Currently, there are 2 provisions in our constitution regarding oil taxes ... one says that the legislature may provide a call for percentage of the (*can't understand*) from taxes on extracted reductions of oil we allocated to the ? trust unlimited ... resource trust fund ... some money goes in there (I don't know what the percentage is). In Section 24, 20% of the oil extraction tax goes into 50% common schools trust fund and 50% is applied to foundation stabilization fund for education. Under this amendment ... are any of those funds affected? It seems to me that they're not, but I want to make sure they're not.

Rep Weiler: It is the intent of this resolution to not affect this.

Representative Conrad: Any time we receive a tax from the oil, then it should be limited to the 71 or 100 as amended, wouldn't it affect it?

Vice Chairman Kretschmar: These constitutional trust funds ... that money isn't deposited in the general fund.

Chairman Koppelman: Closed the hearing on HCR 3045

(A short time later we went back into the bill to act on it)

Chairman Koppelman: We'll take out HCR 3045 while it's fresh in our minds ... what our the wishes of the committee?

Representative Meier: I move amendment .0202 on HCR 3045

Vice Chairman Kretschmar: I'll second it.

Representative Klemin: We have this chart that was provided to us that gave oil revenue per biennium but based on the provisions that Rep Kretschmar read out of the constitution ... I'm not clear myself whether all of this oil revenue per biennium that listed on this chart is actually ... some of it may need to go into other funding. I'd like to have that clarified.

Chairman Koppelman: We can hold the resolution and ask these questions ... I'd recommend that we talk to the fiscal staff at legislative council. We probably need to have the motion withdrawn in order to hold that.

Representative Meier: I'll withdraw the motion for the amendment.

Chairman Koppelman: The motion is withdrawn and we will hold off our discussion pending that information ... Representative Klemin will gather for us.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3045

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 2-27-07

Recorder Job Number: 4042

Committee Clerk Signature

Diane Haan

Minutes:

Chairman Koppelman: We'll open the discussion on HCR 3045

Rep Weiler: We'd like to address some of the good questions that Representative Klemin had ... Jim Smith will be addressing those. I revised this sheet that shows you what \$100M would do ... SEE ATTACHED REVISED SPREADSHEET. Right out of the chute there's another \$27M in the general fund ... (the highlighted area is the previous). Rep Weiler reviewed the spreadsheet. The amendment of \$100M would be greatly appreciated.

Jim Smith, Legislative Budget Analyst and Auditor: See the ATTACHED SCHEDULE OF OIL TAXES AND DISTRIBUTION to the various funds for the 2007-09 bienniums. Jim walked through and explained the oil extraction and oil and gas production taxes.

Chairman Koppelman: To clarify, the 231 is what's left?

Jim Smith: The 231 goes to the general fund and the excess over \$71M goes into our permanent oil trust fund, so it's the total of those two amounts that are shown on this schedule.

Representative Klemin: The proposed constitutional amendment as amended by Rep Weiler is virtually identical to the existing statute that we have now in 57-51.1-07.2, so it's my understanding that what's being proposed in this constitutional amendment, other than the

\$71M versus the \$100M that's been amended to, is exactly the same as what we're already doing ... would you agree with that?

Jim Smith: Except that by making it a constitutional trust fund, you're putting limits on how that money can be used ... I haven't studied the resolution, I think that's part and with that statutory provision, the legislature has used that money in permanent oil trust fund for various things, including the transfer back to the general fund in spending for last biennium.

Representative Klemin: There is a difference in that, the last sentence of the statute says ... the principle of the permanent oil tax trust fund may not be expended except upon a 2/3 vote of the members elected to each house of the Legislative Assembly. The constitutional amendment changes the 2/3 to 3/4, but other than that change, when we get the statute that says the principle must go into this fund and we can't spend it except on 2/3 vote. In the past, have we been taking this money out then, for use in the general fund with *(can't understand)* ?

Jim Smith: I think, basically, because that's a statutory division, the legislature's done things that may have conflicted with that and it just basically happened. There may have been a 2/3 majority that voted for some of those things ... I couldn't say without looking back through the records.

Representative Klemin: That was my question ... are we following the statute? And it does require a 2/3 vote.

Jim Smith: That gets into the legal issue of whether one legislature combines another one and I'll leave that up to the attorneys. It attempts to bind future legislature to which you really can't do through a statute, so when the next legislature decides to do something that conflicts with that, basically because the last past precedent ... that's what's become law. I'm getting into legal issues which other people can better explain.

Representative Klemin: Actually, I was trying to get to what is our actual experience with the statute ... what are we actually doing?

Jim Smith: We provided Rep Weiler with a chart that shows the money that has been transferred from the permanent oil tax trust fund back to the general fund. I think with '05 '07 biennium it was like \$55M.

Representative Klemin: You don't necessarily know if those were 2/3 vote?

Jim Smith: I suspect they could have been, because it was part of the OMB bill.

Vice Chairman Kretschmar: On your chart, my understanding on it is the commons school trust fund and the foundation aid stabilization fund and the resources trust funds are only constitutional funds and the other ones are *(can't understand)?*

Jim Smith: The '93 legislature had that constitutional amendment, which is approved in November of '94, that allocated the amount that goes to common schools and the foundation aid stabilization fund. I think the resources trust fund ... that is in the statutory division, I believe.

Vice Chairman Kretschmar: In Article 10 of the Constitution, there are 2 provisions ... Sections 22 and 24 ... 22 is the resource trust fund; however, in the constitution it says ... the legislature determines how much money goes into that. There isn't anything in the constitution that says how much money can go in there. It states in the constitution how much of the tax goes into those funds. Under HCR 3045, it's my understanding that the part that goes into the general fund and the part that goes into the permanent oil tax trust fund ... that's \$100M going into this trust fund?

Jim Smith: That's my understanding on the resolution.

Chairman Koppelman: We have the resolution with 2 proposed amendments before us and we had a previous motion that was withdrawn.

Representative Klemin: Whichever of these amendments we adopt, I'd like to have us consider having a 2/3 vote as it is in the statute.

Representative Conrad: I'd like to respond to something Representative Klemin was talking about ... the statute says something about having to have 2/3 vote ... it's like when an organization needs to suspend the rules ... I think that's what we've done with this fund. We needed the money to pay for our expenses and we now know how many other things we could have paid for with all the requests that we've gotten this session. In order to keep ourselves going we had to suspend the rules and use the funds out of there ... that's my great concern about this constitutional amendment is that it will take our ability to suspend the rules in a situation in the future.

Chairman Koppelman: You're correct in the sense that it would take away the (*can't understand*) as I understand it by a majority vote ... it would allow, if I remember the provisions of the resolution correctly, the way it stands ... $\frac{3}{4}$ vote. Representative Klemin prefers the 2/3.

Representative Dahl: The amendment I prefer is the \$110M (*can't hear*)

Chairman Koppelman: If you look at the 4th column from the left side on Rep Weiler's chart ... that indicates interest revenue so Rep Dahl is correct, the resolution, as it came to us has a CPI and a cost of living adjustment where the base amount would increase ... that would be gone with either set of amendments proposed.

Rep Meier: I would move the amendments on 0202 for \$100M

Representative Owens: Seconded the motion

Representative Owens: I'm in favor of the \$100M ... it's easy to spend money, it takes willpower and vision to save ... this is about vision in the future, not for our children or grandchildren, but for their grandchildren. We're talking about building a fund that will produce income ... what is providing that fund is long sense gone.

Representative Conrad: In response to that, I'd say that money should be put into the taxpayers pocket and the taxpayers spend it. I don't know that we in North Dakota should be in a position that today, maybe in 5 years when the oil is producing huge amounts and we have all of the deferred maintenance taken care of and all of the children's health programs funded and we have all of these things done, then we can look at a trust fund. There's a difference between a trust fund and a savings account ... a trust fund is something you put away because you don't need it ... I went to school with people who had trust funds and their families didn't need that money ... it wasn't a savings account ... it was money they were never going to touch.. only the interest. I think we need a lot in North Dakota to make this place a going place ... we have a huge infrastructure that should support 2M people. I can't support any of it.

Representative Owens: I do respect Representative Conrad's view because I know she really wants to get to the same place I want to, but I don't necessarily agree with the road map she's using. This is going to dwindle down ... we can say in 5 years, 10 years and we can keep waiting and all that money that could have been saved then to produce more income to actually work hard for all the people in North Dakota, because we'll always find something to spend money on ... there's always a need somewhere.

Representative Klemin: Speaking to the amendment, as opposed to the resolution, to me the \$100M and the \$110M are both arbitrary numbers ... of the two, I would prefer the \$110M based on the Representative Dahl's statement ... I think that the youth needs some of this money also ... \$110M is a little higher threshold. For that reason, I'm going to oppose the motion to amend that's currently on the table.

Representative Meier: I would love to see the day that Representative Conrad is talking about also, but I have reserve and I think this is a great way to preserve something that might not continue producing ... we have hopes of it continuing, but it very possibly might not.

Roll Call Vote on Moving the Amendments 0202 for \$100M

Yes 4 No 5 Absent 0

Chairman Koppelman: Motion fails ... 4-5-0

Representative Dahl: I would move the Amendment 0201 for \$110

Representative Klemin: I will second it

Representative Conrad: I was wondering if we could put that CPI back on ... that allows that we get our national growth.

Representative Klemin: If we were to do that, I'd have voted for the \$100M, the reason I'd voted for the \$110 is because the CPI had been taken off.

Representative Dahl: Could we hear from the bill sponsor and their thoughts?

Chairman Koppelman: We try to limit the testimony and information that they think the committee doesn't have ... there were 2 options presented. Is there any further discussion on the amendment 0201 for \$110M with no CPI, if not we'll take a roll call vote.

Yes 6 No 3 Absent 0

Representative Klemin: I'll move that we amend Page 1, Line 25, remove 3/4 and insert 2/3 ... then the resolution would be consistent with the statute that we've been operating under. I

think 2/3 is a good number to start with, I think 3/4 might be virtually impossible to get .. it provides a safety balance so you could get at the principle if you needed to and it will take more then a simple majority to do it.

Representative Conrad: I'll second it.

Representative Schneider: The intent of this resolution is to make a permanent oil trust truly permanent and I think that was the reason for the 3/4 vote. We're making a substantial investment into this trust tax to actually truly make it permanent so our future generations will benefit from this revenue. I support the bill as it is with 3/4 .

Chairman Koppelman: We'll take a roll call vote.

Yes 2 No 7 Absent 0

Motion failed

Chairman Koppelman: We have the bill before us as amended, moving it to \$110M. If no further discussion, is there a motion?

Vice Chairman Kretschmar: I'll move a Do Pass As Amended.

Representative Meier: I'll second it.

Yes 8 No 1 Absent 0

Date: 2-26-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.: HCR 3045

House Constitutional Revision Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Mr Conrad 0202

Motion Made By Meier Seconded By Kretz

Withdrawn

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Representative Conrad		
Vice Chairman Kretschmar			Representative Griffin		
Representative Dahl			Representative Schneider		
Representative Klemin					
Representative Meier					
Representative Owens					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

His preference

73091.0202
Title.

Prepared by the Legislative Council staff for
Representative Weiler
February 26, 2007

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3045

Page 1, line 16, replace "seventy-one" with "one hundred"

Page 1, line 18, remove "Each biennium, beginning in 2011, the state treasurer shall adjust"

Page 1, remove lines 19 through 22

Page 1, line 23, remove "statistics."

Renumber accordingly

Date: 2-27-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3045

House Constitutional Revision Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken MV Amend 0202 (\$100M)

Motion Made By Meier Seconded By Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	L		Representative Conrad		L
Vice Chairman Kretschmar	L		Representative Griffin		L
Representative Dahl		L	Representative Schneider		L
Representative Klemin		L			
Representative Meier	L				
Representative Owens	L				

Total (Yes) 4 No 5

Absent 0

Floor Assignment _____

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

James

**House Amendments to HCR3045 (73091.0201) - Constitutional Revision Committee
02/28/2007**

Page 1, line 16, replace "seventy-one" with "one hundred ten"

Page 1, line 18, remove "Each biennium, beginning in 2011, the state treasurer shall adjust"

Page 1, remove lines 19 through 22

Page 1, line 23, remove "statistics."

Renumber accordingly

27
 Date: 2-26-07
 Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HR 3045

House Constitutional Revision Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Mr. Conrad (201) (\$10M)

Motion Made By Stahl Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Representative Conrad	✓	
Vice Chairman Kretschmar		✓	Representative Griffin		✓
Representative Dahl	✓		Representative Schneider		✓
Representative Klemin	✓				
Representative Meier	✓				
Representative Owens	✓				

Total (Yes) 6 No 3

Absent 0

Floor Assignment _____

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

Date: 2-27-07
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HR 3045

House Constitutional Revision Committee _____

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amendment 3/4 to 2/3

Motion Made By Klemin Seconded By Conrad

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman		✓	Representative Conrad	✓	
Vice Chairman Kretschmar		✓	Representative Griffin		✓
Representative Dahl		✓	Representative Schneider		✓
Representative Klemin	✓				
Representative Meier		✓			
Representative Owens		✓			

Total (Yes) 2 No 7

Absent 0

Floor Assignment _____

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

Failed

Date: 2-27-07
Roll Call Vote #: 4

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3045

House Constitutional Revision Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass As Amended

Motion Made By Kretschmar Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Representative Conrad		✓
Vice Chairman Kretschmar	✓		Representative Griffin	✓	
Representative Dahl	✓		Representative Schneider	✓	
Representative Klemin	✓				
Representative Meier	✓				
Representative Owens	✓				

Total (Yes) 8 No 1

Absent 0

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE

HCR 3045: Constitutional Revision Committee (Rep. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HCR 3045 was placed on the Sixth order on the calendar.

Page 1, line 16, replace "seventy-one" with "one hundred ten"

Page 1, line 18, remove "Each biennium, beginning in 2011, the state treasurer shall adjust"

Page 1, remove lines 19 through 22

Page 1, line 23, remove "statistics."

Renumber accordingly

2007 SENATE FINANCE AND TAXATION

HCR 3045

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3045

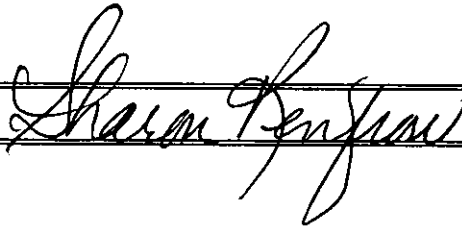
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 19, 2007

Recorder Job Number: # 5279

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee to order and opened the hearing on HCR 3045 relating to establishment and use of a permanent oil tax trust fund.

Sen. Stenehjem appeared in support as co-sponsor with written testimony. (See attached)

Rep. Weiler prime sponsor of the bill appeared in support stating this constitutional amendment seeks to create a new section of Article 10 of the Constitution of ND and it would make the permanent oil trust fund truly permanent, the name that it currently has is to put it kindly, misleading because we all know it's really not permanent. Current law takes the first 71 million dollars of oil revenue and distributes it into the general fund, the remaining goes into the permanent oil trust fund where it currently gets treated just like general fund money. The 1st 110 million would go into the general fund the balance after that would go to the permanent permanent trust fund and the interest off of the fund and again the interest off the fund and that original 110 would go on to the general fund. Handed out "P2 Oil Trust Fund" sheet. (See attached)

Sen. Cook: on page 18 you have a sentence that begins with the biennium beginning 2011 the State Treasurer shall adjust the 71 million dollar threshold amount in this section and it

goes on under those conditions, what is the intent there? Am I to understand that 71 million dollar number of what first goes into the general fund will change?

Answer: we changed that in the House, do you have the engrossed version.

Sen. Cook: there are, the counties I don't know if it's the oil and gas impact grant fund but there are some conditions when the Legislature by simple majority vote can change the amount of dollars that these particular counties or whatever get and when they do so, it changes the 71 million dollars, is it your intent to allow that to change or keep on?

Answer: again the 71 million dollar obviously would be 110 and it is not only the intent of the bill but those numbers that we talked about on the third page, it is at least my intent that those particular, the commons schools trust fund, the foundation aid stabilization fund, the water fund, the counties and I believe those are based on percentages of the total amount of oil revenue and nope it is my intent that those numbers would not be changed however they certainly can be with a majority vote of the Legislature.

Rep. Skarphol: appeared as co-sponsor stating one of the things that Rep. Weiler did not comment on is that oil is a non renewable resource and some of us feel very strongly that at some point and time that nonrenewable resource is going to go away and when it does we will have zero dollars in oil revenue to have to spend unless we make a significant change in our spending policies and I think we have a very strong fiduciary responsibility of the Legislature at this time with the amount of oil revenue we have coming in to make that change and I think we can do it without substantially affecting the ability of the State to cover the costs of operating state government. In response to Sen. Cook's question I believe that we could conceivably change how much money flows into the general fund however I think it would be a responsibility on the part of future legislatures to do that with some degree of discretion.

Sen. Cook: my question was did you expect it to be done with the same degree of discretion that we use this session or did you want it to be stricter like a $\frac{3}{4}$ vote or something like that which is what I see as the intent of this.

Answer: Putting into statute a requirement for a $\frac{3}{4}$ vote doesn't really accomplish anything, we could conceivably add it to this constructional resolution if this committee so wishes.

Sen. Triplett: how did the folks on the House side pick the 110 million dollars as the right amount to go into the general fund?

Answer: the original bill draft had 71 million with an escalator so we had the opportunity to have more general fund dollars flowing into the general fund, however after some substantial discussions it was determined that maybe 110 million without that escalator was an appropriate number based on the fact that the interest flowing back into the general fund off the principal deposited would be sufficient to account for any increased needs based on oil.

Rep. Froseth: appeared just to support stating I think we are in a period of time of probably never see again as far as the oil business is concerned. It's amazing what we can do if we could set aside this amount of money each biennium in future years, those future legislators will a lot easier time in funding education and all the basic needs of ND if we have some money set aside when we have the resources to do so.

Rep. Kasper: co-sponsor of the bill appeared in support stating this is one of the most important pieces of legislation that I've seen since I've been in the Legislature since 2001. what this bill does the visionary affect of this bill will be to have those reserves there down the road so we can use that 110 million and the earnings to more than replenish the golden eggs that we are wanting to spend now. Think about the legacy that this legislature will leave or will not leave for the people of ND and future generations. We can have a legacy that will say we

had the foresight and the vision to set aside these deposits now in this permanent oil trust fund so that future generations of ND can benefit.

Rep. Kretschmar: appeared to just show his support for the bill.

Vicky Steiner: ND Assoc. of Oil & Gas Producing Counties appeared in support with written testimony. (See attached)

Ron Ness: ND Petroleum Council appeared in support stating he feels it's a good move for our state. This is cyclical business of nature; I think all people in industry believe that things will cycle through again.

Sen. Tollefson: no one yet has mentioned what I think is one of the biggest issues and the fact that it would be constitutional would make it truly permanent, correct?

Answer: yes, totally permanent I believe to the degree of 75% of 3/4ths of the body could still spend that money.

Sen. Tollefson: the permanent oil tax trust fund said it would take 2/3rd of both Houses to spend the money, but his issue will put it before the people and I will be permanent. It won't be it won't go away; the trust fund won't go away.

Answer; and I think we've seen over the past 25 years that that's the only way we are going to be able to really sustain any fund like we've done with the common schools trust fund.

Bill Shalhoob: the ND Chamber of Commerce appeared in support of this bill.

Duane Sand: State Director for North and South Dakota for Americans for Prosperity appeared in support stating I think you'll find wide spread support among both parties, any party, any people across the state for this kind of legislation.

Robert Harms: Pres. of the Northern Alliance of independent producers and we are also in support of 4035 stating the real issue for you and I think the senate as a whole is whether the

voters of ND should have an opportunity to express their view as to what should be done with oil revenues, that's really the question.

Jack Dalrymple: Lt. Governor of ND appeared in opposition stating I find most of the comments that were made to be something that we would agree with in the Governor's office, I think the general purpose of this amendment is certainly in the right direction, we would also believe as to the sponsors of this resolution that we need to be cautious about the use of the windfall oil and gas revenue that is coming into the State at this time. We would say that putting funds away to deal with future needs is definitely the right way to go and as a result in our state budget we have proposed reserving over 400 million dollars for the biennium following the 07-09 biennium between the budget stabilization fund, the permanent oil tax trust fund in carry over balances, we would like to see at least 400 million dollars in carry over funds available. The question of this resolution I think is not so much whether it is wise to put funds away at a time like this and be cautious in our spending, but the question is do we need a constitutional amendment to help us manage our state project?

Pam Sharp: OMB appeared to give a brief summary of what we have in our forecast for oil prices and production.

Sen. Triplett: your comment on the original version have you analyzed that at all?

Answer: if I recall in the 1st version the balance that would go into the general mill was 71 million and then adjusted for inflation each biennium. I think it was CPI, Right now for the next few years, econocmy.com is projecting that CPI will be about 2% so then that 71 million would increase probably roughly 2% a year I would guess.

Sen. Triplett: do you have an opinion in terms of whether it's better to have just a set dollar amount going into the general fund or if it makes more sense from a policy stand point to have it tied to some index ___ CPI?

Answer: I have not really analyzed those 2. I couldn't really answer.

Doug Johnson: Executive Director of ND Council of Educational Leaders appeared in opposition with written testimony. (See attached)

Sen. Urlacher: it's your belief then that the 422 million carry over reserve is not adequate to meet these obligations?

Answer: we think that that 400 million dollars is a start towards that but will it be enough, we don't know because we have not yet studied what an adequate education is and what that is going to cost.

Bev Nielsen: ND School Board Association appeared in opposition stating if this is a good idea if this is the plan if these are the right numbers the Legislature as far as I understand has the ability to do that. You would always have the ability to do that. It doesn't take a constitutional amendment to give you the authority to do that but the constitutional amendment would tie your hands and you would no longer have the ability to do that and why you would want to tie your own hands is something I have trouble understanding.

Sen. Urlacher: looking into the long term I remember when we had to cut 10% right straight across the board which was very painful for education and every other agency around, I think it's a variable that we're concerned about.

Sen. Cook: I would say the reason we would possibly decide to do this is so that we show our faith in the citizens of this State and how they affect what we do as much as we show our faith in the citizens of your school districts and how they tell the school districts whether or not they can raise their property taxes or not. It's a cap issue, we just treat everybody the same you and I.

Bev: I guess if you want to vote all decisions made by a committee at the poll and all budgets set by a vote of the entire State, I suppose you could do that but that's not really what representative government is about as far as I'm concerned.

Nancy Sand: ND Education Association and of course we're part of the Education Coalition our position is that we do believe that the State needs to save some money but this particular bill is probably premature. There are other studies that will be going on during the interim such as the cost of education, etc., and we believe that is vital information before something like this is considered.

Jodee Buhr: Executive Director of the ND Public Employees Association stating our concern with this is what you've heard before and I think Lt. Dalrymple said it best is whether or not this body or future bodies need a constitutional amendment to save money, we don't believe that they do and let me please go on the record and say that we are in full support of the need to save money, we get the concept of the need to save money however we also believe that we understand the concept that you do not take money out of your checking and put it into your savings account when you still have bills to pay out of your checking account.

Sen. Tollefson: Everybody refers to the people making the decisions we have in our constitution the ability to refer or to initiate a measure, are you for or against that?

Answer: we believe very strongly that people should have a voice in making decisions and as I stated before I'm going to reiterate that we believe that they offer that voice when they drove to the poll in vote for their legislators in their respective districts to be the ones to say trust to make those decisions for their children, grand children and our future generations.

Closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3045

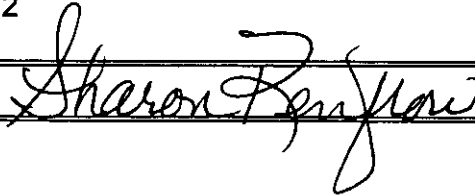
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 20, 2007

Recorder Job Number: # 5312

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee to order for discussion on HCR 3045.

Sen. Triplett: my concern is the notion of a particular dollar number being put in because where they have the 110,000 I kind of preferred the language of the House bill a little better in the sense that it feels more like its tracking the economy, the economy moves as opposed to just picking a dollar figure and obviously they had no particular reason for the dollar figure except somebody just liked the 110 million better than 71 million dollars. I don't know where the right starting point is or maybe you put it at 100 million and let the consumer price index nudge it up as time passes is one thing but it just seems to me that these are just flat out guesses with the OMB and kind of got calm estimates about oil prices into the future and the flat out guesses about interest rates into the future. None of us know that and we can't ask people to accurately predict that and so it seems to me that if you have a situation like this if you tie it to the movement of the economy its just going to make more sense as time passes whatever happens.

Sen. Cook: if we're going to keep this around and deal with some possible amendments then I think we also are going to. I asked that question other entities that get money from oil tax, if the Legislature changes the amount of money that they get it changes that threshold at which

money starts going into the permanent oil trust fund and I remember specifically Bill Bowman's bill dealing with Bowman county and that 10 million dollars reduced the 71 million dollar threshold to 61 million. So if we are going to try to put in law something that sets it either at 110 million or sets it at a floating rate based on something I think then we certainly need to address the other parts of century code that could affect that number and I don't know what we'd do with them but I think we'd better figure out what we'd do with em.

Sen. Triplett: why don't we do it together with John Walstad.

Sen. Horne: the idea that we need to put money away in a fund for future generations is certainly good and we've been trying to do that, I'm just a little nervous about the whole thing, its going to be very restrictive, I think we're going to leave on that a lot of things really on if we do this put it in the constitution, I'm concerned about that, that's a general feeling I don't know how you'd fix that. Secondly and most specifically if this goes into the constitution the way its written I don't think we're ever going to get money out of this fund, I'm trusting like Sen. Anderson but I sense that getting a 3/4ths vote from both chambers on anything is very very difficult in fact, 12 senators could block anything from happening because they'd be 1/4th, that would be the minority the 1/4th. So 12 Senators could say no we are not going take any money out of there I don't care what your purpose is it's not a good idea or against it. Nothing comes out even though it says here it could come out based on this vote on 3/4ths the members on both chambers. I would certainly be interested in amending that part to make it more functional if that's the word.

Sen. Urlacher: we always bank on the future every session because we don't commit future legislation. I think its an opportune time because of the proposing of 440 million carry over, that gap until you build a reserve in this form I think makes it an opportune time, its either now or almost never so I'm very supportive in moving in that direction at this point and time.

Sen. Tollefson: I was part of this original action of when it started a few years ago and it actually the intent at that time was to put it in the constitution and it didn't happen but it took 2/3rds of the House and the Senate by practice or by law but not by constitution. To move any of the at money out of the oil trust fund permanent oil trust fund and actually as we get down to the end you'll see omnibus bill 2015 I think is the one that will be the last one of the last day of the last hour and that is a catch all and that traditionally always takes money out of the trust fund and never since 1997 or whatever it was that that first came into did I ever see less than about 99% of the people voting for that bill. The removal of the money from the trust fund is not a really a big deal I think what the biggest part of this is is the preserving of the trust fund in the constitution. Actually the mechanics of getting money from the trust fund is, there would be numbers if this Resolution is passed that would be within the constitutional realm. Really the availability of money isn't much different than it is now but it would preserve the trust and that I think is extremely vital. Without that from 2 yrs from now or even this year we could do away with the trust fund with the majority vote in both houses it probably wouldn't happen but it could. With that in the constitution you couldn't do that once you go to the vote of the people. I think that's the real beauty of resolution 3045.

Sen. Cook: no matter how you think you should what were going to ultimately do with this bill we want to amend it to get it to the best shape we can and if you're going to offer amendments to change that 3/4ths I guess its outta here tomorrow. The only other comment is I think that's the full intent you talk about the difficulty the 8, that's the full intent of it but even if you can't find 3/4 of the vote this pot is still contributing to the State and that's the real intent is the interest off of this fund and it becomes rather large and if we don't have the principal there we don't have any interest.

Sen. Triplett: the argument against what your saying is really probably if you want to make it a permanent trust fund the argument would to go even further and say like the commons school trust fund you just can't take the money out of it and build a reserve, this is really not about this session or next session its about the future of ND and the sense of our grandchildren because the oil is going to run out someday or somebody is going to figure a different way of producing energy because the oil is not necessary and this cash cow that we have going right now is not going to be there for us and with really this is about a long term practice of building a fund that will help support the State 20 and 40 yrs down the road I think.

Sen. Urlacher: but the timing is _____

Sen. Triplett: the timing is good to start but it really is a statement of caring about the future.

Sen. Tollefson: there was a magic word said yesterday in some of the testimony that I think is extremely important to and that was the magic of compounding. Compounding the interest in on those dollars as near contributed by the oil patch today is extremely important economically. And you talk about the future when do we start for the future today, tomorrow is the future not necessarily a year from now or 10 years from now its today and I think to me this is absolute solution.

Sen. Anderson: if this legislation is adopted there will be a vote by the people to put some money a lot of money away permanently and it would take $\frac{3}{4}$ of a vote to touch the principal and I think this is really important as Sen. Horne said and we have to really consider this really carefully before we vote whether that $\frac{3}{4}$ is the right figure or not. I like the idea of the money getting put away I like the interest that's being projected off of it for the general fund for general purposes because from what I can see were going to need it but it really needs more conversation. To me, it just seems like it's our job to decide this.

Sen. Urlacher: looking at in a business sense, were dealing with big business here this is a savings account with a limited opportunity to withdraw from that savings and we wouldn't run a business without having some reserve with either equity or dollars and to me this is kind of a reserve account with limited ability to draw more than so much so you don't draw it all out, I don't know if that's a good policy.

Sen. Anderson: maximum of 20%.

Sen. Urlacher: we've run budgets on carry over on ___ budget on a 2% projection and that's looking forward 30 months, 3%. That's a pretty tight line we want to build that percentage up within the reserves and not draw it all out. The time is now because of the reserve we got.

Sen. Oehlke: frankly I was disappointed to hear Sen. Horne say that we couldn't agree on something, that we couldn't agree to take money out of this trust fund. When I think about the number of bills that we deal with on a daily basis there's many times I look at the board and a 100% of us have agreed on the same thing. Now in some of those cases the bills aren't contentious but I have to think that I'm going to look at the glass as half full but if there is something that needs attention in the State of ND and I don't care if its Fargo or Grand Forks or wherever I don't see any reason that we can't come together on a particular issue and get funding out of something like this if its really necessary.

Sen. Urlacher: the larger it gets the easier its going to get to get that vote, the larger that reserve gets the easier it will get to take that 20% to address. I think the flexibility but if we don't start it we will be doing the same thing we've been doing in the last years without ability, at least establish a portfolio.

Sen. Triplett: just over the last 20 years we have had interest rates in this country both at the historic highs and historic lows it been a pretty volatile time in our economy and I'm not willing to predict if its going to be stable for the next 20 years.

Sen. Urlacher: look at the retirement funds over the years to draw from ya maybe it won't be like that but. We'll sit on it but have to get it out.

Sen. Triplett and Sen. Cook will get together with Mr. Walstad from Legislative Council to work on some amendments.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3045

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: March 21, 2007

Recorder Job Number: # 5360

Committee Clerk Signature

Sharon Renfrew

Minutes:

Sen. Urlacher called the committee back to order for action on HCR 3045.

Sen. Triplett: handed out amendments that Legislative Council drew up for her and Sen. Cook. (version 0302). The intent of the amendment is to reduce the 110 to 100 million dollars but then add back in the language from the 200 version regarding the CPI (?) and specifically the dollar amount would change in every biennium in which money is transferred it would move with the CPI so that it would sort of follow the economy more generally. Sen. Cook asked that it be drafted so that in any biennium in which the 110 ___ was not met then the adjustment would not be made.

Sen. Cook: made a **Motion for Move the Amendments 0302**, second by Sen. Triplett.

Sen. Cook: the other issue that we raised had the deal with some of the other political subdivisions that get money from the oil tax and I specifically the bill that Bill Bowman had in there where it adjusted that threshold where money went, that is being corrected with the amendment to code in that bill which right now is in House Appropriations. That's why you don't see any amendments dealing with that here in this bill. That bill is still out there it's in House Appropriations and they had the hearing yesterday and those amendments were offered this morning.

Voice vote: 7-0-0 Amendments carry.

Sen. Horne: I have another amendment I'd like to offer and passed out version 0301. its pretty simple I said yesterday I'm not comfortable with the ___ restrictions on the vote it would take to free up any of those dollars in the permanent oil and gas trust fund if it goes into the Constitution and I'd like to **Move that on line 1, page 21 we replace 3/4th with 2/3rd** which would mean that to remove any money even the 20% out of there that fund it would take a 2/3rd vote of each chamber as opposed to a 3/4th vote and I move the amendment. Second by Sen. Anderson.

Sen. Urlacher: so you want to change the requirement from 3/4th to 2/3rd is your motion second by Sen. Anderson.

Sen. Triplett: I don't think it makes a whole lot of difference one way or the other whether its 3/4th or 2/3rd I think the real question is whether it should be sort of all or nothing I think the real discussion would be if we really were serious about making this into a trust fund like the common schools trust fund it would just not it would be until hell freezes over and we would just spend the interest on it so I guess I don't have any particular heartburn about this one way or the other your point was that 3/4ths would mean that 12 people could say no and 2/3rds would mean 16 and I think one way or the other if there is a crisis that would we would all virtually have 100% and using it for basic needs if it came to that.

Sen. Urlacher: any further discussion?

Voice vote: Motion fails

Roll call vote: 2-5-0 Motion still fails

Sen. Tollefson: I Move a DO PASS as Amended on HCR 3045 second by Sen. Oehlke.

Sen. Urlacher: If there's no further discussion the clerk call the roll.

Roll call vote: 7-0-0 Sen. Tollefson will carry the bill.

73091.0301
Title.

Prepared by the Legislative Council staff for
Senator Horne
March 20, 2007

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT
RESOLUTION NO. 3045

Page 1, line 21, replace "three-fourths" with "two-thirds"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT
RESOLUTION NO. 3045

Page 1, line 16, remove "ten"

Page 1, line 18, after the underscored period insert "Beginning in 2011, at the beginning of each biennium immediately following a biennium in which revenue from taxes imposed on oil and gas was deposited in the permanent oil tax trust fund, the state treasurer shall adjust the dollar threshold amount as determined under this section for transfers to the permanent oil tax trust fund by applying to that amount the rate of change since the beginning of the previous biennium in the consumer price index for all urban consumers, all items, United States city average, or any successor index, as calculated by the United States department of labor, bureau of labor statistics."

Renumber accordingly

Date: 3-21-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3045

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken 2/4 to 2/3 vote

Motion Made By Horne Seconded By Anderson

Senators	Yes	No	Senators	Yes	No
Sen. Uriacher		✓	Sen. Anderson		✓
Sen. Tollefson		✓	Sen. Horne	✓	
Sen. Cook		✓	Sen. Triplett	✓	
Sen. Oehlke		✓			

Total (Yes) 5 No 5

Absent 0

Floor Assignment _____

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

Date: 3-21-07

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3045

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP as Amended

Motion Made By Tollefson Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson	✓	
Sen. Tollefson	✓		Sen. Home	✓	
Sen. Cook	✓		Sen. Triplett	✓	
Sen. Oehlke	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Tollefson

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

REPORT OF STANDING COMMITTEE

HCR 3045, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3045 was placed on the Sixth order on the calendar.

Page 1, line 16, remove "ten"

Page 1, line 18, after the underscored period insert "Beginning in 2011, at the beginning of each biennium immediately following a biennium in which revenue from taxes imposed on oil and gas was deposited in the permanent oil tax trust fund, the state treasurer shall adjust the dollar threshold amount as determined under this section for transfers to the permanent oil tax trust fund by applying to that amount the rate of change since the beginning of the previous biennium in the consumer price index for all urban consumers, all items, United States city average, or any successor index, as calculated by the United States department of labor, bureau of labor statistics."

Renumber accordingly

2007 TESTIMONY

HCR 3045

2CR 3045
Rep Heiler
or Orig Learning

Biennium	Oil Revenue Per Biennium (Estimate) in millions	Oil Revenue Deposited to General Fund (Estimate) in millions	Perm Oil Trust Fund Principal Balance (Estimate) in millions	Interest Revenue to General Fund (Estimate)
2007-2009	\$229,594	\$71,000	\$158,594 P2 Fund	\$0 Est. 8% return
2009-2011	\$231,837	\$71,000	\$160,837 \$160,837	\$12,867
2011-2013	\$231,837	\$73,130	\$158,707 \$319,544	\$25,564
2013-2015	\$231,837	\$75,324	\$156,513 \$476,057	\$38,085
2015-2017	\$231,837	\$77,584	\$154,253 \$630,310	\$50,425
2017-2019	\$231,837	\$79,911	\$151,926 \$782,236	\$62,579
2019-2021	\$231,837	\$82,308	\$149,529 \$931,765	\$74,541

P2 Total \$ to General Fund in Millions

2009-2011

\$83,867

2011-2013

\$98,694

2013-2015

\$113,409

2015-2017

\$128,009

2017-2019

\$142,490

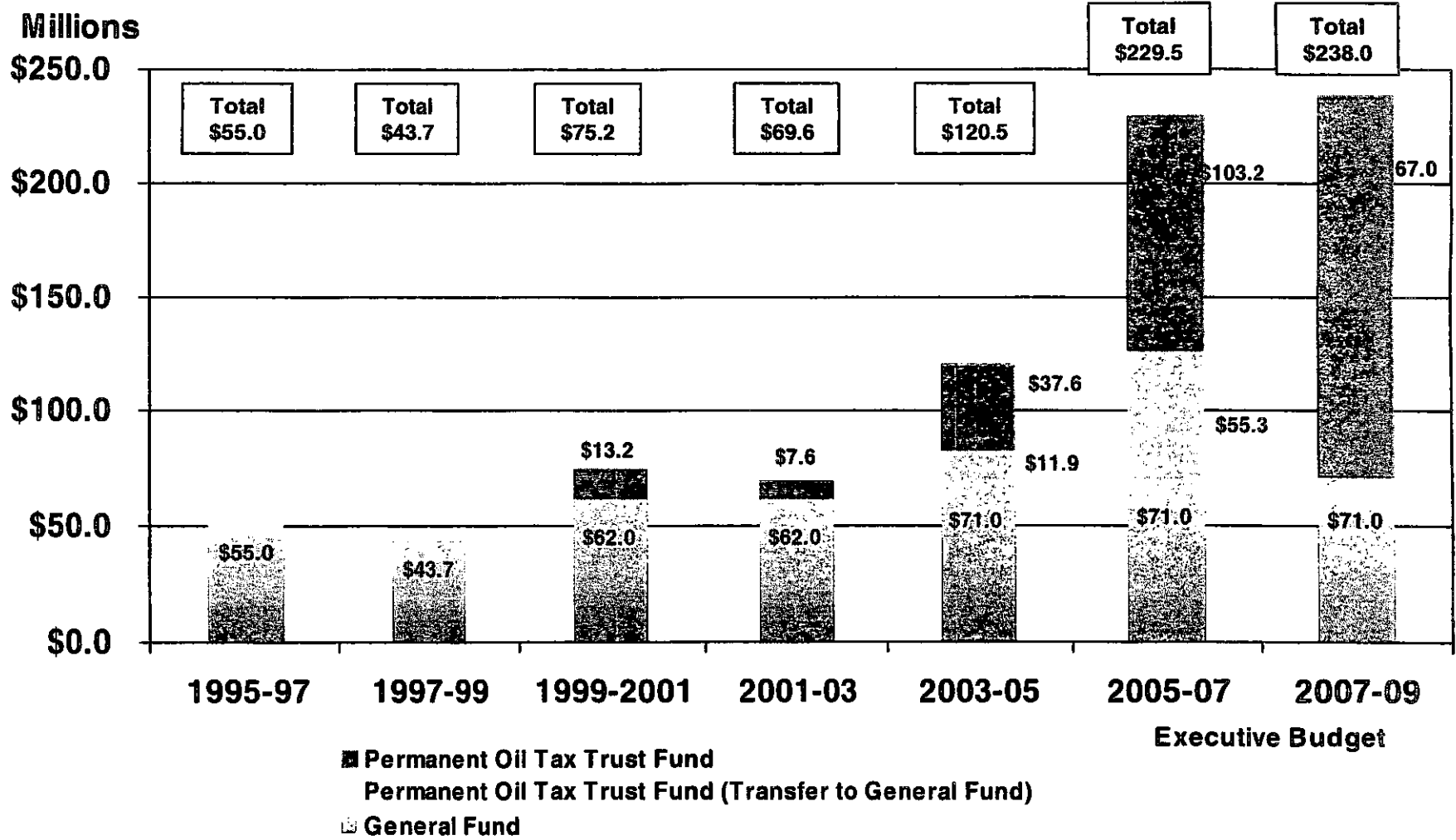
2019-2021

\$156,849

Oil Revenue Projections are from the OMB.

CPI projection is 3%

Oil & Gas Production Tax and Oil Extraction Tax Revenues (Based on Executive Budget Revenue Forecast)



HCR 3015
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DISTRIBUTION OF ESTIMATED OIL EXTRACTION AND OIL AND GAS PRODUCTION TAXES FOR THE 2007-09 BIENNIUM (AMOUNTS ARE SHOWN IN MILLIONS OF DOLLARS)¹

Tax	General Fund ²	Permanent Oil Tax Trust Fund ²	Common Schools Trust Fund ³	Foundation Aid Stabilization Fund ³	Resources Trust Fund	Oil and Gas Impact Grant Fund	Counties	Oil and Gas Research Fund ⁴	Total
Oil extraction tax ⁵	\$31.16	\$91.16	\$20.50	\$20.50	\$41.01			\$0.70	\$205.03
Oil and gas production tax ⁶	39.84	75.88				\$6.00	\$94.82	0.60	217.14
Total	\$71.00	\$167.04	\$20.50	\$20.50	\$41.01	\$6.00	\$94.82	\$1.30	\$422.17

NOTE: Based on preliminary review, it appears the executive forecast may be overstating the counties' share of oil and gas production tax collections and understating the state's share. We have asked the Office of Management and Budget and the Tax Department to review the projection.

¹The amounts shown are as recommended in the 2007-09 executive budget.

²North Dakota Century Code (NDCC) Section 57-51.1-07.2 (1997 Senate Bill No. 2366) establishes a permanent oil tax trust fund and provides that all revenues deposited in the general fund during a biennium derived from taxes imposed on oil and gas under Chapters 57-51 (Oil and Gas Gross Production Tax) and 57-51.1 (Oil Extraction Tax) which exceed \$71 million are to be transferred by the State Treasurer to the permanent oil tax trust fund. The State Treasurer is to transfer the interest earnings on the fund to the general fund at the end of each fiscal year. The principal of the permanent oil tax trust fund may only be spent upon a two-thirds vote of the members elected to each house of the Legislative Assembly.

The revised revenue forecast for the 2005-07 biennium projects oil and gas production tax and oil extraction tax revenues deposited into the general fund to exceed \$71 million by \$158,543,405. Therefore, \$158,543,405 is projected to be transferred to the permanent oil tax trust fund during the 2005-07 biennium.

The revenue forecast for the 2007-09 biennium projects oil and gas production tax and oil extraction tax revenues deposited in the general fund to exceed \$71 million by \$167,036,607. Therefore, \$167,036,607 is projected to be transferred to the permanent oil tax trust fund during the 2007-09 biennium.

³The 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 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:

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

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

⁴North Dakota Century Code Section 57-51.1-07.3 (2003 Senate Bill No. 2311) establishes an oil and gas research fund and provides that 2 percent of the state's share of oil and gas gross production tax and oil extraction tax revenues, up to \$1.3 million per biennium, are to be deposited in the oil and gas research fund. All money deposited in the oil and gas research fund is appropriated as a continuing appropriation to the Oil and Gas Research Council.

⁵The oil extraction tax rate is 6.5 percent of the gross value at the well for wells drilled prior to April 27, 1987. For oil produced from wells drilled after April 27, 1987, there is no extraction tax levied for 15 months and thereafter the rate is 4 percent. The initial production of oil from a well is exempt from any oil extraction tax for a period of 60 months if it meets any of the following conditions: (1) is located within the boundaries of an Indian reservation; (2) is on lands held in trust for an Indian tribe or individual Indian; or (3) is on lands held by an Indian tribe as of August 1, 1997. For oil produced from any well drilled and completed as a horizontal well after April 27, 1987, there is no extraction tax levied for 24 months, and thereafter the rate is 4 percent. The oil extraction tax rate is 4 percent for qualifying secondary and tertiary recovery projects, and production from stripper wells and enhanced oil production methods is exempt. If the average price of a barrel of oil exceeds the trigger price for each month in any consecutive five-month period, the oil extraction tax will become 6.5 percent. The tax rate reverts to 4 percent if the average price of a barrel of oil is less than the trigger price for each month in any consecutive five-month period. The trigger price is defined in statute as \$35.50 as indexed for inflation, and the Tax Commissioner computes the indexed trigger price by December 31 of each year to be applied for the

following calendar year.

The average price per barrel of oil exceeded the trigger price throughout the 2005-07 biennium, resulting in an oil extraction tax rate of 6.5 percent for the biennium. The adjusted trigger price for 2006 is \$39.36.

The oil extraction tax is allocated 20 percent to the resources trust fund for water development projects, 10 percent to the common schools trust fund, 10 percent to the foundation aid stabilization fund, and 60 percent to the state general fund.

⁶The gross production tax on oil is 5 percent of the gross value at the well on oil produced. The gross production tax on gas is four cents times the gas base rate adjustment for each fiscal year as calculated by the Tax Department.

The oil and gas production tax is distributed per formula to the oil and gas impact grant fund (up to \$6 million per biennium), to the state general fund, and to political subdivisions within producing counties. North Dakota Century Code Section 57-51-15.1 (effective after June 30, 2007) (2005 House Bill No. 1404) changes the cap for distribution to the oil and gas impact grant fund from \$5 million per biennium to \$6 million per biennium.

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Biennium	Oil Revenue Per Biennium (Estimate) in millions	Oil Revenue Deposited to General Fund (Estimate) in millions	Perm Oil Trust Fund Principal Balance (Estimate) in millions	Interest Revenue to General Fund (Estimate)
2007-2009	\$229,594	\$71,000	\$158,594	\$0
			P2 Fund	Est. 8% return
2009-2011	\$231,837	\$100,000	\$131,837	
			\$131,837	\$10,547
2011-2013	\$231,837	\$100,000	\$131,837	
			\$263,714	\$21,097
2013-2015	\$231,837	\$100,000	\$131,837	
			\$395,551	\$31,644
2015-2017	\$231,837	\$100,000	\$131,837	
			\$527,388	\$42,187
2017-2019	\$231,837	\$100,000	\$131,837	
			\$659,225	\$52,738
2019-2021	\$231,837	\$100,000	\$131,837	
			\$791,062	\$63,285

P2 Total \$ to General Fund in Millions
2009-2011
\$110,547
2011-2013
\$121,097
2013-2015
\$131,644
2015-2017
\$142,187
2017-2019
\$152,738
2019-2021
\$163,285

(Previous) P2 Total \$ to General Fund in Millions
2009-2011
\$83,867
2011-2013
\$100,653
2013-2015
\$117,333
2015-2017
\$133,902
2017-2019
\$150,351
2019-2021
\$166,676

Oil Revenue Projections are from the OMB.



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NORTH DAKOTA SENATE

STATE CAPITOL
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Majority Leader

Testimony on SB 3045
Senate Finance and Tax Committee
March 19, 2007

Mister Chairman and members of the Committee,

HCR 3045 establishes a Permanent Oil Tax Trust Fund. All revenue from oil and gas production that exceeds \$110 million would be deposited into this fund. The interest will be transferred to the general fund, but the principal will remain unless three-fourths of the members of the House and Senate approve an expenditure of not more than 20 percent in any biennium.

This fund would operate in a way similar to Alaska's Constitutional Budget Reserve Fund. Established in 1976, this fund sets aside a share of oil revenues to benefit future generations and to harness state spending.

A bit of history: The state of Alaska received an original bonus of \$900 million for North Slope leases, but in the hands of the government, the money soon disappeared, leaving a legacy of bigger government with no ability to pay for it. The Alaska Budget Reserve Fund has imposed constraint on the state budget because the citizens want to sustain the fund and resulting dividends. Per capita public spending in Alaska has been falling for a decade while at the same time the size of the Permanent Fund Dividend payment has doubled.

North Dakota's oil reserves could be enormous. Wouldn't it be great if we had enough foresight to plan ahead the way Alaska did? I urge you to recommend HCR 3045 for passage.

P2 Oil Trust Fund

Biennium	Oil Revenue Per Biennium (Estimate) in millions	Oil Revenue Deposited to General Fund (Estimate) in millions	Perm Oil Trust Fund Principal Balance (Estimate) in millions	Interest Revenue to General Fund (Estimate)	P2 Total \$ to General Fund in Millions
2007-2009	\$238,000	\$71,000	\$167,000	\$0	
			P2 Fund	Est. 8% return	
2009-2011	\$238,000	\$110,000	\$128,000		
			----- \$128,000	\$10,240	\$120,240
2011-2013	\$238,000	\$110,000	\$128,000		
			----- \$256,000	\$30,720	\$140,720
2013-2015	\$238,000	\$110,000	\$128,000		
			----- \$384,000	\$51,200	\$161,200
2015-2017	\$238,000	\$110,000	\$128,000		
			----- \$512,000	\$71,680	\$181,680
2017-2019	\$238,000	\$110,000	\$128,000		
			----- \$640,000	\$92,160	\$202,160
2019-2021	\$238,000	\$110,000	\$128,000		
			----- \$768,000	\$112,640	\$222,640

*Oil Revenue Projections are from the OMB.

*Interest Revenue and Total General Fund #'s are Legislative Council Projections



North Dakota Association of Oil & Gas Producing Counties

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Secretary/Treasurer
Manning

Support House Concurrent Resolution 3045

Mr. Chairman Urlacher and members of the Senate Finance and Taxation Committee. For the record, my name is Vicky Steiner. I am here today representing the North Dakota Association of Oil and Gas Producing Counties.

This resolution does three things:

Give the state taxpayers a voice on a major policy issue about a trust fund on a non-renewable resource, oil.

Gives the legislature the opportunity in the future to spend from that account if the need is great enough

It restricts spending of the trust fund monies by special interests.

This is good tax policy because it means the state is saving its oil resource by putting it in the bank. That benefits all state taxpayers.

According to information I've gathered, these funds have been used in the past for the Peace Garden improvements, Centers of Excellence and this session, the money for the \$116 million dollar property tax relief proposal came from this fund. While these are all good ventures, once the dollars are spent, they are gone.

Please give this resolution a do pass recommendation.

Thank you.

VICKY STEINER - EXECUTIVE DIRECTOR

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121 E. Rosser Ave., Bismarck ND 58501

The North Dakota Education Coalition

March 19, 2007

Dear Members of the North Dakota Senate:

The North Dakota Education Coalition (NDEC) supports the need for ensuring future funding of education and believes there is a need for increasing our contributions to the permanent oil and gas tax trust fund. However, the NDEC is deeply concerned about the impact that HCR 3045 and HB 1457, if adopted by North Dakota's 60th Legislative Assembly, would have on the future funding of public education in the coming biennia. It is our belief these two pieces of legislation are placing too much money generated from oil and gas production into the permanent oil and gas trust fund. There are several reasons the NDEC has taken this position.

First, there is a definite need to provide for the sustainable long-term property tax relief for the residents of North Dakota. Based on testimony provided by the Governor's office on SB 2032, the ability to sustain \$116 million in property tax relief can be accomplished by the money generated from oil and gas production tax for several biennia to come. Further, we believe that placing an actual dollar amount in an initiated measure would be an unwise decision. As inflation and the economy of the state change so would the amount needed to be placed into the fund. Any attempt to make a change would require another initiated measure or a super majority vote of both legislative assemblies. The former is a process which is at its best be, cumbersome, costly, and time consuming with an unpredictable outcome. The latter would require a majority vote that would be extremely difficult to attain. Consequently, both HC 3045 and HB 1457 would make it nearly impossible for legislators to access the permanent oil and gas trust fund to correct a sudden and significant downturn in the State's economy.

Second, there has been considerable effort by the state, through SB 2200, to provide equity in funding school districts in our state for the coming biennium. The NDEC considers this the first of many steps in adequately funding education to North Dakota students at 70% of the cost of education. If SB 2200 is passed by this Legislative Assembly it will direct the Governor's Commission on Improving Education to first address the definition of just what an "adequate education" is for North Dakota and second to determine what it would cost to provide that definition of "adequate education". While the Commission has not yet begun its work on this aspect of SB 2200 it does have the work on determining the cost of providing education adequacy for North Dakota students completed by Augenblick and Palaich in October of 2003. It was the observation of these researchers that in 2001-2002 there were 177 districts, enrolling 99,124 students that had spending levels below what was considered an adequate spending level. Further, they noted that the State would need to have invested an additional \$198.3 million to bring students in these 177 districts in our state to an adequate level of education.

The NDEC cannot predict the recommendations that will emerge from the work completed by the Governor's Commission over the next two years to define and determine the cost of providing an adequate education to North Dakota's students. However, it is almost certain that there will be a need for the State to infuse additional funding into public education to meet this goal. The State must start planning for a way to adequately fund the education of the students in our state and money generated from the oil and gas production tax may be one of many sources to which legislators turn for future funding.

Finally, it is the belief of the NDEC that both HCR 3045 and HB 1457 are premature in addressing the surplus funds generated by the oil and gas production tax. The State has yet to define adequate funding of education and how this cost will be funded in the future. It is the position of the NDEC that public education should be funded at an adequate level by the State so that local school districts do not have to continue to rely on local property taxes to pay the majority of the cost of educating their students. To that end we encourage you to give a no vote on both HCR 3045 and HB 1457.

Jon Martinson
Executive Director
NDSBA

Nick Whitman
Executive Director
NDEA

Gloria Lokken
President
NDEA

M. Douglas Johnson
Executive Director
NDCEL