

2015 SENATE EDUCATION

SCR 4003

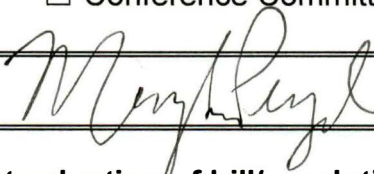
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SCR 4003
1/12/2015
Job# 21806 (45:08)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the foundation aid stabilization fund

Minutes:

Attachment #1-5

Chairman Flakoll called the committee to order on January 12th, 2015 at 9am with all committee members present.

-Support

Representative Jeff Delzer of District 8 testimony (*see attachment #1*)

Representative Delzer: The foundation was set up in the early 90's. It's solid in the constitution and can only be used if there is a revenue shortfall. In the 80's, quite often the legislature passed what they thought was going to be a budget. The revenue came in less than what it was, so the schools ended up getting less the second year than what was anticipated. It made budget difficult for schools. That is the background for how this came about, a legislative initiative that went to the people. The language says it can only be used for that, so what it is doing is building. In the last two sessions, we've had a resolution to tap this fund. Both times it has not made it through both houses of the legislature, so there hasn't been anything put before the people.

The current revenue is forecast to have \$667 million at the end of this biennium, and over a billion at the end of the next biennium. When we had discussions in the interim committee, the discussion was how much do you really need? We came up with 15% as drawn out in the resolution. 15% would be the floor of what should be in that fund. The governor's revenue request is 1.8 billion dollars of general fund, and 15% would be roughly 270 million dollars. There is also a companion bill that came out of the committee that is in the House that sets one of the discussion points from the end of last session that the first 2.5% is required to be an allotment before they can use the budget stabilization fund. That's from a reforecast from OMB, and that would trigger the budget stabilization fund and this fund for schools. Then the next 9.5 would have to come out of the budget stabilization fund, the same as it would for anything else. Under current language, it's kind of ambiguous to which way that would go. I think the governor would have the authority to use either or of the funds. We thought we define which way it should go.

This can float with the general fund appropriation. If the people pass this then we put language in there so the excess of that can be used by the legislature. SCR 4003 is set up to go to the people in June 16th and SB 2039 would become effective if 4003 was passed by the people. Then money would be transferred into those funds at that time.

(16) Vice Chairman Rust: For the record, page 2 of the resolution says "adjusting existing and anticipated unfunded benefit obligations of state retirement funds". What are those funds?

Representative Delzer: That's the amount that's needed for the state's share of the pension fund. Everything changes however and if that goes up or down and there are any changes in benefits or contribution, those all change.

Chairman Flakoll: What about the specific funds?

Representative Delzer: It is just the state pension funds we use to get the numbers we have. It does not specifically put the TFFR in there, though in the end the state would never let the TFFR go broke. the only specific one we are covering is the state share of state pension. This doesn't exclude anyone, just doesn't necessarily include. In SB 2039, if there wasn't enough in July of 16 to do the 250 and 200, it would go in there pro-rated, but there should be enough at that time to cover the 15% of the general fund appropriation, 250 for construction, and 200 for pension.

Chairman Flakoll: There had only been one time when it was used for \$5 million is that correct?

Representative Delzer: correct, in 2001 I believe.

Chairman Flakoll: On page 1 lines 22 and 23, it references that 15% of the most recently completed biennium. If this were to be a law now, would you look at the current biennium as we're thinking forward?

Representative Delzer: it would be the 1517 appropriation since it would go to the people in June. In each year after the legislative session, they would look at the last one which would be the current.

(21:30) Dustin Gawrylow, Lobbyist #244, managing director of the North Dakota Watchdog Network (see attachment #2)

(25:35) Garret Swindler, land owner in Mott, ND representing himself

Swindler: I am support for this bill mainly in agreement with the reasons that Dustin previously mentioned. With the regards of our bonding issue, if we were to max out our bond, this bill would probably save us around 2 million in interest over our 20 years. That is a unique tax savings to our land owners in that county.

-Opposition

(27) **Nick Archuleta**, president of ND United (see attachment #3)

Chairman Flakoll: On page 2's "with respect to other educational-related purposes", what would you deem would be appropriate from your perspective?

Archuleta: When you look at educational needs around the state, that could take the form of some professional development that is ongoing and consistent or perhaps paying those days that teachers used to have paid to attend their conference in the fall. When you look at specific needs of education, there are probably quite a few out there from textbooks to technology that isn't covered in the current budgets.

Chairman Flakoll: Could it be a new science building in Bismarck State in the reading of the law?

Archuleta: it is sufficiently vague that I suppose that could happen.

(31:30) **Pam Sharp**, office of management and budget

Sharp: In its current form, it is not necessary. We support school funds, but don't believe we need 2 construction revolving funds. In our budget we had proposed 700 million of the SIF fund be transferred to the general fund to help pay for run time expenditures. 300 million go for surge money and 300 million for the school construction revolving fund. With that money, and if 200 million goes out it becomes priority with the legislature.

The second part is that I oppose the language that would allow money for the foundation aid stabilization fund to address "existing or anticipated unfunded benefit obligations of state retirement funds" The PERS fund is on a very slow road to funding. It will take a long time to get there, perhaps 40 years at this point, but is on the right path. There's a bill to complete the recovery plan. This biennium went halfway to finish that recovery plan last time. If that happens in this biennium, we are on solid ground. However in any event, state employees are not at risk with their retirement funds in the way the plan is. The sources of funds for that defined benefit plan are investments and contributions. The contributions come from the general fund, special funds and federal funds. There are 4 funding sources for the defined benefit plan. If that plan is closed and we take all the money from the foundation aid stabilization fund, we are consciously deciding to forgo special and federal funds and all state funds to get there. It is inappropriate to use the foundation aid stabilization fund for that purpose. It should be only for educational purposes. If you put it to the vote of the people, it should be a specific education purpose rather than the loose language of "other education-related purposes". Perhaps the percentage of money going in is inappropriate or there are specific needs that the people can vote on so they know exactly what they are getting with this money.

(36:15) **Jon Martinson** representing North Dakota School Board Association

Martinson: We are opposed to this bill because of the vague language of "unfunded benefit obligations of state retirement benefits" and "other education-relating expenses".

(38:27) **Andy Peterson**, president and CEO of the Greater North Dakota Chamber (see attachment #4)

Peterson: The original passage of this fund did not include using money for retirement funds. We have had discussions with the teacher's union over time about the efficiency of using 401 funds, but Mr. Archuleta informed me today that they are not very good funds. In any respect we believe that this fund should not be used to firm up those things. There are other ideas that we could use however. One of them comes out of Texas. They have a permanent constitutional fund set up to help higher education. There are many things we can do with this fund, we just think using it for retirement funds is the wrong way to go about it.

Chairman Flakoll: what is the acronym from Texas?

Peterson: the "Permanent University Fund" is what it is called. I'm not sure about the acronym for that.

(40:40) **Chairman Flakoll:** Brady, did you have anything that we missed?

Brady Larson, legislative council with government finance committee (see attachment #5)

Larson: The foundation aid stabilization fund has been used once as you have mentioned in July of 2002. There was a 1.05% budget allotment and that resulted in 5.5 million dollars being used from a fund to replace those state school aid payments.

Chairman Flakoll: we don't have to have this bill out until March 4th. Brady, can you give us the history to show the growth? We only have recent data.

Larson: I can go back 1994, when it was created. There is significant growth.

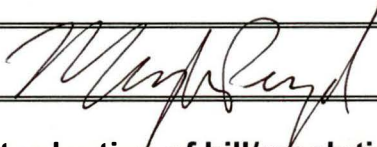
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SCR 4003
1/27/2015
Job # 22663 (27:45)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

COMMITTEE WORK

Minutes:

No attachments

Chairman Flakoll: On page 2 line 2, there did not seem to be a lot of support for the unfunded benefit obligation of the state retirement funds.

Vice Chairman Rust: My concern is "other educational related purposes". It is too vague. I object to both of those pieces.

Chairman Flakoll: We're not limited in scope to what they thought. If we were to pass this resolution, this will be a conflict with the House.

Vice Chairman Rust: When I see state retirement funds, I assume we are talking about TFFR, PERS, highway patrol fund and a few others? There are perhaps 7 different funds that would apply.

Senator Schaible: This came out of the government finance committee which I was on during the interim. I am fully in favor of looking at retirement and making some changes. I'm not sure this is the fund to come out with and that discussion was had because of the education criteria that the foundation stabilization fund has. Just relaying some information from the interim committee, the foundation stabilization fund is too large. The intent is good and it is to shore up the funding of North Dakota K12 education. I think that the fund could be close to a billion dollars. 15% of the fund to do that is just over 250 million dollars. This fund has only been used once with a very small amount so 15% would be a very comfortable cushion for what we would need. The question is how the fund should be used. The discussion is school construction and a revolving account was brought out. Then we have to plan for what you do with the balance of the money. The idea is where that money comes from. The foundation stabilization fund was more of a Senate idea being Rich Wardner's deal. The second thing is that the House version according to Representative Delzer argues that this is not educational money. That will be the format for what either chamber thinks this money should go. The other educational related purpose is too generalized. The House version seems to be looking to leave it at the discretion of the legislature and let them decide what it does without the locking up of the 15% and then determine how much you want to put in school construction. At the current oil prices, we were talking last summer of well over \$70 a barrel. This fund would generate 250 million dollars a biennium on an ongoing basis.

Chairman Flakoll: As we go forward 20 years out, if we were to cap the amount of the fund at 15% with the rapid growth it's had, some of the other funds can be large and go past any practical needs. I don't know if we have a billion dollar school construction loan or perhaps we should have a provision to provide low interest loans that type of scenario? Retirement funding would die at least twice. The senate would probably kill it, but if it were to pass both chambers the electorate would dispose of it very quickly.

Senator Schaible: The foundation stabilization fund was set up to protect our funding for education. This was an initiated measure passed by the people and locked by the constitution.

Chairman Flakoll: In SB 2013, 219 million of that appropriation for K12 comes out of the common school's trust fund.

(9:35) **Vice Chairman Rust:** Senator Schaible, is this kind of like a high ending fund balance?

Senator Schaible: It was a good idea passed by the electorate of the people and became that. We are accused of not spending the money, but 80% of it is out of our control and we have no vote on. It's a good idea, something that is needed, that just went beyond the possible realms of what we thought it was going to be. You have to decide flexibility to make adjustments while you can but also be responsible with the people's money. That was the intention.

Chairman Flakoll: Say we have a 2 billion dollar appropriation for K12 this time and something catastrophic happens between now and the next legislative session. We put the amount at 1.8 billion dollars. This fund would not kick in because to meet the obligation, not the difference between 1.8 and 2 billion. If we provide an appropriation of "x" number of dollars, after if we leave and there is a shortfall, then that can be used. However if we through drastic changes in the economy, need to fund less next time and we have enough money to do so, this does not kick in. It only does if we leave and something happens and there is a shortage of dollars that meet what we voted on in 2031.

Senator Schaible: The government finance interim committee created language that prioritized the order of which ones would be used. Before, it was left up to the Governor's discretion. This is like step two if things were really bad.

(13:10) **Vice Chairman Rust:** This is a fund set up for a good cause by the vote of the people. It worked, and it worked too well because we have such a large balance that we are pressured with what to do with it. The purpose is to make sure that what we wanted to begin with will be held, but what to do with the excess. What this one does is provides three statements to where the money can go: low interest loans, retirement funds and other. Most people probably agree that we don't need to have it go beyond a certain point. The problem is where we want this money allocated, is that correct?

Chairman Flakoll: yes, and what point is that? What is the magic percentage? The House position last session was a dollar amount, which in the constitution is not a smart thing. A percentage is much better. We're talking 15% in ending fund balance for the districts as well.

Senator Schaible: I do not think that 15% will be an argument. 15% currently is over 250 million dollars. The thing is, going forward from that point to filling back up to 15% is going to take a lot more money. Say you had a biennium of normal growth of 250 million dollars. It will not take much to go the next year to fill that biennium back up to that much. The other thing is if you have a school construction revolving loan fund. Initially it would take a few

dollars, perhaps again 250 million dollars. That's probably 20 schools a biennium. Once you have that established for years, it will be self-sustaining at least to a point where you won't need that much money coming out of there. The question is if you would just go with those two items, it's the money that is coming in not so much this next biennium, but on an ongoing, continuous basis after that. If it is this initiated measure that the people have to vote on they must be conscious of not locking it. That was more so where the House was coming from of that committee. They want it specific enough to do exactly what the people want but flexible enough for future legislation discretion.

Chairman Flakoll: Are we okay with 15%? There is support on the committee for the school construction projects. Once that is filled at whatever level we want it, what is another bucket that it can go into? If we are changing the constitution, we don't want a singular option. What is it and how specific should it be?

Vice Chairman Rust: Is one of them the common school trust funds? We keep drawing money out of that fund every year as part of our foundation aid package correct?

Chairman Flakoll: Correct, but it's the interest and income accrued off of it. That was part of what the Senate had last session, it was an option. That fund and the Legacy Fund were considered options.

Vice Chairman Rust: another option is the general fund so it is available for the legislature to spend as it sees fit, or is that something that the voters would disapprove?

(19:40) **Senator Oban:** Are we trying to amend this or having a general conversation?

Chairman Flakoll: There will be amendments offered. There is little to no support for the one portion. It wouldn't pass in this initial draft. Having said that, we are discussing what do we like and what can we believe in that we can sell to the voters?

Senator Oban: Then I would scholarships.

Chairman Flakoll: both types of merit and needs based?

Senator Oban: Yes.

Chairman Flakoll: Should it be one time scholarship funding or a fund that would be the first dollars used for those specified scholarships?

Senator Oban: I would have to put some more thought into that. I just want to add that scholarships are worth consideration.

Chairman Flakoll: I like the idea of setting it up and gaining perpetuity rather than handing them out.

Senator Schaible: Scholarships are a good idea. I wouldn't want it set up for a specific scholarship. I would rather a fund that generates revenue. For example the foundation stabilization fund is capped at 15%, so the first money goes into that. Whatever is left, perhaps 25% goes into a revolving school construction loan and the next 25% goes into a scholarship fund. This way you are not capped by dollars. You will create two funds that may grow fast.

(24:35) **Chairman Flakoll:** We have a companion bill to this. If this were to pass, it would come to the floor first to set up the framework. Then we will have SB 2039 which has more specificity in the amount of money allocation should this resolution pass. We have a number of moving pieces that we and we alone can decide on. We need some safety valves.

Senator Schaible: SB 2039 would only be for this biennium. Whatever we set into place would be subject to change by any future legislation.

Chairman Flakoll: Yes, but if we set aside 300 million for school construction for instance in 2039, it is a commitment we are taking.

Senator Schaible: I agree except I would rather like to see percentages at capped amounts because we know how these numbers fluctuate.

Chairman Flakoll:

Chairman Flakoll ends the discussion on SCR 4003.

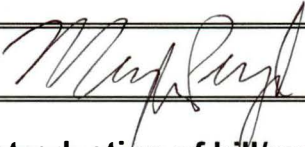
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SCR 4003
2/2/2015
Job # 22965 (5:49)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

COMMITTEE WORK

Minutes:

No attachments

Chairman Flakoll: It appears that there was a general consensus around a few things. We seem comfortable with the 15% base. There doesn't seem to be much support for bailing out the retirement funds. There was a propensity to have things aligned with education because it was the foundation aid stabilization fund. The amendments that are being drafted do 4 things. The first is that it could go towards low interest construction programs for education. Second is that it would go towards college scholarships for North Dakota residents going to school in North Dakota. The third is that it could go to the common school's trust fund and put dollars in there. The forth is to put money towards the foundation aid, running the money through the formula and out to the schools to include the provision for property tax relief that we currently have in place. It could be used for dollars that go out through the formula to schools to include property tax relief dollars that are used within the formula. At some point, we need to look at SB 2039. I've talked to both leaders on the Senate side to update them on what we are working towards and away from. Those amendments are not ready and we aren't pressured to get the bill out necessarily.

Senator Davison: To build a broad coalition of people in support of this, I wonder if investments in teachers and professional developments be appropriate in here.

Chairman Flakoll: The money allocated and through the formula can be designated for a variety of purposes including that. I believe the property tax relief, which is currently in the k12 funding mechanism, would be popular with the citizens.

Chairman Flakoll ends discussion on SCR 4003.

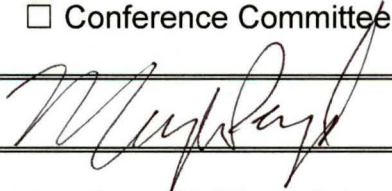
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SCR 4003
2/3/2015
Job # 23130 (27:40)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Committee work with **Mac Schneider**, District 42 Senator

Minutes:

2 attachments

Chairman Flakoll: I have mentioned 4 general categories: the construction program, scholarships for North Dakota students attending North Dakota colleges, common school's trust fund and foundation aid. This may be more applicable to SB 2039.

Senator Schneider: I think we are on the same page in terms of where this legislation would go. (see attachment #1)

Chairman Flakoll: Were you looking at setting up a 4th fund with direct payments from the oil extraction tax?

Senator Schneider: Not really. This would essentially overstrike "foundation aid stabilization fund" and repurpose the fund as an endowment, but also allow the Governor to draw from it if there ever is a need to stabilize foundation aid which hopefully there never will be again. There hasn't been since 1994. It leaves open the possibility that this loan can be there for time of hardship, but by all predictions, this is going to be fund that is an endowment that is really tapped into.

Chairman Flakoll: You would use the interest and income off of the corpus?

Senator Schneider: This has only been tapped once. It leaves flexibility to the legislature. The fund itself is brimming to fund education even in this time of low price oil.

Chairman Flakoll: I am not sure the second to last line will get us votes for the people.

Senator Schneider: Perhaps it should be struck in that case.

Chairman Flakoll: People aren't sure of the intent.

Senator Schneider: how we do that is left up to our colleagues in the future. These are funds that take the place of some funds priorities under current law

Chairman Flakoll: To the extent that we believe in funding research, commercialization or recruiting in retaining faculty, how we do that is left up to our colleagues in the future. We do that now to some extent. These are funds that take the place of some of the funds we provide to advance these important priorities under current law.

Chairman Flakoll: The further we drift away from K12, we will start losing votes.

Vice Chairman Rust: Recruiting or retaining faculty at institutions of higher education could be a deal breaker.

Senator Schneider: I hadn't thought about establishing a revolving loan fund from the foundation aid stabilization fund, but it is a good idea. There are enough funds in there right now. You can have a strong scholarship endowment and still have a good fund for construction through this revolving loan fund.

Chairman Flakoll: There wasn't any support for the provision on backfilling state employee's retirement plan. The construction idea is good, but I don't know where it will end up. With SB 2039 we're looking at half to construction loans and half to scholarships, up to 300 million dollars in 4 years, and then anything passed that can go into the general fund for schools. We will meet again repeatedly between now and then if we want to keep adding to those buckets. I think we'll add more for the revolving construction programs. I don't know what the numbers would or should be for the promise fund.

Senator Schneider: 500 million sounds good. It is time to pass something, and I worry about losing this opportunity.

Chairman Flakoll: We need to know what people's personal priorities are. We want good ideas that meet their needs.

Senator Schneider: This is an education related fund. Retirement is an important issue, but not to be dealt with from these dollars.

(15:20) **Senator Davison:** I like this concept and I agree that the need to strike those last two lines is important. Are there things missing in there?

Chairman Flakoll: the 3002 amendments I have are tough to get though, but I think they are the right ones.

Vice Chairman Rust: When we talk about scholarships, are gap scholarships included?

Chairman Flakoll: In my opinion, yes. I see them as needs-based. What these amendments do is set up the 4 sections. We can't pass SB 2039, a bill that has to go to appropriations, without passing this one. They are complimentary bills.

Senator Davison: Having all 4 of those pools of money confuses the ballot issue.

Senator Schaible: The reason for having the 4 silos is the reason we are here now. The foundation stabilization fund was set up to do a specific purpose and did it very well. It's still a good reason to have it. We are accused of piggy banking money even though we don't have any access to it. It will take some selling to the public, but property tax relief is a good seller. We're trying not to end up in the same position we got ourselves in now because of restricting it too much.

Vice Chairman Rust: I have information about student loans that I have received from the Bank of North Dakota. (see attachment #2)

Chairman Flakoll: Maybe we can replace the Common School's trust fund with low interest student loans.

Chairman Flakoll ends the discussion on SCR 4003.

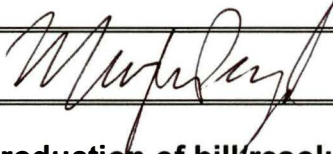
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SCR 4003
2/4/2015
Job # 23174 (5:15)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

COMMITTEE ACTION

Minutes:

1 attachment

Chairman Flakoll refers to the 3002 amendments handed out the previous day (see *attachment #1*)

Chairman Flakoll: As discussed yesterday, there are 4 pillars: school loan construction program, scholarships, common school trust fund, and providing state aid with a potential of property tax relief.

Vice Chairman Rust makes a motion to adopt the 3002 amendments.
Senator Marcellais seconds the motion.

Chairman Flakoll: We will see this bill again. It will go to conference committee.

A vote was taken: Yes: 6, No: 0, Absent: 0

Senator Marcellais makes a motion for a do pass as amended to SCR 4003.
Vice Chairman Rust seconds the motion.

A vote was taken: Yes: 6, No: 0, Absent: 0

Chairman Flakoll will carry the bill.

February 2, 2015

1 of 2

TW
2/4/15

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4003

Page 1, line 4, replace "provides for additional" with "expands the"

Page 1, line 4, after the second "for" insert "which"

Page 1, line 4, after "fund" insert "may be used"

Page 1, line 13, after the bold period insert:

"1."

Page 1, line 13, overstrike "Twenty" and insert immediately thereafter "Ten"

Page 1, line 14, overstrike "allocated as follows:"

Page 1, line 15, overstrike "1. Fifty percent must be"

Page 1, line 16, overstrike "Fifty" and insert immediately thereafter "Ten"

Page 1, line 16, after "percent" insert "of the revenue from oil extraction taxes from taxable oil produced in this state"

Page 1, line 17, overstrike "income"

Page 1, line 18, overstrike "The" and insert immediately thereafter:

"a. Except as otherwise provided, the"

Page 1, line 19, overstrike "only"

Page 1, line 20, remove "state school"

Page 1, line 20, overstrike "aid"

Page 1, line 20, overstrike "that" and insert immediately thereafter "in state aid to school districts, which"

Page 1, line 20, after "action" insert an underscored comma

Page 1, line 21, after "law" insert an underscored comma

Page 1, line 21, after the period insert:

"b."

Page 1, line 23, remove "school"

Page 1, line 23, after "aid" insert "to school districts."

Page 1, line 23, after "biennium" insert an underscored comma

Page 1, line 25, replace "purpose of making" with "purposes of:"

(1) Providing"

Page 2, line 1, remove ", addressing existing or anticipated"

Page 2, remove line 2

Page 2, line 3, replace "purposes" with ":

- (2) Providing scholarships to residents of this state attending institutions of higher education in this state;
- (3) Supplementing the common schools trust fund; or
- (4) Providing state aid to school districts and educationally related property tax relief to school district patrons"

Renumber accordingly

**2015 SENATE EDUCATION COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 4003**

Senate Education Committee

☐ Subcommittee

Amendment LC# or Description: 15.3010.03002

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Vice Chairman Rust Seconded By Senator Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	X		Senator Marcellais	X	
Vice Chairman Rust	X		Senator Oban	X	
Senator Davison	X				
Senator Schaible	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

**2015 SENATE EDUCATION COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 4003**

Senate Education Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Marcellais Seconded By Vice Chairman Rust

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	X		Senator Marcellais	X	
Vice Chairman Rust	X		Senator Oban	X	
Senator Davison	X				
Senator Schaible	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Chairman Flakoll

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

REPORT OF STANDING COMMITTEE

SCR 4003: Education Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4003 was placed on the Sixth order on the calendar.

Page 1, line 4, replace "provides for additional" with "expands the"

Page 1, line 4, after the second "for" insert "which"

Page 1, line 4, after "fund" insert "may be used"

Page 1, line 13, after the bold period insert:

"1."

Page 1, line 13, overstrike "Twenty" and insert immediately thereafter "Ten"

Page 1, line 14, overstrike "allocated as follows:"

Page 1, line 15, overstrike "1. Fifty percent must be"

Page 1, line 16, overstrike "Fifty" and insert immediately thereafter "Ten"

Page 1, line 16, after "percent" insert "of the revenue from oil extraction taxes from taxable oil produced in this state"

Page 1, line 17, overstrike "income"

Page 1, line 18, overstrike "The" and insert immediately thereafter:

"a. Except as otherwise provided, the"

Page 1, line 19, overstrike "only"

Page 1, line 20, remove "state school"

Page 1, line 20, overstrike "aid"

Page 1, line 20, overstrike "that" and insert immediately thereafter "in state aid to school districts, which"

Page 1, line 20, after "action" insert an underscored comma

Page 1, line 21, after "law" insert an underscored comma

Page 1, line 21, after the period insert:

"b."

Page 1, line 23, remove "school"

Page 1, line 23, after "aid" insert "to school districts,"

Page 1, line 23, after "biennium" insert an underscored comma

Page 1, line 25, replace "purpose of making" with "purposes of:"

(1) Providing"

Page 2, line 1, remove ", addressing existing or anticipated"

Page 2, remove line 2

Page 2, line 3, replace "purposes" with ":

- (2) Providing scholarships to residents of this state attending institutions of higher education in this state;
- (3) Supplementing the common schools trust fund; or
- (4) Providing state aid to school districts and educationally related property tax relief to school district patrons"

Renumber accordingly

2015 HOUSE JUDICIARY

SCR 4003

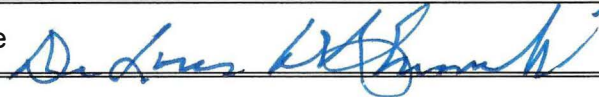
2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SCR 4003
3/25/2015
25418

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the foundation aid stabilization fund.

Minutes:

--

Chairman K. Koppelman: Opened the hearing on SCR 4003.

Rep. Delzer: Introduced the bill. This came out of interim committee government finance. In the 1980s after the oil boom and bust there was a situation we were facing which was the revenue was forecast higher than we actually had. Basically 10% of the oil extraction fund would be set aside. In 1994 the legislature adopted legislation that says basically that 10% would be set aside that would be the Foundation Aid Stabilization Fund. The budget stabilization fund is set up if there needs to be an allotment so if OMB comes in and reforecasts a reduction in the revenue forecast compared to the last legislative forecast which we just adopted yesterday in both chambers of appropriation. 2 ½% has to be an allotment going out to the agencies from the budget. In this case it is the school districts. We passed a bill for the first 2 ½ % they will use the Foundation Aid Stabilization Fund; that is the only one that can be used for that. After that if he wants to take out of the Budget Stabilization Fund that would cover all of them until that was gone and then it would go back to the Foundation Aid if his allotment was larger than the 9 ½ % has. That bill says it would set up the chain of event of how that would happen. The resolution; part of the issue we dealt with last time is if you are putting something in front of the Constitution and people you want it simple enough that they can understand it and vote for it. Last session we did some work on it. In the end the Senate did not go along with it at all. 15% we would cap the fund at our latest biennium general fund spending for k-12 education so with the Governor's budget that is about \$370 million in there. If we got below that 15% then it is going to fill up again with extraction taxes as long as we have that tax. Look at the 3000 version before you act on the bill.

Rep. K. Wallman: The 15% is based on the governor's budget. Can you say what that 15% would be with the current revenue forecast?

Rep. Delzer: That does not make any difference. The 15% is based on what the general fund spending is for k through 12 is. That is how we came up with the number we needed

to stay in there so we were comfortable enough so we never had an allotment that could not be covered.

Chairman K. Koppelman: The reason this measure is before us was when the Foundation Aid and Stabilization was setup the idea was to have it there as a backstop for shortfalls, but with oil revenue growing the last several sessions it has ballooned to the point where it has got more money than is necessary for that purpose. Question is do we let that money set there or do we delineate where it should go.

Rep. Delzer: That is true. The legislature can't do anything with it and that is why we have to have a constitutional measure to do anything. Basically after that excess any excess may be appropriated for the purpose of making low income loans for school construction projects, addressing existing or anticipated unfunded benefit obligation of state retirement funds or other education related purposes. We had unfunded benefit obligations because we were also going to look at defined contribution. That bill has been defeated in the Senate. Some of the Senate would have real heartburn about setting money aside for the unfunded liability. This bill does the same with the 15% in subsection b, page 2. There are the four things in there that this could be used for. This way it does what we want and gives the legislature as much leeway as they need to do with it afterwards. If the oil comes back up you are going to be talking pretty big dollars.

Rep. Maragos: Who heard this in the Senate? What did they have in mind providing scholarships for residence in this state?

Rep. Delzer: They wanted to set aside the money to cover what we are doing. In 1003 this time; which is \$1950 a semester up to \$7800 for our current scholarship programs; they want to set aside the money for that. Personally I have some questions about that because I think that is something every legislature should look instead of having the money setting there and have it in a continuing appropriation. There is SB 2039; which is in appropriations; which sets up these funds. The issue on the Foundation Aid and Stabilization Fund; when you look at what the Governor proposed in December it said there was supposed to be \$419 Million coming into this fund. From the December forecast it said we would ended up at \$667 million at the end of 13-15 there would be \$409 Million during the 15-17 biennium; which would have been \$1 Billion, \$77 Million; Forecast now at \$611 Million and there will be \$131 come in; so a total at the end of next biennium of \$743. This resolution says it should go to the people on the June primary. If they approve it we are wanting to use some of this money for school construction loans because that is one of the problems we have facing us. SB2039 sets up the contingency funds and it would be into those funds. With the change in oil we may want to spread that out a little further or change the dates. We need to decide what we are going to do with this bill before we can do SB2039 or even the school construction one.

Chairman K. Koppelman: There is a 05000 version out there. The only difference says expands educational on line 4 before the word purposes. The original was the purposes.

Rep. Delzer: This fund was never set up to be educational funding. It was set up to make sure education did not end up getting shorted from the funding that the legislature gave

them. That is one of the problems the Senate did saying it all has to be purely educational funding.

Chairman K. Koppelman: That is what we struggled with during the last session. Now when that savings account balloons what are you going to use it for? Some think we should use it for education because the fund was set up with education in mind.

Rep. Delzer: We should put something in front of people. Hopefully we can come to a compromise with the Senate.

Chairman K. Koppelman: Tell us about the Common Schools Trust Fund and how that works?

Rep. Delzer: The Common Schools Trust Fund is set up and receives 10% also from the extraction tax and a number of other places. About 10% of that; over \$204 Million is coming out that trust fund as interest. Senate leadership wanted the ability, if the Legislature decided they could put money into the Common Schools Trust Fund. In the Constitution how much comes out of there each year for paying part of K-12. It went from \$140 Million last biennium to \$204 Million this biennium. There is school land money; royalty stuff; 45% of the tobacco settlement; and fines, fees and certain things. It was set up at statehood.

Rep. Lois Delmore: Because of the original intent of that money what if we were to fall upon three to four bienniums where times were tough and we just didn't have the money to fund education?

Rep. Delzer: There is nothing you could do now to get to it. The only way is to have an allotment large enough to get to it. It is unlikely that would happen.

Rep. D. Larson: We were given the 4000 number in our books. Is that the current on the 5000?

Rep. Delzer: We revised it three times during our intern committee.

Rep. K. Hawken: So the 10% piece is still the same.

Rep. Delzer: The guts of the proposal are the same. I don't support what the Senate did because if you put that in front of the people and there is a lot there.

Rep. K. Hawken: Where is the 15%?

Rep. Delzer: We have changed it to be 10% of the extraction tax. The foundation aid is limited to 15%.

Chairman K. Koppelman: The actions apparently the Senate committee adopted amendments and sent out version 4000 which is the one we have before us. There were two amendments proposed on the floor and one was adopted with the additional word educational.

Rep. K. Wallman: In the current law is that 15% now in the Constitution?

Rep. Delzer: No it says 10% is there now.

Rep. Kretschmar: Do you think that 15% is large enough.

Rep. Delzer: Yes, it is basically \$270 million. That is the reason we put forward the bill saying that the first 2 ½ % comes out of the Foundation Aid Stabilization Fund. If there is an allotment over that that fits within the Budget Stabilization Fund which is another 9 ½ % that comes out of that. This would only be used if there was an allotment that was larger than the 12 ½%. There is plenty of money with 15% of the k-12 funding.

Chairman K. Koppelman: Where does the money from the Common School's Trust Fund go?

Rep. Delzer: It is appropriated and the Foundation Aid line; we will try to do some language that separates that out so the citizen's understand how much is coming out of the Common School's Trust Fund because publically that is certainly one of the issues. They see that as socking the money away and not receiving anything from it.

Rep. L. Klemin: On the language in the Senate Resolution on the last line of page 2; what is a school district patron?

Rep. Delzer: I don't know. We would not want to put that in the constitution. It should be much simpler and gives a broader aspect to future legislatures to work with.

Rep. L. Klemin: If I look at the 3000 version it stated that it would be used for education related purposes. So we could leave in low interest loans?

Rep. Delzer: You still have to make sure it is something the people will support. We were working on this when the oil has been going forward. The simplest would be other educational related purposes.

Rep. L. Klemin: So if we would amend this bill and get it back to its simplest form it would be just low interest construction loans and other education related purposes.

Rep. Delzer: The issue in front of the government finance committee was they felt that they probably needed to state that as something to entice discussion and hopefully votes in favor of it.

Opposition: None

Neutral: None

Hearing closed.


2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SCR 4003
4/1/2015
25698

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

Proposed amendment #1

Chairman K. Koppelman: Reopened the meeting on SCR 4003.

Rep. L. Klemin: (See proposed amendment #1) Went through the proposed amendment. (1:25-2:05) All this stuff in lines 8-13 is just too much for any voter to digest. It is hard to understand what they are doing. Educational related relief to school district patrons. I think a patron is somebody who contributes funds for some purpose and it usually is not a tax payer. All this other stuff can be done through the educational related purposes. If you want this to pass it is going to need to be simple and understandable and limited to education related purposes.

Motion made to move the amendment by Rep. L. Klemin: Seconded by Rep. Maragos

Discussion:

Rep. Karls: On the last part of your amendment page 2 line 3 I do not find the words relief to school district patrons?

Chairman K. Koppelman: It should be line 13 not line 3 on the last item.

Rep. G. Paur: It sounds like this should be tied to SB2039. In my school district they are providing low interest loans for school construction projects. That is a major deal. They are trying to keep the property taxes down by providing a 1% construction loan. The amendment seems to destroy the purpose of the two bills; the SCR and SB2039?

Rep. L. Klemin: That is part of education related purposes. So it doesn't eliminate that. All of this stuff could be included and then approved by the voters. Putting something like low interest loans into the constitution, I would rather see that in a statute but could still be done.

Rep. G. Paur: SB2039 is relating to scholarship fund; uses of the foundation aid stabilization aid fund and school construction assistance loan fund which this also is the effective date of the bill is July 16, 2016.

Rep. Lois Delmore: Education related is so broad? I would like to see it specifically aimed to help the things listed in this bill.

Rep. L. Klemin: This Foundation Aid Stabilization fund can't be used for much of anything except to boost up revenues for appropriation to schools in times of shortfalls which we haven't seen so this fund just keeps growing and growing. I think leaving it more general leaves flexibility we would need in changing circumstances in the future if this could be in the constitution. It certainly could include all these things and other things too.

Rep. K. Wallman: I am concerned if we leave it too much to chance it won't pass because there may be some concern it will be used for things that the legislature might think are educational related but the people wouldn't chose to be spent on it.

Rep. K. Hawken: Who is the Government Finance Committee? I that an interim committee?

Chairman K. Koppelman: Yes it is.

Rep. Maragos: If the people feel that the legislation is not doing their job then they are elected officials. (Mike not on)

Rep. K. Hawken: You can't guarantee anything. I agree with Rep. Klemin. I don't know if we want to be that specific in the Constitution. We get into trouble when we do that.

Rep. Mary Johnson: SB2039 says that any funds that remain in foundation aid stabilization fund after transfers to other funds; which I assume are ongoing constitutional transfers; must be used to provide state aid to school districts and educational related property tax relief. It is now in appropriations.

Rep. L. Klemin: That is a good example of what can be done. This is a representative government; we are not an entity upon ourselves where people decide and do the right thing.

Chairman K. Koppelman: In anticipation of this measure being put on the ballot and perhaps passing by the people then that bill seeks to determine what bills moot unless that constitution changes.

Rep. P. Anderson: At the primary election in June, 2016 because we just passed a resolution that said anything worth \$20 million should go in the general election. This is a lot of money and now we are saying we will put this in June. That is a little distrust right at the get go.

Chairman K. Koppelman: The committee can look at all of these measures and what ballots they go on and we would try to balance it. We don't want ten measures on one ballot and none on the other. We can amend that.

Rep. P. Anderson: I like providing scholarships to higher Ed for attending institutions of higher Ed. I think it has a better chance of passing.

Rep. L. Klemin: That other measure on what goes on the general election bill you referred to failed in the Senate. We can change this to the general election instead of June 2016; if we want to amend it to do that. I think putting stuff like provide scholarships in the constitution is not a good idea. There may be a point in time where there is not money and then we have to look at that we have to provide these scholarships according to the constitution.

Rep. P. Anderson: We don't use all the money for scholarships.

Rep. G. Paur: \$20 million was for initiated measures. The only trouble of moving it to the general election is that this wouldn't take effect until 2017.

Rep. Kretschmar: I agree with Rep. Klemin that language on the second page is not things we should put into the constitution. There are other provisions in our constitution where they set it up and then the legislative assembly should provide by law and let a bill come forward in the legislative assembly if this constitutional amendment would pass to do what they want with the excess funds. There are scholarships and school buildings and all those things are good, but I don't like to see them in the constitution.

Rep. K. Wallman: On the first page, line 4 this measure expands educational purposes? Would you Mr. Klemin be agreeable to change line 7, page 2 to mirror any excess principal balance to be used for educational purposes instead of related purposes?

Chairman K. Koppelman: That is not the amendment before us?

Rep. L. Klemin: Or the word educational on page 1, line 4 could be changed to education related.

Chairman K. Koppelman: Clearly the foundation aid stabilization fund was created for a narrow educational purpose. Namely to ensure that the appropriation the legislature makes for school districts is there. Either the Senate Version keeps it within the confines of education so do we want to put this before the people and put in more detail. The Constitution should be general and statute should be focused. Is this the kind of language that is general and gets us there?

Rep. G. Paur: Originally it was 50-50 must be deposited. All the stuff Rep. Klemin wants to delete wasn't in the original bill.

Chairman K. Koppelman: The original bill talked about low interest loans for school construction projects, addressing existing or anticipated unfunded benefit obligations of state retirement funds or other education related purposes.

Rep. G. Paur: I am going to remove my objections.

Rep. L. Klemin: I am changing education related to educational. By doing that we don't change that constitutional provision at all except for the distribution of how the percentages would be used.

Chairman K. Koppelman: We need to trust future legislators. If this were to pass it might be used for scholarships or educational purposes. Then it is up to the legislators at that time in the future.

Rep. Mary Johnson: The current plan in concert with SB 2013 and the reason this is in the primary is because on July 1, 2016 they plan on moving \$300 million into a newly created scholarship fund and \$300 million into a low interest construction loan program. That is the current plan. They are taking otherwise untapable funds to do that. They are taking the fund down to \$611 million.

Chairman K. Koppelman: So if this passes that would happen.

Voice vote carried.

Motion made to move this amendment further by Rep. Kretschmar: After the Klemin amendments where he says remove the of; I would like to add the language as provided by law. **Seconded by Rep. K. Wallman:**

Discussion: None

Voice vote carried.

Do Pass As Amended Motion Made by Rep. Maragos; Seconded by Rep. L. Klemin:

Discussion:

Rep. Lois Delmore: I don't think our budget should be set up so it depends upon a constitutional measure to pass. When Rep. Carlson was here he was very clear that if there was a big amount of money that was going to be in question it should always be at a general election ballot so I am going to oppose this more than anything on that grounds.

Rep. L. Klemin: You have to look at the merits of what the plan is too. Low interest lows for school construction; scholarships and whatever else that is in that bill. The Senate already killed that other provision.

Rep. Lois Delmore: I don't think a constitutional amendment should have to be passed with the revenues that we have had to do so.

Rep. Mary Johnson: The \$20 million is extra cost to the state. The issue of primary versus general; these are existing funds.

Rep. Lois Delmore: I think we are opening a big can of worms we don't want to go to. Appropriations still has a lot of things they are going to put in.

Chairman K. Koppelman: I am going to support the motion because if we are to make use of this money and now it is locked up and cannot be used in excess for the purpose it was designed for.

Roll Call Vote: 9 Yes 4 No 0 Absent **Carrier: Rep. Maragos**

PROPOSED AMENDMENTS TO REENGROSSED SENATE CONCURRENT RESOLUTION
NO. 4003

Page 2, line 7, after "balance" insert "to be used"

Page 2, line 7, replace "the" with "education-related"

Page 2, line 7, remove "of."

Page 2, remove lines 8 through 12

Page 2, line 3, remove "relief to school district patrons"

Renumber accordingly

April 1, 2015

82
4/1/15

PROPOSED AMENDMENTS TO REENGROSSED SENATE CONCURRENT RESOLUTION
NO. 4003

Page 2, line 7, after "balance" insert ". Such amount may be used"

Page 2, line 7, replace "the" with "education-related"

Page 2, line 7, remove "of:"

Page 2, remove lines 8 through 12

Page 2, line 13, replace "relief to school district patrons" with ", as provided by law"

Renumber accordingly

Date: 4-1-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4003

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: 15.3010.05001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Klemm Seconded By Rep. Maragos

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemm					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

voice
vote
carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 4-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 5003

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: 15.3010-05002 Kretschmar further amended.

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Kretschmar Seconded By Rep. Wallman

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Removal of line 7 add'ns provided by law.

Date: 4-1-15
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4003

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: 15.3010.05001

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Maragos Seconded By Rep. Klemin

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson		✓
Vice Chairman Karls	✓		Rep. Delmore		✓
Rep. Brabandt	✓		Rep. K. Wallman		✓
Rep. Hawken	✓				
Rep. Mary Johnson	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. D. Larson	✓				
Rep. Maragos	✓				
Rep. Paur		✓			

Total (Yes) 9 No 4

Absent 0

Floor Assignment Rep. Maragos 2

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

REPORT OF STANDING COMMITTEE

SCR 4003, as reengrossed: Judiciary Committee (Rep. K. Koppelman, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (9 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING).
Reengrossed SCR 4003 was placed on the Sixth order on the calendar.

Page 2, line 7, after "balance" insert ". Such amount may be used"

Page 2, line 7, replace "the" with "education-related"

Page 2, line 7, remove "of:"

Page 2, remove lines 8 through 12

Page 2, line 13, replace "relief to school district patrons" with ". as provided by law"

Renumber accordingly

2015 CONFERENCE COMMITTEE

SCR 4003

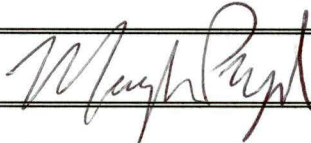
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SCR 4003
4/20/2015
Job # 26274 (31:33)

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

"Click here to type reason for introduction of bill/resolution"

Minutes:

5 Attachments

Chairman Flakoll called the committee to order at 3:00pm with all conference committee members present: Senator Rust, Senator Schneider, Representative Kretschmar, Representative Maragos and Representative Anderson.

(see attachment #1- 05002 version of bill)

Representative Kretschmar: We have a good amendment regarding the fund if we run out of money for the schools. The amendment does not change the amount of funds going into the fund; it is just different wording. The House took out 1-4 on page 2 of the bill and added "such amount may be used for education-related purposes." That is what the House would like to do.

Representative Maragos: One of the rationales is that the least amount of wording in the constitution, the better. If we can accomplish the very same thing without delineating everything and allowing it to go to even more purposes, that is proper.

Representative Anderson: In committee I voted no against the House amendment. It is too broad. I agree we need to be able to get at this money; I don't have a problem with that. However it's too broad and there would not be enough faith in the legislature that would do the right thing. I like the scholarships and low interest loans for school construction.

Chairman Flakoll: Both chambers agree to not have this towards retirement funds and the like. The 15% seems satisfactory to both sides as well. That would put us at about \$300M in a fund that has only been accessed one time in 2001 for about \$5M. This bill is a precursor to SB 2178 as it relates to school construction loans and SB 2039 which came out of the interim committee. Those two have to occur before the big K12 bill, SB 2031. During the deliberations on the senate side, we try to be aware of what we think are sellable points to the voters. We didn't have a lot of things that passed last November. The only thing we passed is something that does nothing.

Representative Anderson: We passed legislation that anything over \$20M should be in the general election. This is in the June election, and we did not like that either.

Representative Maragos: Everyone talks about selling points. The selling points are obvious when they are in related to education. I can't imagine anyone being against it.

Senator Rust: If you leave it so broad as simply "education related", people figure that the legislature is playing games with their money. If you include some things that this could be used for that would have uniform agreements, there will be better acceptance of it passing.

Senator Schneider: People are set by default to vote "no". If you define a couple of things and prove that this is going to be something that isn't just going to supplant existing funding for education but actually be something transformational, that is a lasting investment. That is more likely to dislodge someone who is more inclined to vote "no".

Representative Kretschmar: I served as a delegate to the second constitutional convention of North Dakota. The theory in the constitution is that it should be the bones of the government and we add the muscles by statutes. I don't like to get all of those ideas into the constitution. I would not like any of the things in the constitution that specify where the money is to be spent.

Chairman Flakoll: Didn't you and Representative Maragos sponsor HCR 3048 in 2005 that provided some direction?

Representative Kretschmar: I don't recall; we may have.

(10:50) **Representative Maragos:** Senator Schneider makes a good point that if the voters are confused, they will generally vote no. This bill needs to be inclusive not exclusive. If we end up with a lot of different items that other people think should be included and feel they are left out of it, then it may set up just the opposite condition that we want. I agree with Representative Kretschmar- the constitution is a framework and statute should set down the specifics. I would hope that this is the way the committee will proceed.

Chairman Flakoll: Don't we have some of that language that you desire in terms of education funding on page 2 lines 13-14? Property tax relief not only helps clarifies but garners support. That is a big buzz word and important in perpetuity. What are we selling with the House version? The assurance of long-term commitment is lacking. Some of this is associated with SB 2039, which is a different conference group, but I think there is more juice behind this by being specific.

Representative Maragos: In the run up to the vote and debates, it would be easier to market all the things that can be done. If there is something a group wants, they can go to the legislature and ask for assistance. By maintaining the bullet points, I don't think they could.

Senator Rust: I agree that in a philosophical sense, the best for the constitution is to leave it broad. However if you are trying to change something that people are comfortable with, you need a selling point. If you talk about the low interest loans for school construction,

most people are competent enough to know that that is immediate and direct property tax relief. Point 1 and 2 should be included then "or for education related purposes as provided for law" can be the third point.

Representative Kretschmar: If we put things in the constitution that need money, then it would be exclusively for that and not for other things that may come along in the future. We saw in last year's November election regarding wildlife- there was too much statutory things to put in the constitution. If we leave it broad as the House passed it, we still have a good chance to get it passed in the election next year. I would like to leave where the money goes to the legislature's determination.

Representative Anderson: We are number one in the number of students who come out of our higher education with debt- we are about 86%. These students come out with \$25-27,000. This bill all about K12, but I would like to see something with scholarships for our kids in state to go to our in-state universities. If that is in the constitution for forever, I am okay with that. It's a good thing.

Senator Schneider: There has to be a way to speak to Representative Kretschmar's valid point of not wanting to tie the hands of the legislature but while still having some selling points for the North Dakotan who walks into the voting booth and wants to figure out what exactly they are voting on. We could have page 2 on line 7 read "any access principle balance for education-related purposes, including 1-4."Including" means not limited to and any court would construe it that way if it was ever challenged. That can alleviate some concerns of the House.

Representative Maragos: Selling points are better suited for the debate on the measure. If you polled most North Dakotans, they wouldn't be able to tell you exactly what the common schools trust fund actually does. When we are marketing and debating it, we elaborate on the scholarships, school construction and property tax relief. I would look at whatever Senator Schneider has to offer and see if it could remedy our concerns.

(21:15) **Chairman Flakoll:** The most vulnerable part of selling is the common schools trust fund. We were looking to focus on the first couple points and then have some other opportunities. Different things play in different communities better. Where I am from, property tax relief and scholarships sell much better than adding another school, yet Senator Rust's district would be interested in school construction. We are talking 3 bullet points. I look in the context with what was proposed in SB 2039. As it came back to us, it had only \$100M in there for low interest construction programs. There is \$300M worth of projects in the queue currently from a survey from NDCEL. That is why we picked that number. In the current biennium, we will expend approximately \$33M for the two major scholarships that we have- needs and merit based. With a 4% return, that is a substantial amount of money. *(see attachment #2- email)*

Senator Rust: School construction would be a good selling point. I took a look at a \$50M school. It doesn't take much to get to a \$50M school these days. With a 20 year pay back, if the interest rate is 1%, the cost of that loan with interest will be about \$55.2M. If the interest rate was 4.5%, the cost of that loan with interest is \$75.9M. That is a difference of \$20.7M

or just over \$1M per year that must be paid by property owners through additional property taxes.

Chairman Flakoll: When we are talking low interest loans for construction, we are talking a revolving account, which would be in designed to be in perpetuity.

Senator Rust: Yes.

Representative Maragos: Property tax relief is probably the biggest buzz word. All of these are good bullet points. We can sell it any way we want once we get it on the ballot without any restrictions. If it is important for the districts that want school construction, that is what we tell them. If districts are more interested in scholarships, they are on the list. It is all there and it would be so easy to sell in my opinion.

Chairman Flakoll: I worry that with SB 2039, we are selling one thing and doing another. The only thing that came back to us is \$100M for low interest loans, which would basically go to 10 school districts. That is when people start losing confidence.

Representative Maragos: You're saying we would have to address this somehow in this ballot measure?

Chairman Flakoll: not necessarily but when you are selling something you need to be true to your word. That is where we can get into trouble.

Representative Maragos: How would adding these change that particular aspect?

Chairman Flakoll: This is the precursor. If we kill this bill, SB 2039 won't exist. Last session we killed SCR 4010 and in 2005 we killed HCR 3048, so I am worried.
(see attachment #3 & #4)

Senator Rust: The voters want a reason to vote for something. If I walk into a bank and said I would like to borrow \$10M for business-related things, the banker would not buy that. If I told him specifically what for, he might have another opinion. Voters are hesitant when given a general option as opposed to specificity.

Chairman Flakoll requests that the documentation on the analysis of the foundation aid stabilization fund be included in the minutes (see attachment #5)

Chairman Flakoll adjourns the conference meeting on SCR 4003.

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SCR 4003
4/21/2015
Job # (30:52)

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

DISCUSSION

Minutes:

3 Attachments

Chairman Flakoll called the committee to order at 4:00pm with all conference committee members present: Senator Rust, Senator Schneider, Representative Kretschmar, Representative Maragos and Representative Anderson.

(see attachment #1& #2- 5003 amendments)

Senator Rust: On page one line 10, we changed it from the primary election in June to the general election November like the House wanted. The second part of the amendment begins on line 7 on page 2. We went off of the House's thoughts of "educationally related purposes" and included 3 of the points: low-interest loans for school construction, scholarships, and property tax relief to school district patrons. The term "including" does not mean it is limited to them. School construction projects- it is still not uncommon to see schools that were built 100 years ago. Scholarships- what better thing to invest in than the youth of our state? Lastly everyone likes property tax relief.

Chairman Flakoll: Moving the date helps inform the voters more if we go to the fall because they are more high profile elections. Also as legislative candidates go door to door, a common conversation is what our thoughts are on the ballot measures. This can be an instructive tool.

Representative Maragos: I don't know if we solve the central issue even with the amendment. In school construction the money would be paid back into the fund. I might consider that, but any moneys taken out of the fund and not replaced I'm not sure I would be in favor of. I would need to think about this.

Chairman Flakoll: That would mean you wouldn't support the bill as it came out of the House. With that version there was no provision that focused on things that would be in perpetuity like the revolving construction or endowed scholarships. It could all be a one-time spending. In this case we retain \$300M for the base and then the remainder, which

could be \$450M this next biennium, could all go towards supplanting K12 dollars and that would be gone forever. That is the way the bill came to us. We need some guiding language.

Representative Maragos: This is an improvement, but it still has potential for better.

Senator Rust: I hear often from concerned citizens that the state has so much money squirrelled away into places that can or can't be touched. This is one of those funds that will be like that. If we do nothing with the foundation aid stabilization fund, it will just keep growing. By doing this you will have money that is available in case of emergency, that 15%, and the other can be used for something meaningful.

Senator Schneider: I would like to see something come out of this that is permanent, especially the scholarship endowment in which the return on that goes to fund access to higher education. However that is a fight for another day. All of the language in this resolution is permissive. Whether or not the legislature creates a revolving loan fund, a scholarship endowment, or uses this to supplant existing appropriations for education, that is something we would have to deal with as a legislature sometime down the road.

Representative Maragos: Under the bill as it is right now, the legislature would statutorily be able to do that if this were to pass.

Representative P. Anderson: I like the wording of this new amendment. It doesn't say we have to do it; it is just a selling point. Let's just get it passed.

(11:35) **Representative Kretschmar:** It's a good thing to put the resolution on the November ballot. However I still think putting some of these provisions in the constitution is not good. Those should be established by statute by the legislative assembly. It is always difficult for the legislative assembly to predict revenues or other numbers two years from now. I would hope our legislature is wise enough to use the funds in good ways. Those items should not be listed in the constitution.

Senator Rust: What do we need to get to a resolution?

Representative Maragos: Bullet points aren't necessary because it can be accomplished without them.

Representative Kretschmar: We should not put statutory things into the state constitution. I am confident that the voters will support this and the legislature would use the money wisely.

Chairman Flakoll: I am worried about the legislature not being visionary and creating something that is lasting. We had the conference committee on SB 2039 earlier today and we are talking about how the money may be disbursed. As it came to us, there was \$100M for a construction loan program. That essentially leaves \$350M that could just be used one-time and done. That doesn't serve the people well. This is an opportunity we have. Article 10 of finance and public debt is 7 pages long, yet the K12 portion of the constitution is 4

subsections. (*see attachment #3- section 21-22*) Those are examples for when we are prescriptive and use bullet points. It has served us well.

Senator Rust: I am not sure that the electorate would pass something that is general or vague. The legislature has no way of promoting something. You cannot use state funds to buy supporting ads. There has to be some external group to advocate. You need to word it to sell it to your audience. "Educationally related" is too vague and will create suspicion.

Chairman Flakoll: It may conjure up some of the same concerns that caused the Department of Public Instruction foundation bill to go down. If different people are messaging differently, people will get confused and vote no. This will allow us to rally around 3 specific things with flexibility options for others.

Senator Schneider: My concern with the vagueness is that it is a vacuum that could be filled by whatever interest group. Maybe there is a public employee's union that thinks education related purpose includes transitioning to a defined contribution plan so they oppose it for that reason. When you are looking at similarly stated things in a constitution or statute, it is interpreted to include only like things. This narrows some of that vagueness and has no statutory effect. This is authorizing language and does not tie the legislature's hands. Perhaps there is a middle ground.

Representative P. Anderson: The legislative initiatives have not been successful in the last couple rounds of election. If we leave this as vague as it is, I don't think it will pass. They will not trust us.

Chairman Flakoll: Every one of us would like to free up that money. Who would have thought that it would grow to this size and become a good problem? At no other time in history will we have an opportunity to do something big like this. If we put about half of the money over the base to scholarships, that would pay for half of the scholarship program. Then we would loosen up the \$8M that would generate every year. If we have that program, not only does that save with property tax relief, but it will continue to grow provide some long-term savings that we don't have to have in those other programs.

Representative Kretschmar: We should think about this and have another meeting tomorrow.

Representative Maragos: The general dialogue will be who and what gets what. An ensuing argument could take place because people will feel that they have been treated unfair. If people start to come apart, it is a concern. I don't want certain factions to challenge the priorities of the money disbursement.

Senator Rust: I would rather have that argument rather than the broadness of what to spend it on. I would rather items worthy than the potential for unworthiness is even greater.

Chairman Flakoll adjourns the conference meeting on SCR 4003.

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SCR 4003
4/22/2015
Job # 26354 (16:45)

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Discussion

Minutes:

No Attachments

Chairman Flakoll called the committee to order at 2pm with all committee members present: Senator Rust, Senator Schneider, Representative Kretschmar, Representative Maragos and Senator P. Anderson.

Representative Kretschmar: We still refer to "educational purposes" without any further detail. That is the position we will continue to maintain.

Chairman Flakoll: What can happen under the House's version versus the Senate's? Is there a difference between what the legislature can do?

Representative Kretschmar: Probably not. Under the House version, the legislature has the ability to fund any educational purpose. The Senate version has specific things in there that they would like to provide. I would like it more broadly worded as the House version is.

Chairman Flakoll: I have the headline for the story if our version would pass. What would your version would be?

Representative Maragos: "The House is all in"

Senator Rust: If we go along with the House and it fails, the headline will be "I told you so".

Representative Maragos: if it passes it would be "see, you had nothing to worry about"

Senator Schneider: Is there possibility to compromise based on fewer listed items? We already took the common school trust fund portion out. I recognize Representative Kretschmar's concern about not wanting to put a lot of language in the constitution. Could we narrow the list? Would that alleviate some concern?

Representative Kretschmar: There are always those possibilities. As of now the House is not in much of a moving mood. That is the House position.

Chairman Flakoll: Our version is about 15 more words than the House version.

Representative Kretschmar: Those are the words that the House doesn't like.

Chairman Flakoll: Our headline from the Senate version would be "Legislature recommends constitutional amendment for \$400M for low-interest school construction loans, scholarships and property tax relief".

Senator P. Anderson: I am from the House but I support the Senate version.

Senator Rust: Where is the compromise?

Representative Kretschmar: There is always the possibility for movement.

(7:50) **Chairman Flakoll:** This bill passed the Senate unanimously and lost 22 votes in the House. What was the pushback?

Representative Maragos: The pushback was any delineation, putting the bullet points into the constitution. I am unsure of the House vote if we change that.

Chairman Flakoll: It was the House version that they voted on with generic language.

Representative Kretschmar: The proposed resolution came out of one of the interim committees that deal with funding and was supported by people in that area. I don't recall if there was any verbal opposition on the floor. The bill passed the House pretty well.

Senator Schneider: We would like to give it another try. This is important to get right. We are looking for guidance on how we can productively move forward.

Chairman Flakoll: It might be time for the House to come up with some options.

Representative Kretschmar: Give us a little time, and we will see what we can do.

Chairman Flakoll: One of the no votes was a conference committee member...

Senator P. Anderson: We talked about this in our Judiciary committee. I didn't like that it was going to be a June election, which we have amended since then. The other issue is I really want this to pass, but this is too general. It would be a lot easier to pass it if we can talk about low interest construction loans and college scholarships. "Education related" is too vague. I don't think it would pass. That is why I voted "no" it both committee and on the floor.

Senator Rust: I am encouraged that all 6 of us like both that it is on the November ballot and the idea of being able to unlock beyond 15%. The only thing we are haggling over is some language.

Chairman Flakoll: I still look at this as having some selling points to rally around. Both sides probably agree that the three ballot points we have are valid regardless of which stance you take. We will meet tomorrow afternoon

Chairman Flakoll adjourns the conference meeting on SCR 4003.

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SCR 4003
4/24/2015
Job # 26403 (9:47)

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

ACTION

Minutes:

No Attachments

Chairman Flakoll called the committee to order at 11:00am with all committee members present: Senator Rust, Senator Schneider, Representative Kretschmar, Representative Maragos and Representative P. Anderson.

Chairman Flakoll: We had a productive meeting on SB 2039 earlier today. We've reached an agreement that we would like to see this on the 2016 fall ballot and we've also agreed on the 15% portion. We've agreed on all components of the K12 bill. There are two portions that the senate has a preferred position on. First is the revolving account for low interest loans which could save local school districts a lot of money on their property taxes. Senator Schaible is spearheading that on a number of bills. There would also be an endowment set up for \$200M with the interest and income accrued being used for scholarship funds. If that goes through, it helps me feel more comfortable in this more generic language. SCR 4003 is our intent and helps us market bullet points. I entertain that the Senate would accede to the House amendments and we would further amend SCR 4003 such that we would change the date to fall 2016 and adopt the language as it came to the Senate- the 6000 version.

Representative Kretschmar motions for the Senate to accede to the House amendment as printed on pages 1140 and 1141 of the Senate Journal and page 1287 of the House Journal and that Reengrossed Senate Concurrent Resolution No. 4003 be further amended.

Senator Schneider seconds the motion.

Chairman Flakoll: The only change from the House version is the ballot date from June's primary to November's general.

Representative Maragos: I am pleased at this development. I am confident that all of the pieces will fit together for a successful outcome in the fall of 2016.

Chairman Flakoll: This has been a good conference committee. The House conferees have been enjoyable to work with.

Representative Maragos: I will certainly echo that sentiment to our fellow Senate conferees. We've come to a positive conclusion.

Representative Kretschmar: I am pleased that this worked out and we can go forward with this resolution.

Senator Rust: I agree.

A vote was taken. The motion carries: 3-0, 3-0

Senator Flakoll and Representative Kretschmar will carry the bill.

April 24, 2015

4/24/15
JRE

PROPOSED AMENDMENTS TO REENGROSSED SENATE CONCURRENT RESOLUTION
NO. 4003

That the Senate accede to the House amendments as printed on pages 1140 and 1141 of the Senate Journal and page 1287 the House Journal and that Reengrossed Senate Concurrent Resolution No. 4003 be further amended as follows:

Page 1, line 10, replace "primary" with "general"

Page 1, line 10, replace "June" with "November"

Renumber accordingly

2015 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

SCR 4003 as re-engrossed

Senate Education Committee

- Action Taken** ☐ **SENATE accede to House Amendments**
☐ **SENATE accede to House Amendments and further amend**
☐ **HOUSE recede from House amendments**
☐ **HOUSE recede from House amendments and amend as follows**
- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: _____ Seconded by: _____

Senators	4/20	4/21	4/22	Yes	No		Representatives	4/20	4/21	4/22	Yes	No
Chairman Flakoll	X	X	X				Representative Kretschmar	X	X	X		
Senator Rust	X	X	X				Representative Maragos	X	X	X		
Senator Schneider	X	X	X				Senator P. Anderson	X	X	X		
Total Senate Vote							Total Rep. Vote					

Vote Count Yes: _____ No: _____ Absent: _____

Senate Carrier _____ House Carrier _____

LC Number _____ . _____ of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Date: 4/24/2015
Roll Call Vote #: 1

2015 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

SCR. 4003 as re-engrossed

Senate Education Committee

Action Taken

- ☐ **SENATE accede to House Amendments**
- ☒ **SENATE accede to House Amendments and further amend**
- ☐ **HOUSE recede from House amendments**
- ☐ **HOUSE recede from House amendments and amend as follows**

- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Kretschmar Seconded by: Senator Schneider

Senators	4/24			Yes	No		Representatives	4/24			Yes	No
Chairman Flakoll	X			X			Representative Kretschmar	X			X	
Senator Rust	X			X			Representative Maragos	X			X	
Senator Schneider	X			X			Senator P. Anderson	X			X	
Total Senate Vote				3	0		Total Rep. Vote				3	0

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier	Senator Flakoll	House Carrier	Representative Kretschmar
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LC Number 15.3010.05004 . 07000 of amendment

LC Number . of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SCR 4003, as reengrossed: Your conference committee (Sens. Flakoll, Rust, Schneider and Reps. Kretschmar, Maragos, P. Anderson) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ pages 1140-1141, adopt further amendments as follows, and place SCR 4003 on the Seventh order:

That the Senate accede to the House amendments as printed on pages 1140 and 1141 of the Senate Journal and page 1287 the House Journal and that Reengrossed Senate Concurrent Resolution No. 4003 be further amended as follows:

Page 1, line 10, replace "primary" with "general"

Page 1, line 10, replace "June" with "November"

Renumber accordingly

Reengrossed SCR 4003 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

SCR 4003

#1

1/12/2015
SCR 4003

Mr. Chairman and members of the Senate Education committee. It is a pleasure to appear before you today. For the record I am Representative Jeff Delzer from district 8 which is the eastern part of McLean County and most of rural Burlingame County.

This past interim I had the opportunity to chair the Government Finance committee and this resolution as well as bill 2039 came out of that committee. We had study requirements to look at the state retirement plan, the foundation aid stabilization fund and a number of other studies.

The foundation aid stabilization fund receives 10% of oil extraction taxes. It was first passed by the people on North Dakota in the early 90's to alleviate a situation which has been occurring almost every budget cycle during the 80's of overestimating revenues and then having an allocation which would mean schools and others got less than they had anticipated, especially in the second year of the biennium. I have not anywhere found language to mean that it is education money, but only to keep the education funding as appropriated in each session. The only way it can be used under the current constitution is for there to be an allotment by the governor, which can only come about after OMB reforecasts a decrease from the forecast. The first 2.5% must be an allocation and then the budget stabilization fund kicks in to cover the next 9.5% the essence is that the FASF would then cover that 2.5% for school funding. Under current law there is thought that the governor would then have the choice of using either the FASF or the BSF for further allotment amounts. There is a bill from GF in the house which would define the uses as the first 2.5 FASF then the next 9.5% BSF and then if the governor was doing an allotment of more than 12% which seems unlikely without calling a special session the FASF would again be used.

We settled on the language in the resolution of 15% of general fund for the latest budget to keep plenty in the fund. 15% of the governor's recommendation for 15-17 is around 271 million. The FASF currently is expected to have 667 million at the end of 13-15 and 1 billion by the end of 15-17 of course that is by the forecast and likely to change. If the big trigger hits it will drastically reduce the amount going into the FASF but there will still likely be enough to cover the amounts in 2039. We put language in there it use the funds for school construction, unfunded liability for state pension and other education related purposes. Since it has to go to the people for a vote we tried to make it as acceptable as possible and still allow use of excess funding which can reside within the fund. The school construction would need parameters to make sure it is used properly and the unfunded liability fund would be available to cover the cost of paying the promised amounts to current defined benefit recipients. Much the same as we covered the OASIS after switching to defined benefit. The other education related would be up to future legislatures but would likely be part of foundation aid.

1/12

ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (REFLECTING THE 2015-17 EXECUTIVE BUDGET RECOMMENDATION)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		\$335,364,942		\$667,447,813
Add estimated revenues				
Oil extraction tax allocations	\$332,082,871 ¹		\$409,932,596 ¹	
Total estimated revenues		332,082,871		409,932,596
Total available		\$667,447,813		\$1,077,380,409
Less estimated expenditures and transfers				
Transfer to foundation aid program	\$0 ²		\$0 ²	
Total estimated expenditures and transfers		0		0
Estimated ending balance		\$667,447,813		\$1,077,380,409

¹Estimated revenues - Based on actual oil extraction tax collections deposited in the fund through October 2014 and estimated allocations for the remainder of the 2013-15 biennium and the 2015-17 biennium per the December 2014 revenue forecast.

²Estimated 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 foundation aid reductions as a result of a revenue shortfall are currently anticipated in the 2013-15 biennium or the 2015-17 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:

- 50 percent (of the 20 percent) to the common schools trust fund.
- 50 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 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 period July 1, 2013, through October 31, 2014, \$283,289 of interest from the foundation aid stabilization fund has been allocated to the general fund.

REQUEST/RECOMMENDATION COMPARISON SUMMARY

201 Department of Public Instruction
Biennium: 2015-2017

Bill#: SB2013

Description	Expenditures Prev Biennium 2011-2013	Present Budget 2013-2015	2015-2017 Requested		Requested Budget 2015-2017	2015-2017 Recommended		Executive Recommendation 2015-2017
			Incr(Decr)	% Chg		Incr(Decr)	% Chg	
By Major Program								
General Management	1,321,346,317	1,834,475,145	(23,676,053)	(1.3%)	1,810,799,092	153,199,766	8.4%	1,987,674,911
Educational Success and Community Support	215,686,864	231,330,432	(14,314,888)	(6.2%)	217,015,544	(10,546,660)	(4.6%)	220,783,772
Information and Administrative Support	100,454,123	100,217,695	4,738,444	4.7%	104,956,139	5,904,295	5.9%	106,121,990
Total Major Programs	1,637,487,304	2,166,023,272	(33,252,497)	(1.5%)	2,132,770,775	148,557,401	6.9%	2,314,580,673
Salaries and Wages	13,229,452	16,091,143	321,608	2.0%	16,412,751	3,058,616	19.0%	19,149,759
Accrued Leave Payments	0	322,068	(322,068)	(100.0%)	0	0	0.0%	0
Operating Expenses	25,652,855	30,699,102	(1,268,300)	(4.1%)	29,430,802	99,090	0.3%	30,798,192
Integrated Formula Payments	929,265,751	1,752,508,150	(408,150)	-0.0%	1,752,100,000	147,491,850	8.4%	1,900,000,000
Grants-Special Education	16,000,000	16,500,000	0	0.0%	16,500,000	800,000	4.8%	17,300,000
School District Safety Grants	0	3,000,000	(3,000,000)	(100.0%)	0	0	0.0%	0
Grants-Transportation	48,500,000	53,500,000	0	0.0%	53,500,000	6,500,000	12.1%	60,000,000
Powerschool	0	0	0	0.0%	0	6,000,000	100.0%	6,000,000
Grants-Other Grants	263,995,516	291,866,261	(27,189,039)	(9.3%)	264,677,222	(10,683,539)	(3.7%)	281,182,722
Grants-Mill Levy Reductions	331,585,019	0	0	0.0%	0	0	0.0%	0
Initiative Funding Pool	0	1,386,548	(1,386,548)	(100.0%)	0	0	0.0%	0
Education Jobs Fund	9,217,832	0	0	0.0%	0	0	0.0%	0
Transportation Efficiency	5,829	30,000	0	0.0%	30,000	0	0.0%	30,000
National Board Certification	35,050	120,000	0	0.0%	120,000	0	0.0%	120,000
Total Line Items	1,637,487,304	2,166,023,272	(33,252,497)	(1.5%)	2,132,770,775	148,557,401	6.9%	2,314,580,673
By Funding Source								
General Fund	1,241,231,312	1,729,026,513	(24,813,677)	(1.4%)	1,704,212,836	77,090,854	4.5%	1,806,117,367
Federal Funds	285,676,598	295,297,569	(8,457,303)	(2.9%)	286,840,266	(7,362,359)	(2.5%)	287,935,210
Special Funds	110,579,394	141,699,190	18,483	0.0%	141,717,673	78,828,906	55.6%	220,528,096
Total Funding Source	1,637,487,304	2,166,023,272	(33,252,497)	(1.5%)	2,132,770,775	148,557,401	6.9%	2,314,580,673
Total FTE	99.75	99.75	0.00	0.0%	99.75	0.00	0.0%	99.75

15% = 270,917,605

VARIOUS OIL PRICE AND PRODUCTION LEVELS - ESTIMATED 2013-15 AND 2015-17 OIL AND GAS TAX REVENUE COLLECTIONS

This memorandum provides information on estimated 2015-17 biennium total oil and gas tax revenue collections based on various oil prices and oil production levels and changes to the estimated 2013-15 biennium and 2015-17 biennium allocations to the strategic investment and improvements fund based on changes in oil price and production.

ESTIMATED 2015-17 BIENNIUM OIL AND GAS TAX REVENUE COLLECTION CHANGES

The gross production tax on oil is 5 percent of the gross value of oil produced at the well, excluding tribal, federal, state, and local municipality mineral interests. The oil extraction tax rate is 6.5 percent of the gross value of oil produced at the well, excluding applicable rate reductions and exemptions. The amounts shown in the schedules below reflect an effective oil and gas gross production tax rate of 4.8 percent and an effective oil extraction tax rate of 6.1 percent for oil prices above the trigger price (\$52.59). For oil prices less than the trigger price, the amounts shown below reflect an effective oil and gas gross production tax rate of 4.8 percent and an effective oil extraction tax rate of 1 percent. The effective oil extraction tax rate of 1 percent reflects the effect of the trigger price provisions in North Dakota Century Code Chapter 57-51, including a 24-month exemption for initial production from horizontal wells. The effective tax rates reflect estimates provided by the Tax Department.

The ranges for the average daily oil production levels and oil prices shown in the schedules below reflect amounts that have been adjusted proportionately to the ranges in the December 2014 revenue forecast. For example, the production range of 720,000 to 900,000 relates to average daily oil production that is 500,000 barrels per day less than the December 2014 revenue forecast for the entire 2015-17 biennium, and the price range of \$24 to \$32 relates to oil prices that are \$50 less than the December 2014 revenue forecast for the entire 2015-17 biennium.

Total Oil and Gas Tax Revenue Collections - Various 2015-17 Biennium Estimates

The schedule below provides information on estimated 2015-17 biennium total oil and gas tax revenue collections based on various average daily oil prices and average daily oil production levels. The amount highlighted in gray reflects the total estimated oil and gas tax collections for the 2015-17 biennium based on the December 2014 revenue forecast.

Average Daily Oil Production (Barrels of Oil)		Price Levels						
		\$24 to \$32 ¹	\$34 to \$42 ¹	\$44 to \$52 ¹	\$54 to \$62 ²	\$64 to \$72 ³	\$74 to \$82 ³	\$84 to \$92 ³
Production Level	Variance From December 2014 Forecast	Variance From December 2014 Forecast						
		(\$50)	(\$40)	(\$30)	(\$20)	(\$10)	\$0	\$10
720,000 to 900,000	(500,000)	\$1,006,550,000	\$1,359,090,000	\$1,711,620,000	\$3,563,510,000	\$4,541,700,000	\$5,204,220,000	\$5,866,740,000
970,000 to 1,150,000	(250,000)	\$1,306,890,000	\$1,765,270,000	\$2,223,660,000	\$4,617,810,000	\$5,901,830,000	\$6,763,270,000	\$7,624,720,000
1,120,000 to 1,300,000	(100,000)	\$1,487,090,000	\$2,008,990,000	\$2,530,880,000	\$5,250,380,000	\$6,717,910,000	\$7,698,700,000	\$8,679,500,000
1,170,000 to 1,350,000	(50,000)	\$1,547,160,000	\$2,090,230,000	\$2,633,290,000	\$5,461,240,000	\$6,989,930,000	\$8,010,520,000	\$9,031,100,000
1,220,000 to 1,400,000	0	\$1,607,230,000	\$2,171,460,000	\$2,735,700,000	\$5,672,100,000	\$7,261,960,000	\$8,322,330,000	\$9,382,690,000
1,270,000 to 1,450,000	50,000	\$1,667,300,000	\$2,252,700,000	\$2,838,100,000	\$5,882,960,000	\$7,533,980,000	\$8,634,140,000	\$9,734,290,000
1,320,000 to 1,500,000	100,000	\$1,727,370,000	\$2,333,940,000	\$2,940,510,000	\$6,093,820,000	\$7,806,010,000	\$8,945,950,000	\$10,085,890,000

¹The amounts shown for these price levels reflect a reduced effective oil extraction tax rate (1 percent) related to the potential effect of the trigger tax provisions for the entire 2015-17 biennium.

²The amounts shown for this price level reflect a reduced effective oil extraction tax rate (1 percent) related to the potential effect of the trigger tax provisions for the first five months of the 2015-17 biennium.

³The amounts shown for these price levels reflect the December 2014 revenue forecast effective oil extraction tax rate (6.1 percent) for the entire 2015-17 biennium.

NOTE: The amounts reflected in these schedules are preliminary estimates. The actual amounts for the 2013-15 and 2015-17 biennium may differ significantly from these amounts based on actual oil price and oil production.

²The amounts shown for this price level reflect the December 2014 revenue forecast effective oil extraction tax rate (6.1 percent) without any adjustments for potential reductions related to the special trigger tax provisions (Section 57-51.1-03(9)) for the remainder of the 2013-15 biennium. However, if the monthly average comparison price of oil was less than \$55 in January 2015 and the special trigger tax provisions became effective at this price level for the last four months of the 2013-15 biennium, estimated oil extraction tax collections would decrease by approximately \$40 million and estimated allocations to the strategic investment and improvements fund would decrease by approximately \$9 million.

³The amounts shown for this price level reflect the December 2014 revenue forecast effective oil extraction tax rate (6.1 percent) without any adjustments for potential reductions related to the special trigger tax provisions (Section 57-51.1-03(9)) for the remainder of the 2013-15 biennium.

Estimated 2015-17 Biennium Allocations - Strategic Investment and Improvements Fund

The schedule below provides information on changes in estimated total 2015-17 biennium oil and gas tax revenue allocations to the strategic investment and improvements fund based on various changes in oil price and oil production. The amounts highlighted in gray reflect the estimated total oil and gas tax revenue allocations for the 2015-17 biennium based on the December 2014 revenue forecast.

Average Daily Oil Production (Barrels of Oil)		Price Levels						
		\$24 to \$32 ¹	\$34 to \$42 ¹	\$44 to \$52 ¹	\$54 to \$62 ²	\$64 to \$72 ³	\$74 to \$82 ³	\$84 to \$92 ³
Production Level	Variance from December 2014 Forecast	Variance from December 2014 Forecast						
		(\$50)	(\$40)	(\$30)	(\$20)	(\$10)	\$0	\$10
720,000 to 900,000	(500,000)	\$0	\$0	\$0	\$0	\$172,980,000	\$308,100,000	\$437,160,000
970,000 to 1,150,000	(250,000)	\$0	\$0	\$0	\$170,490,000	\$446,850,000	\$616,370,000	\$778,970,000
1,120,000 to 1,300,000	(100,000)	\$0	\$0	\$0	\$292,260,000	\$606,390,000	\$796,630,000	\$995,940,000
1,170,000 to 1,350,000	(50,000)	\$0	\$0	\$0	\$342,330,000	\$654,100,000	\$866,000,000	\$1,051,790,000
1,220,000 to 1,400,000 ⁴	0	\$0	\$0	\$0	\$376,020,000	\$716,640,000	\$916,410,000	\$1,130,020,000
1,270,000 to 1,450,000	50,000	\$0	\$0	\$0	\$425,450,000	\$759,720,000	\$986,490,000	\$1,202,770,000
1,320,000 to 1,500,000	100,000	\$0	\$0	\$0	\$456,770,000	\$821,550,000	\$1,051,070,000	\$1,260,550,000

¹The amounts shown for these price levels reflect a reduced effective oil extraction tax rate (1 percent) related to the potential effect of the trigger tax provisions for the entire 2015-17 biennium.

²The amounts shown for this price level reflect a reduced effective oil extraction tax rate (1 percent) related to the potential effect of the trigger tax provisions for the first five months of the 2015-17 biennium.

³The amounts shown for these price levels reflect the December 2014 revenue forecast effective oil extraction tax rate (6.1 percent) for the entire 2015-17 biennium.

⁴The following are estimated 2015-17 biennium oil tax allocations based on the December 2014 revenue forecast production level of 1.22 million to 1.4 million barrels of oil per day and varying price levels:

	\$24 to \$32	\$34 to \$42	\$44 to \$52	\$54 to \$62	\$64 to \$72	\$74 to \$82	\$84 to \$92
Legacy fund	\$444,680,000	\$600,780,000	\$756,910,000	\$1,692,040,000	\$2,229,440,000	\$2,600,420,000	\$2,957,710,000
Three Affiliated Tribes	124,970,000	168,840,000	212,710,000	417,140,000	530,430,000	607,880,000	685,330,000
Oil and gas research fund	1,590,000	3,980,000	6,510,000	10,000,000	10,000,000	10,000,000	10,000,000
Oil and gas impact grant fund	112,380,000	119,000,000	119,000,000	119,000,000	119,000,000	119,000,000	119,000,000
Political subdivisions	688,110,000	892,120,000	1,095,390,000	1,298,630,000	1,501,860,000	1,705,100,000	1,908,190,000
Abandoned well reclamation fund	9,790,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000
North Dakota outdoor heritage fund	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000
Foundation aid stabilization fund	24,390,000	32,950,000	41,510,000	258,870,000	357,700,000	409,930,000	462,160,000
Common schools trust fund	24,390,000	32,950,000	41,510,000	258,870,000	357,700,000	409,930,000	462,160,000
Resources trust fund	48,780,000	65,910,000	83,030,000	517,740,000	715,400,000	819,870,000	924,330,000
General fund	78,150,000	194,930,000	200,000,000	300,000,000	300,000,000	300,000,000	300,000,000
Property tax relief sustainability fund	0	0	119,130,000	341,790,000	341,790,000	341,790,000	341,790,000
Strategic investment and improvements fund	0	0	0	376,020,000	716,640,000	916,410,000	1,130,020,000
State disaster fund	0	0	0	22,000,000	22,000,000	22,000,000	22,000,000
Total allocations	\$1,607,230,000	\$2,171,460,000	\$2,735,700,000	\$5,672,100,000	\$7,261,960,000	\$8,322,330,000	\$9,382,690,000



OIL TAX INCENTIVES – PRICE TRIGGERS

OET = 6.5%; GPT = 5%

ALL TRIGGERS RELATED TO OET ONLY

SMALL TRIGGER – N.D.C.C. § 57-51.1-03(9)

- WTI < \$57.50 average for single month
- Takes effect first day of following month
- Ends first day of month following a single month with average price of \$72.50 or more, or July 1, 2015 due to statutory sunset
- Only applies to wells completed after incentive is triggered on
- Remains in effect for qualifying wells, no matter what happens to price, for duration of incentive period
- 4.5% reduction – OET goes from 6.5% to 2% on first 75,000 barrels produced or the first \$4.5 million of gross value during first 18 months after completion
- Adopted in 2009 – was effective one time
- Could take effect on February 1, if January WTI price averages less than \$57.50; first impact to state revenues would be March or April
- Estimated impact:
 - 75,000 barrels at \$50 at 4.5% rate savings = \$170,000 per well
 - \$120 million if in effect from February (revenue month of March) to June, assuming 650 wells completed that are now waiting for completion, not counting new wells
 - Could be another \$85 million for new wells if 100 per month completed from February to June

LARGE TRIGGER – N.D.C.C. § 57-51.1-03(3)

- WTI < \$55.09 for 5 consecutive months (\$55.09 based on trigger price of \$52.59 (\$35 trigger fixed in law and adjusted for inflation) + \$2.50)
- Takes effect first day of month following five consecutive months below trigger
- Ends first day of month following five consecutive months of prices above trigger
- Applies to all wells in first 24 months of production, even if drilled prior to incentive triggering on
- If wells are beyond first 24 months of production, they go to a rate of 4% OET if drilled after April 27, 1987 (covers nearly all producing wells)
- If within first 24 months of production or completed after incentive triggers on, they go to a rate of 0% OET for up to 24 months
- Incentive was triggered on for 17 years and has been triggered off for past 10 years, since 2004
- Could take effect in June if January through May WTI price averages less than \$55.09; first impact to state revenues would be July or August
- Would reduce effective OET rate from 6.5% to 1%
 - 0% for all new wells
 - 0% for all wells within first 24 months of production
 - 4% for nearly all older wells
- Estimated impact:
 - 1,300,000 BOPD at \$50; effective OET rate goes from 6.1% to 1% = \$100 million per month less revenue due to incentive

SCR 4003 – Testimony by Dustin Gawrylow (Lobbyist #244) North Dakota Watchdog Network

Stance: Testifying In Support of SCR 4003 contingent upon revisions to the proposed language.

Support opening up funds from the foundation aid stabilization fund for the purposes of low-interest loans for school construction.

Oppose using funds for “addressing existing or anticipated unfunded benefit obligations of the state retirement funds”

Question “or other education-related expenses.”

Suggested Changes:

- limit amendment solely to funding construction projects by removing “addressing existing or anticipated unfunded benefit obligations of the state retirement funds”.
- Either itemize what the “other education-related expenses” are, or remove it entirely.
- Address retirement issue in a separate amendment if desired.

Conclusion

Do not let a provision that will be deemed to be a bailout of the state pension funds drag down what is an otherwise good constitutional amendment that will save taxpayers money and prevent public funds from being paid to out-of-state bond investors.

Do not let vague language distort the fact that with North Dakota’s finances, no school in North Dakota, no matter their enrollment situation, should be paying market-rate interest on bonds to out-of-state investors.

#3
1/12/15

Testimony SCR 4003

Senator Flakoll. Members of the Committee.

Good Morning. I am Nick Archuleta, the president of North Dakota United.

On behalf of the 11,000 members I represent, I rise to oppose SCR 4003 in its current form.

While we can all probably agree that no one envisioned a balance of over a half billion dollars in the Foundation Aid Stabilization Fund, the fact of the matter is that this fund was created to ensure that North Dakota has the necessary funds available to carry out its mandate to provide for the education of her citizens.

I have no problem with the intent of SCR 4003 to use monies from the Foundation Aid Stabilization Fund to provide low interest loans for school construction projects. All of us at NDU share the desire of parents across the state to have our children educated in safe, modern, and efficient buildings. If the intent of SCR 4003 ended there, I'd be standing here in support of its passage.

However SCR 4003 goes beyond the parameters for which it was established. If SCR 4003 were to become law, monies from the Foundation Aid Stabilization Fund could be used to fully fund the TFFR and the NDPERS. Using Fund dollars for such expenditures goes beyond the original intent of the establishment of the Foundation Aid Stabilization Fund and is unnecessary.

A plan to fully fund TFFR was enacted in 2011 and is working. (It is now at 67% of market value.) Should Governor Dalrymple's budget pass, NDPERS will have a plan to be fully funded as well.

The concern of our members is that if SCR 4003 passes in its current form, gets on the ballot and is approved by the voters, the Legislative foes of the defined benefit retirement plans – specifically TFFR and NDPERS- will use monies from the Foundation Aid and Stabilization Fund to fully fund the plans and then end them by not allowing future public employees and teachers to participate in the them. Rather, future public employees would be forced into inferior defined contribution plans where the only thing guaranteed is how much an employee will contribute.

I hope this committee can see clear to amend SCR 4003 so that monies from the Foundation Aid Stabilization Fund cannot be used to fund TFFR or NDPERS.

Thank you for the opportunity to be here today. I will now stand for questions.

Testimony of Andy Peterson
Greater North Dakota Chamber of Commerce
SCR 4003
January 12, 2015



#4
1/12/15

Mr. Chairman and members of the committee, my name is Andy Peterson, I am the President and CEO of the Greater North Dakota Chamber, the champions for business in North Dakota. GNDC is working on behalf of our more than 1,100 members, to build the strongest business environment in North Dakota. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we stand in opposition of SCR 4003.

I think we can all agree that the current Foundation Aid Stabilization fund is broken. When enacted in 1995, North Dakota was in a much different place economically and fiscally. With this funds balance approaching unthought-of levels, we agree now is the time to make a change for future of North Dakota. With that said, we appreciate and support the discussion being put forward in this legislation, however we have some concerns with where this money would go.

It is our strong belief that the Foundation Aid Stabilization Fund should not be used to pay obligations of state retirement funds. We have long held that these State retirement funds should be moved into a 401K/highered 401k or some other mechanism to assure long term sustainability. Outside of that move any shoring up of the fund should be held by sharing the responsibility between the participants of the fund and the state. To utilize these dollars to shore up the fund without making any changes that address the long-term sustainability, we will not have solved any problems. When this fund was created the people of North Dakota voted in a fund to help education in times of an allotment, this would be a move contrary to the original intent of the fund.

The ending language "or other education related purposes" is incredibly broad to the level of vague. It raises the question of what education related purposes. Does that include buildings? Programming? Curricula implementation? Some ambiguity in the law allows us to more easily adapt to changing times, but the "other education-related purposes" does not give much direction.

Finally, while we like the mechanism of the 15% trigger, we feel there are better alternatives that would more appropriately fall in line with the goal of the Foundation Aid Stabilization Fund. A number of states, namely Texas and their Permanent University Fund, have similar constitutional funds set up to help fund higher education. North Dakota should follow this model and if the Foundation Aid Stabilization Fund would reach fifteen percent of the general fund balance, the excess funds could be pooled into another fund used for higher education purposes. We already have the model in North Dakota, the Common Schools Trust Fund, it would be our hope that the legislature consider using that model and create a Permanent University Fund, modeled after the Common Schools Trust Fund, for Higher Education.

Champions  Business

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Any changes to the fund would need to be approved by the people of North Dakota, we hope we can find a solution that both addresses the current structure of the Foundation Aid Stabilization Fund, and addresses long term educational funding issues. The Greater North Dakota Chamber has made a commitment to advocating for the best policy possible for North Dakota business. Senate Concurrent Resolution 4003 in its current form is not the best option for the state and I respectfully request a do not pass recommendation on this resolution in its current form. Thank you and I will now entertain any questions you may have.

STUDY OF THE FOUNDATION AID STABILIZATION FUND - BACKGROUND MEMORANDUM

STUDY OVERVIEW

Section 40 of 2013 House Bill No. 1015 (Appendix A) provides for a study of the foundation aid stabilization fund including:

- Anticipated growth in the fund;
- Appropriate funding levels;
- Options for the disposition of excess funding if appropriate funding levels are exceeded;
- The reallocation of oil extraction taxes currently being deposited in the fund; and
- The feasibility and desirability of proposing changes to the constitution relating to the fund.

The responsibility for this study was assigned to the Government Finance Committee.

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 (Appendix B), to provide that 20 percent of oil extraction tax revenue be allocated as follows:

- 50 percent (of the 20 percent) to the common schools trust fund.
- 50 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 (Appendix C) provides the Director of the Budget may order an allotment to control the rate of expenditures of state agencies. This section provides 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 the allotment can be offset by transfers from the foundation aid stabilization fund. One budget allotment has occurred since the foundation aid stabilization fund was created in 1994. During 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 John Hoeven in July 2002.

Article X, Section 24, of the Constitution of North Dakota, provides the interest income of the foundation aid stabilization fund must be transferred to the 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. During the 2009-11 biennium, \$511,593 of interest from the foundation aid stabilization fund was allocated to the general fund. For the period July 1, 2011, through May 31, 2013, \$368,799 of interest from the foundation aid stabilization fund has been allocated to the general fund.

FUND ANALYSIS FOR THE 2011-13 AND 2013-15 BIENNIUMS

The schedule below provides an analysis of estimated revenues and expenditures of the foundation aid stabilization fund for the 2011-13 and 2013-15 bienniums.

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$140,193,764		\$333,300,116
Add estimated revenues				
Oil extraction tax allocations	\$193,106,352 ¹		\$282,136,675 ¹	
Total available		333,300,116		615,436,791
Less estimated expenditures and transfers				
Transfer to foundation aid program	\$0 ²		\$0 ²	
Estimated ending balance		\$333,300,116		\$615,436,791

¹Estimated revenues - Based on actual oil extraction tax collections transferred to the fund through April 2013 and estimated allocations for the remainder of the 2011-13 and 2013-15 bienniums per the February 2013 revised revenue forecast. The 2013-15 biennium amount includes an increase of \$8,660,000 of oil extraction tax allocations due to the estimated effect of 2013 House Bill No. 1198 which changes the eligibility for stripper well tax incentives.

²Estimated 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 foundation aid reductions as a result of a revenue shortfall are currently anticipated in the 2011-13 or 2013-15 biennium.

HISTORICAL FUND BALANCES COMPARED TO TOTAL FOUNDATION AID OR STATE AID TO SCHOOLS

The schedule below compares the foundation aid stabilization fund balance at the end of each biennium since 1999 to the total funding for foundation aid or state aid to schools appropriated each biennium.

	Foundation Aid Stabilization Fund Balance at the End of the Biennium	Total Foundation Aid or State Aid to Schools Appropriated for the Biennium ¹	Foundation Aid Stabilization Fund Balance at the End of the Biennium as a Percentage of the Total Foundation or State Aid Appropriated for the Biennium
1999-2001	\$10,517,143	\$585,734,476	1.80%
2001-03	\$8,991,303	\$628,345,368	1.43%
2003-05	\$16,098,385	\$665,628,056	2.42%
2005-07	\$29,009,838	\$698,565,879	4.15%
2007-09	\$65,750,547	\$780,765,879	8.42%
2009-11	\$140,193,764	\$1,274,254,480 ²	11.00%
2011-13 estimated	\$333,300,116	\$1,350,992,316 ³	24.67%
2013-15 estimated	\$615,436,791	\$1,835,700,000 ⁴	33.53%

¹Total foundation aid appropriated from the general fund and state tuition fund.

²The Legislative Assembly provided, as part of state school aid, \$295 million from the general fund for mill levy reduction grants to school districts. In addition to funding from the general fund and the state tuition fund, the 2009 Legislative Assembly provided, as state school aid, \$85.6 million from federal funds available through the American Recovery and Reinvestment Act of 2009.

³The Legislative Assembly provided, as part of state school aid, \$341.8 million from the general fund for mill levy reduction grants to school districts and \$5 million from the oil and gas impact grant fund for rapid enrollment growth grants.

⁴The Legislative Assembly provided integrated formula payments totaling \$1.75 billion that includes \$656.5 million for the property tax relief component. The Legislative Assembly also provided \$13.6 million for rapid enrollment growth grants.

BUDGET STABILIZATION FUND

The budget stabilization fund was established in 1987 and contains funds that may be used to offset a revenue shortfall. Any amount in the state general fund in excess of \$65 million at the end of the biennium must be transferred to the budget stabilization fund. However, the maximum balance of the fund is limited to 9.5 percent of the general fund budget as approved by the most recently adjourned Legislative Assembly. Based on general fund appropriations made during the 2013 regular legislative session, the maximum fund balance is currently \$583.5 million.

The Governor may order a transfer from the budget stabilization fund to the general fund if the Director of the Office of Management and Budget (OMB) projects general fund revenues for the biennium will be at least 2.5 percent less than estimated by the most recently adjourned Legislative Assembly. The amount transferred is limited to the difference between an amount 2.5 percent less than the original legislative general fund revenue forecast and the revised forecast prepared by OMB.

Use of Budget Stabilization Fund for Foundation Aid Payments

In the event the Governor orders a budget allotment, funding from the foundation aid stabilization fund is to be used to offset the budget allotment for foundation aid, transportation aid, and special education aid payments to schools. If the projected revenue shortfall is 2.5 percent or less, the foundation aid stabilization fund is to be used to offset the entire allotment. If the projected revenue shortfall is 2.5 percent or greater, it appears that any allotment of school aid payments in excess of 2.5 percent may be offset by either a transfer from the foundation aid stabilization fund or the budget stabilization fund. The determination of which funding source to use for allotments in excess of 2.5 percent would be made by the Governor, who has the authority to order transfers from either fund subject to constitutional and statutory provisions. Attached as Appendix D is a copy of a letter from the Legislative Council regarding the use of funds from the foundation aid stabilization fund and the budget stabilization fund.

RELATED LEGISLATION DURING THE 2013 LEGISLATIVE SESSION**House Concurrent Resolution No. 3003**

House Concurrent Resolution No. 3003, as introduced ([Appendix E](#)), would have submitted a constitutional amendment to the voters to limit the balance of the foundation aid stabilization fund to \$150 million. Any excess funds would have been transferred to a public employees retirement stabilization fund, and no additional funds would be allowed to be deposited in the foundation aid stabilization fund until the fund balance fell below \$100 million. Once the balance was below \$100 million, the foundation aid stabilization fund would again receive deposits and retain interest income until the fund balance reached \$150 million. If the balance of the public employees retirement stabilization fund exceeded \$450 million, any excess revenue would have been transferred to the state general fund to provide state aid to elementary and secondary education.

The resolution was amended by the House Judiciary Committee to reduce the amount of oil extraction taxes deposited in the foundation aid stabilization fund from 50 percent (of 20 percent of total tax collections) to 20 percent (of 20 percent of total tax collections). The remaining 30 percent (of 20 percent of total tax collections) would have been allocated to a state retirement stabilization fund for the purpose of addressing unfunded retirement benefit obligations of state retirement plans. The amendments also removed the language regarding the maximum fund balance of the foundation aid stabilization fund and the public employees retirement stabilization fund. The resolution, as amended ([Appendix F](#)), passed in the House but failed in the Senate.

House Concurrent Resolution No. 3040

House Concurrent Resolution No. 3040, as introduced ([Appendix G](#)), would have submitted a constitutional amendment to the voters to limit the maximum balance of the foundation aid stabilization fund. Once the fund reached \$100 million, the maximum fund balance would not have been allowed to increase by more than 2 percent per year. Any excess revenues would have been deposited in the common schools trust fund. The resolution also allowed fund income to be expended for school aid in the event of a revenue shortfall, and any income not expended would have been transferred to the general fund.

The resolution was amended by the House Judiciary Committee to limit the balance of the foundation aid stabilization fund to an amount equal to 20 percent of the "grants - state school aid" line item in the prior biennium's appropriation bill for the Department of Public Instruction. Once the maximum fund level was reached, any excess revenue would have been deposited in the common schools trust fund. The resolution also would have allowed fund income to be used to meet benefit obligations of the state retirement plan. The resolution failed to pass the House. A copy of the engrossed resolution is attached as [Appendix H](#).

Senate Concurrent Resolution No. 4010

Senate Concurrent Resolution No. 4010, as introduced ([Appendix I](#)), would have submitted a constitutional amendment to the voters regarding the foundation aid stabilization fund. The resolution would have limited the balance of the fund to \$300 million, except beginning July 1, 2017, the maximum fund balance would be adjusted biennially based on the rate of inflation. Any excess revenue would have been required to be transferred to another constitutional fund or appropriated for the support of elementary and secondary education in the state.

The resolution was amended by the Senate Education Committee to limit the balance of the fund to an amount equal to 20 percent of the "grants - state school aid" line item in the prior biennium's appropriation bill for the Department of Public Instruction. Once the maximum fund balance was reached, any excess revenue would have been required to be transferred to another constitutional fund or appropriated for the support of elementary and secondary education in the state. A copy of the Senate version of the resolution is attached as [Appendix J](#).

The resolution was amended by the House Judiciary Committee to limit the amount of oil extraction taxes deposited in the fund from 50 percent (of 20 percent of total tax collections) to 20 percent (of 20 percent of total tax collections). The remaining 30 percent (of 20 percent of total tax collections) would have been allocated to a state retirement stabilization fund for the purpose of addressing unfunded retirement benefit obligations of state retirement plans. The House version also would have limited the maximum balance of the foundation aid stabilization fund to an amount equal to 150 percent of the principal amount in the fund on July 1, 2014. Once the maximum fund balance was reached, any excess revenues would have been used as determined by the Legislative Assembly through the enactment of laws. A copy of the House version of the resolution is attached as [Appendix K](#).

The resolution passed the House and Senate in different forms and a conference committee was appointed for the resolution. However, the conference committee version of the resolution was defeated in the Senate.

SECTION 40. LEGISLATIVE MANAGEMENT STUDY - FOUNDATION AID STABILIZATION FUND. The legislative management shall consider studying during the 2013-14 interim the foundation aid stabilization fund, including anticipated growth in the fund, appropriate funding levels, options for the disposition of excess funding if appropriate funding levels are exceeded, the reallocation of oil extraction taxes currently being deposited in the fund, and the feasibility and desirability of proposing changes to the constitution relating to the foundation aid stabilization fund. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Section 24. Twenty percent of the revenue from oil extraction taxes from taxable oil produced in this state must be allocated as follows:

1. Fifty percent must be deposited in the common schools trust fund.
2. Fifty percent 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 first of each year. The principal of the foundation aid stabilization fund may be expended only upon order of the governor, who may direct such a transfer only to offset foundation aid reductions that were made by executive action pursuant to law due to a revenue shortage.

54-44.1-12. Control over rate of expenditures.

The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of state government, with the exception of the legislative and judicial branches. Execution means the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of allotments. The 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 to the department of public instruction 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. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director shall find one or more of the following circumstances to exist:

1. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
2. The payment or the obligation incurred is not authorized by law.
3. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, including:
 - a. Statements of legislative intent expressed in enacted appropriation measures or other measures enacted by the legislative assembly; and
 - b. Statements of purpose of amendment explaining amendments to enacted appropriation measures, as recorded in the journals of the legislative assembly.
4. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated.

North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360

APPENDIX D

Jim W. Smith
Director

Jay E. Buringrud
Legal Services
Division Director

Allen H. Knudson
Legislative Budget
Analyst & Auditor

Jason J. Steckler
Administrative Services
Division Director

John Walstad
Code Revisor

April 23, 2013

Honorable Jeff Delzer
State Representative
State Capitol

Dear Representative Delzer:

This is in response to your question regarding the use of funds in the budget stabilization fund and the foundation aid stabilization fund and from which fund would funds be transferred to offset allotments for foundation aid if revenues were projected to be below estimates.

The foundation aid stabilization fund is provided for under Article X, Section 24, of the Constitution of North Dakota. Under that section, the principal of the fund may be expended only upon order of the Governor, who may direct a transfer only to offset foundation aid reductions that were made by executive action due to a revenue shortage.

North Dakota Century Code Section 54-44.1-12 addresses allotments. Under that section, 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 to the Department of Public Instruction 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.

Section 54-27.2-03 addresses transfers from the budget stabilization fund. That section provides that if the Governor orders a transfer to offset a general fund budget shortfall of more than 2.5 percent, the amount transferred from the budget stabilization fund may not exceed the difference between an amount 2.5 percent below the general fund revenue projections for the biennium of the most recently adjourned special or regular session of the Legislative Assembly and the general fund revenue projections for the biennium by the Director of the Office of Management and Budget.

If there were to be a projected shortage of less than 2.5 percent, it appears that shortage would be replaced by a transfer from the foundation aid stabilization fund because the Constitution of North Dakota allows the Governor to direct transfers to offset foundation aid reductions due to a revenue shortage and because there would be no other source from which a transfer would be authorized. Similarly, because there is no other provision to offset the first 2.5 percent of a shortage that is greater than two and one half percent, the first two and one half percent of such a shortage should be offset by a transfer from the foundation aid stabilization fund.

If there were to be a projected shortage of 2.5 percent or greater, it could be argued that the portion of the shortage relating to the educational funding which is over the first 2.5 percent could be replaced by transfers from either the budget stabilization fund or the foundation aid stabilization fund, or from both funds.

Section 54-27.2-03 requires the State Treasurer, if ordered by the Governor, to transfer the appropriate funds from the budget stabilization fund to offset a decrease in general fund revenues. Thus, it could be

7/23

argued that any shortage over 2.5 percent must come from the budget stabilization fund. However, Section 54-44.1-12 provides that allotments for the education programs under the Department of Public Instruction may be made only if the allotments "can be offset by transfers from the foundation aid stabilization fund." Although that language implies that the offsets would be accomplished by transfers from the foundation aid stabilization fund, that section does not require the offsets to come from the foundation aid stabilization fund. Assuming there is adequate money in the funds, it can be argued that the Governor, who makes the order to transfer funds from the budget stabilization fund and who also has the constitutional authority to order transfers from the foundation aid stabilization fund, may ultimately determine from which fund or funds to order the transfer in the event of a shortage in education funding which exceeds 2.5 percent.

Please contact this office if you have further questions.

Sincerely,

John Bjornson
Counsel

JB/BM

13.3030.03000

Sixty-third
Legislative Assembly
of North Dakota

HOUSE CONCURRENT RESOLUTION NO. 3003

Introduced by

Representatives Delzer, Monson, Streyle

Senators Lyson, Schaible

- 1 A concurrent resolution to create and enact two new sections to article X of the Constitution of
2 North Dakota, relating to the foundation aid stabilization fund and the public employees
3 retirement stabilization fund; and to amend and reenact section 24 of article X of the
4 Constitution of North Dakota, relating to the foundation aid stabilization fund.

5 **STATEMENT OF INTENT**

- 6 This measure limits the growth of the foundation aid stabilization fund and directs that excess
7 revenues be transferred to the public employees retirement stabilization fund.

8 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**
9 **SENATE CONCURRING THEREIN:**

- 10 That the following proposed two new sections to article X and the amendment to section 24
11 of article X of the Constitution of North Dakota are agreed to and must be submitted to the
12 qualified electors of North Dakota at the general election to be held in 2014, in accordance with
13 section 16 of article IV of the Constitution of North Dakota.

- 14 **SECTION 1. AMENDMENT.** Section 24 of article X of the Constitution of North Dakota is
15 amended and reenacted as follows:

- 16 **Section 24.** Twenty percent of the revenue from oil extraction taxes from taxable oil
17 produced in this state must be allocated as follows:

- 18 1. Fifty percent must be deposited in the common schools trust fund.
19 2. Fifty percent must be deposited in the foundation aid stabilization fund ~~in the state~~
20 ~~treasury, the interest income of which must be transferred to the state general fund on~~
21 ~~July first of each year. The principal of the foundation aid stabilization fund may be~~
22 ~~expended only upon order of the governor, who may direct such a transfer only to~~
23 ~~offset foundation aid reductions that were made by executive action pursuant to law~~
24 ~~due to a revenue shortage.~~

1 **SECTION 2.** A new section to article X of the Constitution of North Dakota is created and
2 enacted as follows:

- 3 1. The balance of moneys in the foundation aid stabilization fund may not exceed one
4 hundred fifty million dollars.
- 5 2. Whenever the balance of moneys in the foundation aid stabilization fund reaches one
6 hundred fifty million dollars, any excess moneys must be transferred to the public
7 employees retirement stabilization fund and no additional moneys may be deposited in
8 the foundation aid stabilization fund until the balance in the foundation aid stabilization
9 fund falls below one hundred million dollars.
- 10 3. If the balance of moneys in the foundation aid stabilization fund falls below one
11 hundred million dollars, the deposits required by section 24 of article X, together with
12 any interest and income, must be retained in the foundation aid stabilization fund until
13 the balance is again one hundred fifty million dollars.
- 14 4. Moneys in the foundation aid stabilization fund may be expended only by the governor
15 and only for the purpose of offsetting reductions in state aid to elementary and
16 secondary education which were made by executive action pursuant to law due to a
17 revenue shortage.

18 **SECTION 3.** A new section to article X of the Constitution of North Dakota is created and
19 enacted as follows:

- 20 1. The balance of moneys in the public employees retirement stabilization fund may not
21 exceed four hundred fifty million dollars.
- 22 2. Whenever the balance of moneys in the public employees retirement stabilization fund
23 reaches four hundred fifty million dollars, any excess moneys must be transferred to
24 the state general fund and used first to provide state aid to elementary and secondary
25 education.
- 26 2. Moneys in the public employees retirement stabilization fund may be expended by the
27 legislative assembly only for the purpose of addressing any unfunded retirement
28 benefit obligations payable by the state to members of the public employees
29 retirement system.

13.3030.04000

FIRST ENGROSSMENT

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE CONCURRENT
RESOLUTION NO. 3003

Introduced by

Representatives Delzer, Monson, Streyle

Senators Lyson, Schaible

1 A concurrent resolution to amend and reenact section 24 of article X of the Constitution of North
2 Dakota, relating to allocation of revenue from oil extraction taxes.

3 **STATEMENT OF INTENT**

4 This measure provides for the deposit of certain oil extraction taxes into the state retirement
5 stabilization fund and the foundation aid stabilization fund and provides for the determination of
6 balances in each fund.

7 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**
8 **SENATE CONCURRING THEREIN:**

9 That the following proposed amendment to section 24 of article X of the Constitution of
10 North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the
11 general election to be held in 2014, in accordance with section 16 of article IV of the
12 Constitution of North Dakota.

13 **SECTION 1.** Section 24 of article X of the Constitution of North Dakota is amended and
14 reenacted as follows:

15 **Section 24.**

16 1. Twenty percent of the revenue from oil extraction taxes from taxable oil produced in
17 this state must be allocated as follows:

18 ~~4.~~ a. Fifty percent must be deposited in the common schools trust fund;

19 ~~2.~~ Fifty

20 b. Thirty percent must be deposited in the state retirement stabilization fund; and

21 c. Twenty percent must be deposited in the foundation aid stabilization fund in the
22 state treasury, the

23 2. Moneys in the state retirement stabilization fund may be expended by the legislative
24 assembly only for the purpose of addressing unfunded retirement benefit obligations to

Sixty-third
Legislative Assembly

- 1 which members of state retirement systems may be entitled. The balance of monies to
2 be maintained in the fund must be determined by law.
3 3. The interest income of which the foundation aid stabilization fund must be transferred
4 to the state general fund on July first of each year. The principal of the foundation aid
5 stabilization fund may be expended only upon order of the governor, who may direct
6 such a transfer only to offset foundation aid reductions that were made by executive
7 action pursuant to law due to a revenue shortage.

13.3042.01000

Sixty-third
Legislative Assembly
of North Dakota

HOUSE CONCURRENT RESOLUTION NO. 3040

Introduced by

Representatives Delmore, J. Kelsh, Wall

Senators Heckaman, Poolman, Sinner

1 A concurrent resolution for the amendment of section 24 of article X of the Constitution of North
2 Dakota, relating to the permitted growth of the foundation aid stabilization fund.

3 **STATEMENT OF INTENT**

4 This measure provides that if the deposits of oil extraction tax revenues into the foundation aid
5 stabilization fund would cause the fund to increase by more than two percent each year, the
6 excess amount must be deposited in the common schools trust fund.

7 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**
8 **SENATE CONCURRING THEREIN:**

9 That the following proposed amendment to section 24 of article X of the Constitution of
10 North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the
11 primary election to be held in 2014, in accordance with section 16 of article IV of the
12 Constitution of North Dakota.

13 **SECTION 1. AMENDMENT.** Section 24 of article X of the Constitution of North Dakota is
14 amended and reenacted as follows:

15 **Section 24.**

16 1. Twenty percent of the revenue from oil extraction taxes from taxable oil produced in
17 this state must be allocated as follows:

18 4- a. Fifty percent must be deposited in the common schools trust fund; and

19 2- b. Fifty percent must be deposited in the foundation aid stabilization fund in the
20 state treasury, the interest.

21 2. Whenever the foundation aid stabilization fund reaches a level of one hundred million
22 dollars, the foundation aid stabilization fund may not be allowed to grow by more than
23 two percent per year. If in any year the amount to be deposited under this section
24 would cause the foundation aid stabilization fund to exceed its permitted rate of
25 growth, the excess revenue must be deposited in the common schools trust fund.

Sixty-third
Legislative Assembly

- 1 3. The income ~~of which~~ from the foundation aid stabilization fund may be expended upon
2 order of the governor to meet any shortfalls in amounts appropriated for elementary
3 and secondary education during a given biennium and any income not so expended
4 must be transferred to the state general fund on July first of each odd-numbered year.
- 5 4. The principal of the foundation aid stabilization fund may be expended only upon order
6 of the governor, who may direct such a transfer only to offset foundation aid reductions
7 that were made by executive action pursuant to law due to a revenue shortage.

13.3042.03000

FIRST ENGROSSMENT

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE CONCURRENT
RESOLUTION NO. 3040

Introduced by

Representatives Delmore, J. Kelsh, Wall

Senators Heckaman, Poolman, Sinner

1 A concurrent resolution for the amendment of section 24 of article X of the Constitution of North
2 Dakota, relating to the permitted growth of the foundation aid stabilization fund.

3 **STATEMENT OF INTENT**

4 This measure provides that if the deposits of oil extraction tax revenues into the foundation aid
5 stabilization fund would cause the fund to increase to more than twenty percent of the grants -
6 state school aid line item in the prior biennium's appropriation bill for the superintendent of
7 public instruction, the excess amount must be deposited in the common schools trust fund.

8 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**

9 **SENATE CONCURRING THEREIN:**

10 That the following proposed amendment to section 24 of article X of the Constitution of
11 North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the
12 primary election to be held in 2014, in accordance with section 16 of article IV of the
13 Constitution of North Dakota.

14 **SECTION 1. AMENDMENT.** Section 24 of article X of the Constitution of North Dakota is
15 amended and reenacted as follows:

16 **Section 24.**

17 1. Twenty percent of the revenue from oil extraction taxes from taxable oil produced in
18 this state must be allocated as follows:

19 ~~4-~~ a. Fifty percent must be deposited in the common schools trust fund; ~~and~~

20 ~~2-~~ b. Fifty percent must be deposited in the foundation aid stabilization fund ~~in the~~
21 ~~state treasury, the interest,~~

22 2. Whenever the foundation aid stabilization fund reaches a level equal to twenty percent
23 of the grants - state school aid line item in the prior biennium's appropriation bill for the
24 superintendent of public instruction, the excess revenue must be deposited in the
25 common schools trust fund.

Sixty-third
Legislative Assembly

- 1 3. The income of which from the foundation aid stabilization fund may be expended upon
2 order of the governor to meet any shortfalls in amounts appropriated for elementary
3 and secondary education during a given biennium or to meet benefit obligations
4 payable by the state to members of any public employees retirement system. Any
5 income not so expended must be transferred to the state general fund on July first of
6 each odd-numbered year.
- 7 4. The principal of the foundation aid stabilization fund may be expended only upon order
8 of the governor, who may direct such a transfer only to offset foundation aid reductions
9 that were made by executive action pursuant to law due to a revenue shortage.

13.3073.01000

Sixty-third
Legislative Assembly
of North Dakota

SENATE CONCURRENT RESOLUTION NO. 4010

Introduced by

Senators Hogue, Flakoll, Holmberg, Klein

Representatives Monson, Nathe

- 1 A concurrent resolution to create and enact a new section to article X of the Constitution of
2 North Dakota, relating to the foundation aid stabilization fund; and to amend and reenact
3 section 24 of article X of the Constitution of North Dakota, relating to the foundation aid
4 stabilization fund.

STATEMENT OF INTENT

- 5
6 This measure limits the growth of the foundation aid stabilization fund and provides for the
7 disposition of any excess moneys in the fund.

- 8 **BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF**
9 **REPRESENTATIVES CONCURRING THEREIN:**

- 10 That the following proposed new section to article X of the Constitution of North Dakota and
11 the amendment to section 24 of article X of the Constitution of North Dakota are agreed to and
12 must be submitted to the qualified electors of North Dakota at the general election to be held in
13 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

- 14 **SECTION 1. AMENDMENT.** Section 24 of article X of the Constitution of North Dakota is
15 amended and reenacted as follows:

- 16 **Section 24.** Twenty percent of the revenue from oil extraction taxes from taxable oil
17 produced in this state must be allocated as follows:

- 18 1. Fifty percent must be deposited in the common schools trust fund.
19 2. Fifty percent must be deposited in the foundation aid stabilization fund in the state
20 treasury, the interest income of which must be transferred to the state general fund on
21 July first of each year. The principal of the foundation aid stabilization fund may be
22 expended only upon order of the governor, who may direct such a transfer only to
23 offset foundation aid reductions that were made by executive action pursuant to law
24 due to a revenue shortage.

1 **SECTION 2.** A new section to article X of the Constitution of North Dakota is created and
2 enacted as follows:

- 3 1. a. The balance of moneys in the foundation aid stabilization fund may not exceed
4 three hundred million dollars, except as provided in subdivision b.
5 b. Beginning July 1, 2017, and every two years thereafter, the permitted balance of
6 moneys in the foundation aid stabilization fund must be adjusted by the rate of
7 inflation over the previous two-year period, as established by the federal bureau
8 of labor statistics. The legislative council shall determine and publish the balance
9 adjustment.
10 2. Whenever the balance of moneys in the foundation aid stabilization fund reaches the
11 threshold established under subsection 1, the excess must:
12 a. Be transferred to another constitutional fund; or
13 b. Used in accordance with a legislative appropriation for the support of elementary
14 and secondary education in this state.
15 3. Moneys in the foundation aid stabilization fund may be expended only by the governor
16 and only for the purpose of offsetting reductions in state aid to elementary and
17 secondary education, which were made by executive action pursuant to law due to a
18 revenue shortage.

13.3073.02000

FIRST ENGROSSMENT

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED SENATE CONCURRENT
RESOLUTION NO. 4010

Introduced by

Senators Hogue, Flakoll, Holmberg, Klein

Representatives Monson, Nathe

- 1 A concurrent resolution to create and enact a new section to article X of the Constitution of
2 North Dakota, relating to the foundation aid stabilization fund; and to amend and reenact
3 section 24 of article X of the Constitution of North Dakota, relating to the foundation aid
4 stabilization fund.

5 **STATEMENT OF INTENT**

- 6 This measure limits the growth of the foundation aid stabilization fund and provides for the
7 disposition of any excess moneys in the fund.

8 **BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF**
9 **REPRESENTATIVES CONCURRING THEREIN:**

- 10 That the following proposed new section to article X of the Constitution of North Dakota and
11 the amendment to section 24 of article X of the Constitution of North Dakota are agreed to and
12 must be submitted to the qualified electors of North Dakota at the general election to be held in
13 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

- 14 **SECTION 1. AMENDMENT.** Section 24 of article X of the Constitution of North Dakota is
15 amended and reenacted as follows:

- 16 **Section 24.** Twenty percent of the revenue from oil extraction taxes from taxable oil
17 produced in this state must be allocated as follows:

- 18 1. Fifty percent must be deposited in the common schools trust fund.
19 2. Fifty percent must be deposited in the foundation aid stabilization fund in the state
20 treasury, the interest income of which must be transferred to the state general fund on
21 July first of each year. The principal of the foundation aid stabilization fund may be
22 expended only upon order of the governor, who may direct such a transfer only to
23 offset foundation aid reductions that were made by executive action pursuant to law
24 due to a revenue shortage.

1 **SECTION 2.** A new section to article X of the Constitution of North Dakota is created and
2 enacted as follows:

- 3 1. The balance of moneys in the foundation aid stabilization fund may not exceed an
4 amount equal to twenty percent of the grants - state school aid line item, as set forth in
5 the prior biennium's appropriation bill for the superintendent of public instruction.
6 2. Whenever the balance of moneys in the foundation aid stabilization fund reaches the
7 threshold established under subsection 1, the excess must:
8 a. Be transferred to another constitutional fund; or
9 b. Used in accordance with a legislative appropriation for the support of elementary
10 and secondary education in this state.
11 3. Moneys in the foundation aid stabilization fund may be expended only by the governor
12 and only for the purpose of offsetting reductions in state aid to elementary and
13 secondary education, which were made by executive action pursuant to law due to a
14 revenue shortage.

13.3073.03000

Sixty-third
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE CONCURRENT**

Introduced by

RESOLUTION NO. 4010

Senators Hogue, Flakoll, Holmberg, Klein

Representatives Monson, Nathe

1 A concurrent resolution to amend and reenact section 24 of article X of the Constitution of North
2 Dakota, relating to allocation of revenue from oil extraction taxes.

3 **STATEMENT OF INTENT**

4 This measure provides for the deposit of certain oil extraction taxes into the state retirement
5 stabilization fund and the foundation aid stabilization fund and provides for the determination of
6 balances in each fund.

7 **BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF**
8 **REPRESENTATIVES CONCURRING THEREIN:**

9 That the following proposed amendment to section 24 of article X of the Constitution of
10 North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the
11 primary election to be held in 2014, in accordance with section 16 of article IV of the
12 Constitution of North Dakota.

13 **SECTION 1. AMENDMENT.** Section 24 of article X of the Constitution of North Dakota is
14 amended and reenacted as follows:

15 **Section 24.**

- 16 1. Twenty percent of the revenue from oil extraction taxes from taxable oil produced in
17 this state must be allocated as follows:
- 18 ~~4.~~ a. Fifty percent must be deposited in the common schools trust fund.
- 19 ~~2.~~ Fifty:
- 20 b. Thirty percent must be deposited in the state retirement stabilization fund; and
- 21 c. Twenty percent must be deposited in the foundation aid stabilization fund in the
22 state treasury, the.
- 23 2. Moneys in the state retirement stabilization fund may be expended by the legislative
24 assembly only for the purpose of addressing unfunded retirement benefit obligations to

Sixty-third
Legislative Assembly

1 which members of state retirement systems may be entitled. The balance of moneys
2 to be maintained in the fund must be determined by law.
3 3. The interest income of which the foundation aid stabilization fund must be transferred
4 to the state general fund on July first of each year. The principal in the foundation aid
5 stabilization fund may not exceed one hundred fifty percent of the principal amount in
6 that fund on July 1, 2014. The use of the excess in that fund must be determined by
7 law. The principal of remaining in the foundation aid stabilization fund may be
8 expended only upon order of the governor, who may direct such a transfer only to
9 offset foundation aid reductions that were made by executive action pursuant to law
10 due to a revenue shortage.

ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (REFLECTING THE 2015-17 EXECUTIVE BUDGET RECOMMENDATION)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		\$335,364,942		\$667,447,813
Add estimated revenues				
Oil extraction tax allocations	\$332,082,871 ¹		\$409,932,596 ¹	
Total estimated revenues		332,082,871		409,932,596
Total available		\$667,447,813		\$1,077,380,409
Less estimated expenditures and transfers				
Transfer to foundation aid program	\$0 ²		\$0 ²	
Total estimated expenditures and transfers		0		0
Estimated ending balance		\$667,447,813		\$1,077,380,409

¹Estimated revenues - Based on actual oil extraction tax collections deposited in the fund through October 2014 and estimated allocations for the remainder of the 2013-15 biennium and the 2015-17 biennium per the December 2014 revenue forecast.

²Estimated 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 foundation aid reductions as a result of a revenue shortfall are currently anticipated in the 2013-15 biennium or the 2015-17 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:

- 50 percent (of the 20 percent) to the common schools trust fund.
- 50 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 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 period July 1, 2013, through October 31, 2014, \$283,289 of interest from the foundation aid stabilization fund has been allocated to the general fund.

#1
2/3/15

INFORMAL COMMENTS OF SENATOR MAC SCHNEIDER
(DISTRICT 42 - GRAND FORKS)

SENATE BILL 2039 AND SENATE CONCURRENT RESOLUTION 4003

SENATE EDUCATION COMMITTEE - FEBRUARY 3, 2015

Mr. Chairman and members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the North Dakota Senate.

I am the author of a yet-to-be introduced concurrent resolution dealing with the foundation aid stabilization fund. I understand the committee is working diligently on the same topic as it considers SB 2309 and SCR 4003. I am very supportive of - and impressed by -- your efforts thus far.

As you consider this important issue, I would like to offer the substance of my proposed concurrent resolution via these informal comments. If you think any of the concepts have merit, perhaps they could be rolled into either SB 2309 or SCR 4003 (or both).

For the sake of simplicity, let me first lay out the substance of the proposed resolution and then discuss possible amendments to the existing legislation you're working on.

The proposed resolution would change article X, section 24 of the state constitution as follows (black text and overstrikes represent existing language, red text indicates changes proposed by the resolution):

Fifty percent must be deposited in the ~~foundation aid stabilization~~ **promise** fund in the state treasury, the interest income of which must be ~~transferred to the state general fund on July first of each year~~ **utilized to provide merit and need based scholarships to North Dakota residents attending** institutions of higher education in the state, including institutions offering career and technical education. The eligibility for **promise fund** scholarships shall be established by the legislature, which may additionally and secondarily appropriate interest income from the **promise fund** for purposes of furthering research, commercialization, or recruiting or retaining faculty at institutions of higher education.

The principal of the ~~foundation aid stabilization~~ **promise** fund may be expended **only by 2/3 vote of the legislature or** upon order of the governor, who may direct such a transfer only to offset foundation aid reductions that were made by executive action pursuant to law due to a revenue shortage.

These changes, in essence, would turn the underutilized foundation aid stabilization fund into a permanent endowment -- the promise fund¹ -- to support access to higher education for North Dakota's best and brightest. It would also permit the legislature to use the interest on the fund to support several higher education-related purposes, including research, commercialization, and recruiting or retaining faculty. In the event of a rainy day, the fund could still be used by the governor to stabilize foundation aid payments to school districts. The fund would also continue to capitalize, allowing for growth of the principal and a greater return.²

Using the foundation aid stabilization fund as an endowment is not a new idea. In fact, it was advanced by the interim Workforce Committee ahead of the 2011 session. While that idea was ahead of its time, I have hope that we can place on the ballot a measure that allows the people to decide whether they want to set aside a small fraction of the revenue our state has collected secondary to the rapid development of our natural resources. I believe making such a permanent investment in our people is the biggest long term public policy issue facing our state, and I thank the committee for its consideration.

¹ This is a working title.

² I believe the state investment board should be permitted to prudently invest the principal, and would urge any necessary statutory or constitutional changes to that end.

#2
2/3/15

NDLA, Intern 04 - Grossman, Tiffany

SCR 4003

From: Rust, David S.
Sent: Monday, February 02, 2015 8:53 AM
To: NDLA, Intern 04 - Grossman, Tiffany
Subject: Fwd: Bank of North Dakota - Requested Student Loan Information
Attachments: image001.jpg

David S. Rust
Sent from my iPhone

Begin forwarded message:

From: "Ternes, Tom S." <tsternes@nd.gov>
Date: January 29, 2015 at 4:36:22 PM CST
To: "Rust, David S." <drust@nd.gov>
Cc: "Hardmeyer, Eric A." <ehardmeyer@nd.gov>, "Humann, Bob A." <bhumann@nd.gov>, "Glass, Shirley A." <sglass@nd.gov>, "Benson, Stan D." <sbenson@nd.gov>
Subject: Bank of North Dakota - Requested Student Loan Information

Hello Senator Rust,

Below you will find the student loan information you requested. The first table includes the entire outstanding student loan portfolio as of January 28, 2015. You will note that this includes our outstanding Federal Portfolio, which we stopped originating as of July 1, 2010. The second table shows new loans originated in 2014. Please let me know if there is any additional information you need.

Student Loan Portfolio (as of 1/28/2015)		
	# Loans	\$ Loans
Federal Student Loans	114,811	\$467,657,931.93
DEAL	74,161	\$538,868,773.51
DEAL Consolidation Programs	5,917	\$238,193,942.02
Totals	194,889	\$1,244,720,647.46

Student Loan Portfolio Disbursed 2014		
	# Loans	\$ Loans
DEAL	11,013	\$88,727,658.63
DEAL Consolidation Programs	3,410	\$148,617,152.60
Totals	14,423	\$237,344,811.23

Thanks,

Tom Ternes
New Loans Supervisor

Bank of North Dakota

Student Loan Services

1200 Memorial Highway | Bismarck, ND 58504

P: 701.328.5658 | C: 701.425.4651 | F: 701.328.5696 | T: 800.472.2166

E: tsternes@nd.gov | <http://www.banknd.nd.gov>



The information contained in this e-mail message (and any attachments) may be privileged and confidential. It is intended only for the use of the individual or entity to whom it is sent. If you are not the intended recipient of this e-mail message and have received it by mistake, please do not review, retain, disclose, or otherwise use the communication. Instead, we would appreciate it if you would notify the Bank of North Dakota immediately by responding to this email. Thank you for your cooperation.

February 2, 2015

#1
2/4/15

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4003

Page 1, line 4, replace "provides for additional" with "expands the"

Page 1, line 4, after the second "for" insert "which"

Page 1, line 4, after "fund" insert "may be used"

Page 1, line 13, after the period insert:

"1."

Page 1, line 13, overstrike "Twenty" and insert immediately thereafter "Ten"

Page 1, line 14, overstrike "allocated as follows:"

Page 1, line 15, overstrike "1. Fifty percent must be"

Page 1, line 16, overstrike "Fifty" and insert immediately thereafter "Ten"

Page 1, line 16, after "percent" insert "of the revenue from oil extraction taxes from taxable oil produced in this state"

Page 1, line 17, overstrike "income"

Page 1, line 18, overstrike "The" and insert immediately thereafter:

"a. Except as otherwise provided, the"

Page 1, line 19, overstrike "only"

Page 1, line 20, remove "state school"

Page 1, line 20, overstrike "aid"

Page 1, line 20, overstrike "that" and insert immediately thereafter "in state aid to school districts, which"

Page 1, line 20, after "action" insert an underscored comma

Page 1, line 21, after "law" insert an underscored comma

Page 1, line 21, after the period insert:

"b."

Page 1, line 23, remove "school"

Page 1, line 23, after "aid" insert "to school districts."

Page 1, line 23, after "biennium" insert an underscored comma

Page 1, line 25, replace "purpose of making" with "purposes of:

(1) Providing"

Page 2, line 1, remove "addressing existing or anticipated"

#1

Page 2, remove line 2

Page 2, line 3, replace "purposes" with ":

- (2) Providing scholarships to residents of this state attending institutions of higher education in this state;
- (3) Supplementing the common schools trust fund; or
- (4) Providing state aid to school districts and educationally related property tax relief to school district patrons"

Renumber accordingly

15.3010.05001
Title.

Prepared by the Legislative Council staff for
Representative Klemin
March 27, 2015

#1
SCR 4003
4-1-15

PROPOSED AMENDMENTS TO REENGROSSED SENATE CONCURRENT RESOLUTION
NO. 4003

Page 2, line 7, after "balance" insert "to be used"

Page 2, line 7, replace "the" with "education-related"

Page 2, line 7, remove "of:"

Page 2, remove lines 8 through 12

Page 2, line 3, remove "relief to school district patrons"

Renumber accordingly

Sixty-fourth
Legislative Assembly
of North Dakota

**REENGROSSED SENATE CONCURRENT
RESOLUTION NO. 4003**

#1
4/20

Introduced by

Legislative Management

(Government Finance Committee)

1 A concurrent resolution to amend and reenact section 24 of article X of the Constitution of North
2 Dakota, relating to the foundation aid stabilization fund.

3 **STATEMENT OF INTENT**

4 This measure expands the educational purposes for which the foundation aid stabilization fund
5 may be used.

6 **BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF**
7 **REPRESENTATIVES CONCURRING THEREIN:**

8 That the following proposed amendment to section 24 of article X of the Constitution of
9 North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the
10 primary election to be held in June 2016, in accordance with section 16 of article IV of the
11 Constitution of North Dakota.

12 **SECTION 1. AMENDMENT.** Section 24 of article X of the Constitution of North Dakota is
13 amended and reenacted as follows:

14 **Section 24.**

15 1. TwentyTen percent of the revenue from oil extraction taxes from taxable oil produced
16 in this state must be ~~allocated as follows:~~

17 ~~4. Fifty percent must be deposited in the common schools trust fund.~~

18 2. FiftyTen percent of the revenue from oil extraction taxes from taxable oil produced in
19 this state must be deposited in the foundation aid stabilization fund in the state
20 treasury, the interest ~~income~~ of which must be transferred to the state general fund on
21 July first of each year. The

22 a. Except as otherwise provided, the principal of the foundation aid stabilization
23 fund may be expended only upon order of the governor, who may direct such a
24 transfer only to offset foundation aid reductions that in state aid to school districts.

1 which were made by executive action, pursuant to law, due to a revenue
2 shortage.

3 b. Whenever the principal balance of the foundation aid stabilization fund exceeds
4 fifteen percent of the general fund appropriation for state aid to school districts,
5 for the most recently completed biennium, as determined by the office of
6 management and budget, the legislative assembly may appropriate or transfer
7 any excess principal balance. Such amount may be used for
8 the education-related purposes of:

9 ~~(1) Providing low interest loans for school construction projects;~~

10 ~~(2) Providing scholarships to residents of this state attending institutions of~~
11 ~~higher education in this state;~~

12 ~~(3) Supplementing the common schools trust fund; or~~

13 ~~(4) Providing state aid to school districts and educationally related property tax~~
14 ~~relief to school district patrons, as provided by law.~~

Flakoll, Tim

From: Larson, Brady A.
Sent: Saturday, April 18, 2015 8:37 AM
To: Flakoll, Tim
Subject: RE: Q

#2
4/20

See responses below. Both programs have carryover authority to continue unused funds into a subsequent biennium. The biennial appropriation for a program may be less than estimated expenses because there is extra funding carried over into the biennium and used for the program.

From: Flakoll, Tim
Sent: Friday, April 17, 2015 2:06 PM
To: Larson, Brady A.
Subject: Q

How much are we currently slated to spend this 2013-2015 biennium for

- 1) Needs based scholarships (2013-15 appropriation - \$21,245,679; anticipated expenditures of \$21,099,856)
- 2) Merit based scholarships (2013-15 appropriation - \$10,000,000; anticipated expenditures of \$12,062,187)

Based on current legislation pending this session how much will we spend on

- 1) Needs based scholarships in 2015-2017 (\$25,634,276 which includes funding to increase grants to \$1,950 per year)
- 2) Merit based scholarships in 2015-2017 (\$14,054,677 which includes changes to eligibility rules in 2074 and 2075)

Senator Tim Flakoll

Tim Flakoll

District 44

Chairman, Senate Education committee

Government and Veterans Affairs committee

Chairman, Council of State Governments Midwest



Sixty-third
Legislative Assembly
of North Dakota

**ENGROSSED SENATE CONCURRENT
RESOLUTION NO. 4010**

#3
4/20
SCR 4003

Introduced by

Senators Hogue, Flakoll, Holmberg, Klein

Representatives Monson, Nathe

1 A concurrent resolution to create and enact a new section to article X of the Constitution of
2 North Dakota, relating to the foundation aid stabilization fund; and to amend and reenact
3 section 24 of article X of the Constitution of North Dakota, relating to the foundation aid
4 stabilization fund.

STATEMENT OF INTENT

5
6 This measure limits the growth of the foundation aid stabilization fund and provides for the
7 disposition of any excess moneys in the fund.

8 **BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF**
9 **REPRESENTATIVES CONCURRING THEREIN:**

10 That the following proposed new section to article X of the Constitution of North Dakota and
11 the amendment to section 24 of article X of the Constitution of North Dakota are agreed to and
12 must be submitted to the qualified electors of North Dakota at the general election to be held in
13 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

14 **SECTION 1. AMENDMENT.** Section 24 of article X of the Constitution of North Dakota is
15 amended and reenacted as follows:

16 **Section 24.** Twenty percent of the revenue from oil extraction taxes from taxable oil
17 produced in this state must be allocated as follows:

- 18 1. Fifty percent must be deposited in the common schools trust fund.
- 19 2. Fifty percent must be deposited in the foundation aid stabilization fund ~~in the state~~
20 ~~treasury, the interest income of which must be transferred to the state general fund on~~
21 ~~July first of each year. The principal of the foundation aid stabilization fund may be~~
22 ~~expended only upon order of the governor, who may direct such a transfer only to~~
23 ~~offset foundation aid reductions that were made by executive action pursuant to law~~
24 ~~due to a revenue shortage.~~

1 **SECTION 2.** A new section to article X of the Constitution of North Dakota is created and
2 enacted as follows:

- 3 1. The balance of moneys in the foundation aid stabilization fund may not exceed an
4 amount equal to twenty percent of the grants - state school aid line item, as set forth in
5 the prior biennium's appropriation bill for the superintendent of public instruction.
6 2. Whenever the balance of moneys in the foundation aid stabilization fund reaches the
7 threshold established under subsection 1, the excess must:
8 a. Be transferred to another constitutional fund; or
9 b. Used in accordance with a legislative appropriation for the support of elementary
10 and secondary education in this state.
11 3. Moneys in the foundation aid stabilization fund may be expended only by the governor
12 and only for the purpose of offsetting reductions in state aid to elementary and
13 secondary education, which were made by executive action pursuant to law due to a
14 revenue shortage.

**FIRST ENGROSSMENT
with Senate Amendments****ENGROSSED HOUSE CONCURRENT
RESOLUTION NO. 3048**#4
4/20
SCR 4003

Introduced by

Representatives Kretschmar, Maragos

1 A concurrent resolution for the amendment of section 24 of article X of the Constitution of North
2 Dakota, relating to expenditures from the foundation aid stabilization fund.

STATEMENT OF INTENT

4 This measure limits expenditures from the foundation aid stabilization fund to interest and
5 income and declares that the principal of this fund must be retained and devoted to the purpose
6 of the fund.

7 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**
8 **SENATE CONCURRING THEREIN:**

9 That the following proposed amendment to section 24 of article X of the Constitution of
10 North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at
11 the general election to be held in 2006, in accordance with section 16 of article IV of the
12 Constitution of North Dakota.

13 **SECTION 1. AMENDMENT.** Section 24 of article X of the Constitution of North Dakota
14 is amended and reenacted as follows:

15 **Section 24.** Twenty percent of the revenue from oil extraction taxes from taxable oil
16 produced in this state must be allocated as follows:

- 17 1. Fifty percent must be deposited in the common schools trust fund.
- 18 2. Fifty percent must be deposited in the foundation aid stabilization fund ~~in the state~~
19 ~~treasury, the~~ until the balance in the foundation aid stabilization fund is twenty
20 million dollars increased annually by a factor of three percent. Any deposit that
21 would bring the balance in the foundation aid stabilization fund to more than that
22 amount must be deposited instead in the common schools trust fund. The interest
23 income of which the foundation aid stabilization fund must be transferred to the
24 state general common schools trust fund on July first of each year. The principal
25 of moneys in the foundation aid stabilization fund may be expended only upon

Fifty-ninth
Legislative Assembly

- 1 order of the governor, ~~who may direct such a transfer only~~ to offset foundation aid
- 2 reductions ~~that~~ in state education aid which were made by executive action
- 3 pursuant to law due to a revenue shortage.

#15
4/20
SC24003

ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH MARCH 24, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		\$335,364,942		\$611,894,942
Add estimated revenues				
Oil extraction tax allocations	\$276,530,000 ¹		\$131,180,000 ¹	
Total estimated revenues		276,530,000		131,180,000
Total available		\$611,894,942		\$743,074,942
Less estimated expenditures and transfers				
Transfer to state school aid program				
Contingent transfer to the school construction assistance loan fund (2015 SB 2039)				
Contingent transfer to the public employee retirement stabilization fund (2015 SB 2039)	\$0 ²		\$0 ²	
Total estimated expenditures and transfers		0		0
Estimated ending balance		\$611,894,942		\$743,074,942

¹Estimated revenues - Based on actual oil extraction tax collections deposited in the fund through February 2015 and estimated allocations for the remainder of the 2013-15 biennium and the 2015-17 biennium per the March 2015 revised revenue forecast.

²Estimated 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 foundation aid reductions as a result of a revenue shortfall are currently anticipated in the 2013-15 biennium or the 2015-17 biennium.

NOTE

The following resolution and bill under consideration by the Legislative Assembly may affect the foundation aid stabilization fund:

- Reengrossed Senate Concurrent Resolution No. 4003 provides for a constitutional amendment to allow the Legislative Assembly to appropriate or transfer the principal balance of the foundation aid stabilization fund in excess of 15 percent of the general fund appropriation for state school aid for making low-interest loans for school construction projects; providing scholarships to residents attending institutions of higher education in the state; supplementing the common schools trust fund; or providing state aid to school districts and educationally related property tax relief to school district patrons.
- Engrossed Senate Bill No. 2039 establishes a scholarship fund and a school construction assistance loan fund. The bill provides for transfers from the foundation aid stabilization fund to the school construction assistance loan fund (the lesser of \$300 million or 50 percent of the balance of the fund) and to the scholarship fund (the lesser of \$300 million or 50 percent of the balance of the fund) contingent on the approval of Senate Concurrent Resolution No. 4003 by the Legislative Assembly and the voters in June 2016.

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:

- 50 percent (of the 20 percent) to the common schools trust fund.
- 50 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.

850
250
400

April 20, 2015

#1
4/21

PROPOSED AMENDMENTS TO REENGROSSED SENATE CONCURRENT RESOLUTION
NO. 4003

That the House recede from its amendments as printed on pages 1140-1141 of the Senate Journal and page 1287 of the House Journal and that Reengrossed Senate Bill No. 2031 be amended as follows:

Page 1, line 10, replace "primary" with "general"

Page 1, line 10, replace "June" with "November"

Page 2, line 7, replace "the" with "educationally related"

Page 2, line 7, replace "of" with "including"

Page 2, line 8, replace "Providing" with "The provision of"

Page 2, line 9, replace "Providing" with "The provision of"

Page 2, line 10, after the underscored semicolon insert "and"

Page 2, line 11, remove "Supplementing the common schools trust fund; or"

Page 2, line 12, replace "(4) Providing state aid to school districts and" with "The provision of"

Renumber accordingly

Sixty-fourth
Legislative Assembly
of North Dakota

REENGROSSED SENATE CONCURRENT
RESOLUTION NO. 4003

4/21

Introduced by

Legislative Management

(Government Finance Committee)

1 A concurrent resolution to amend and reenact section 24 of article X of the Constitution of North
2 Dakota, relating to the foundation aid stabilization fund.

3 **STATEMENT OF INTENT**

4 This measure expands the educational purposes for which the foundation aid stabilization fund
5 may be used.

6 **BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF**
7 **REPRESENTATIVES CONCURRING THEREIN:**

8 That the following proposed amendment to section 24 of article X of the Constitution of
9 North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the
10 ~~primary~~general election to be held in ~~June~~November 2016, in accordance with section 16 of
11 article IV of the Constitution of North Dakota.

12 **SECTION 1. AMENDMENT.** Section 24 of article X of the Constitution of North Dakota is
13 amended and reenacted as follows:

14 **Section 24.**

15 1. ~~Twenty~~Ten percent of the revenue from oil extraction taxes from taxable oil produced
16 in this state must be allocated as follows:

17 4. ~~Fifty percent must be~~ deposited in the common schools trust fund.

18 2. ~~Fifty~~Ten percent of the revenue from oil extraction taxes from taxable oil produced in
19 this state must be deposited in the foundation aid stabilization fund in the state
20 treasury, the interest income of which must be transferred to the state general fund on
21 July first of each year. The

22 a. ~~Except as otherwise provided, the~~ principal of the foundation aid stabilization
23 fund may be expended ~~only~~ upon order of the governor, who may direct such a
24 transfer only to offset foundation aid reductions that in state aid to school districts.

1 which were made by executive action₁ pursuant to law₁ due to a revenue
2 shortage.

- 3 b. Whenever the principal balance of the foundation aid stabilization fund exceeds
4 fifteen percent of the general fund appropriation for state aid to school districts,
5 for the most recently completed biennium, as determined by the office of
6 management and budget, the legislative assembly may appropriate or transfer
7 any excess principal balance for ~~the~~educationally related purposes ~~of~~including:
8 (1) ~~Providing~~The provision of low-interest loans for school construction projects;
9 (2) ~~Providing~~The provision of scholarships to residents of this state attending
10 institutions of higher education in this state; and
11 (3) ~~Supplementing the common schools trust fund; or~~
12 ~~(4) ~~Providing state aid to school districts and~~The provision of educationally~~
13 related property tax relief to school district patrons.

Section 16. Any city, county, township, town, school district or any other political subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

#3

4/21

SC2 4003

Section 17. No bond or evidence of indebtedness of the state is valid unless it has endorsed thereon a certificate, signed by the auditor and secretary of state showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or other political subdivision is valid unless it has endorsed thereon a certificate signed by the officer authorized by law to sign such certificate, stating that said bond or evidence of debt is issued pursuant to law and is within the debt limit.

Section 18. The state, any county or city may make internal improvements and may engage in any industry, enterprise or business, not prohibited by article XX of the constitution, but neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation.

Section 19. The legislative assembly is hereby authorized and empowered to provide by law for the erection, purchasing or leasing and operation of one or more terminal grain elevators in the states of Minnesota or Wisconsin, or both, to be maintained and operated in such manner as the legislative assembly shall prescribe, and provide for inspection, weighing and grading of all grain received in such elevator or elevators.

Section 20. The legislative assembly is hereby authorized and empowered to provide by law for the erection, purchasing or leasing and operation of one or more terminal grain elevators in the state of North Dakota, to be maintained and operated in such manner as the legislative assembly shall prescribe, and provide for inspection, weighing and grading of all grain received in such elevator or elevators.

Section 21. Not less than fifteen percent of the tax imposed for severing coal shall be placed into a permanent trust fund in the state treasury to be held in trust and administered by the board of university and school lands, which shall have full authority to invest said trust funds as provided by law, and may loan moneys from the fund to political subdivisions as provided by law. The interest earned on the moneys in said trust fund shall be used first to replace uncollectable loans made from the fund, and the balance shall be credited to the general fund of the state. Up to fifty percent of the taxes collected and deposited in the permanent trust fund during a biennium may be appropriated by the legislative assembly for lignite research, development, and marketing as provided by law. An additional twenty percent of the taxes collected and deposited in the permanent trust fund during a biennium may be appropriated by the legislative assembly for clean coal demonstration projects approved by the industrial commission.

Section 22. The legislative assembly may provide by law for a percentage of revenue from taxes imposed on the extraction or production of oil to be allocated and credited to a special trust fund, to be known as the resources trust fund. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation for:

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