

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3048

2005 HOUSE CONSTITUTIONAL REVISION

HCR 3048

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3048

Constitutional Revision

☐ Conference Committee

Hearing Date 2-23-05

Tape Number	Side A	Side B	Meter #
2		x	1.0 ---- 32.0
Committee Clerk Signature <i>Marie Ware</i>			

Minutes:

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

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

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

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

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

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

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

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

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

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

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

**Rep Kretschmar:** Certainly

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3048

Constitutional Revision

☐ Conference Committee

Hearing Date 3-1-05

Tape Number	Side A	Side B	Meter #
1		x	2.9 ---- 26.9
Committee Clerk Signature <i>Diane Haan</i>			

Minutes:

**Chairman Koppelman:** (2.9) We have before us, HCR3048 to look at. Rep Kretschmar has the amendments here & will explain.

**(3.3) Rep Kretschmar made a motion for the amendments & Rep Kasper seconded it.**

**Rep Kretschmar:** The amendment would change the resolution, Sect 2, beginning on L 18, so the foundation aid stabilization fund would have a cap of \$20 M & when it reached that amount, any excess monies would be deposited in the common schools trust fund. If money were taken out for the foundation program, it would again be put back to build up to \$20 M & we would still have the provision that, in the fund, if the interest doesn't bring it up to \$20 M, that money goes back to the general fund as is current law.

**Chairman Koppelman:** (4.4) If I'm understanding this correctly, the fund would be anything over \$20 M would remain in the fund then?

**Rep Kretschmar:** Anything over \$20 M would go in the common schools trusts fund & in the foundation aid stabilization fund, the most you could have in there would be \$20 M at 1 time.

**Chairman Koppelman:** But with the amendment, there would be no corpus or principle kept in the fund?

**Rep Kretschmar:** That's right, the extra would go into the common schools trust fund which at this point & time, is being used as real trust fund.

**Chairman Koppelman:** Since the common schools trust fund contains a principle or corpus that is used to create a yield & if that yield is distributed in with the other resolution we passed, it would be the growth as well as the income, interest, etc. It would help build that up & yet the stabilization fund would be there on an "as needed basis" for making foundation aid whole after a shortfall in the budget. Are you comfortable that \$20 M is all that is needed?

**Rep Kretschmar:** The \$20 M is just an arbitrary number ... I just picked it out, but based on the current balance in the fund, \$13 M, & there's about \$4 M going in each yr & the only time they took money out was back in 2001, they took out \$5 M. It would seem to me that \$20 M would be sufficient to get through a biennium & then the legislative assembly could see what they have to do about the foundation aid payments or whatever system the legislature will set up for getting money to elementary & secondary education.

**Chairman Koppelman:** (6.2) The only downside I can see off the resolution, if it were amended to this way, would be, theoretically, if we ever had a real tough economic time & more then \$20 M was needed in the biennium to fulfill the corporation the legislature had made or committed to foundation aid, that money wouldn't be there, that's assuming the fund would build up again.

**Rep Klemin:** (6.6) You raised a good point, you don't know what the future holds as far as inflation is concerned, & what kind of economic situations you might be faced with; 20% of the revenue might or might not be a lot of money. There's a lot of unanswered questions & the Constitution is not easy to change.

**Rep Kretschmar:** (7.3) That's a valid point, maybe the \$20 M isn't the correct number, but I think from the experience we've had with this fund, it seems to me it would be sufficient, because the legislature comes in every other yr & if they had to take money out of this fund it would only be 2 yrs before the legislature meets. If it gets excess money, theoretically, if the legislature provides sufficient money for elementary & secondary education & there isn't a recession & the economy remains stable, this fund could build up indefinitely. It would seem to me that there's no reason to have so much money in that fund not being used for anything at the time, except the interest would be going into the general fund.

**Rep Conrad:** (9.2) The voters are going to ask why \$20 M & I'm not sure we can explain.

**Rep Kretschmar:** Other than past history. It's been there for 8 yrs.

**Rep Conrad:** I'm wondering if we shouldn't wait, since it's only been 8 yrs.

**Rep Klemin:** (9.8) Why should it go into the common schools trust fund? You have significant limitations on what you can do with that. If the other resolution passes they can maybe use the income, but they can never use the principle. At least the way it is right now, we can use the principle & we'd be committing that principle to be forever in that fund which is already over \$8 M. Maybe that excess over \$20 M should go into the general fund to help pay some of our other bills, like keeping our other taxes down.

**Chairman Koppelman:** (10.6) I think that's Rep Kretschmar's intent, that maybe some of this money shouldn't be spent, using a different approach so the money could be retained.

**Rep Kretschmar:** We're taking the oil out of the ground & that's going *?broke?* unless we find a lot more. The natural resources of our state is going to be depleted & gone & the only way we can replace that as an asset for the benefit of the state, is by taking some of the money we receive from the crude oil tax & setting it aside in a trust, which this amendment tries to do.

**Chairman Koppelman:** (11.6) The oil extraction tax is divided how?

**Rep Kretschmar:** It's a 5% tax & the most recent Constitutional amendment, I believe was passed in 1994, puts 1 cent of the 5 cents (20% of the tax) 1/2 of which goes into the common schools trust fund & the 1/2 currently goes into foundation aid stabilization fund & the interest from the foundation aid stabilization fund goes into the same general fund. At this point & time, there's no limit to how much can go into this foundation aid stabilization fund, then there'd be a limit on that, of \$20 M.

**Chairman Koppelman:** It sounds like part of that extraction tax already is going into perpetuity, so to speak, because it is going into common schools trust fund.

**Rep Kasper:** (12.9) The common schools trust fund, with the formula of distribution that we tax, is going to allow that fund to grow even though it's distributing 10% of the income (or fund) over the biennium. As money is coming in & money is going out the common schools trust fund is going to continue to grow under the normal market circumstances, which will mean more dollars coming out of their fund education in the future, which will mean less dependence on the stabilization fund. With Rep Kretschmar's amendment, the overflow goes from the stabilization fund into the common schools trust fund. So if we get to the \$20 M, & we start earning interest,

that's going to pour over into the common schools trust fund too. The amendment b/4 us "any part of the interest income, which would bring the balance in the foundation is stabilization fund to more than \$20 M must be deposited instead in the common schools trust fund." The principle in coming into the stabilization fund will begin to take it up, so there comes a point & time when the stabilization fund has \$20 M, the revenue being earned is not (*can't understand*) so the money that's going to come to education can be invested & let it grow more, & we'll still have the \$20 M.

**Rep Klemin:** So once that cap is reached, it sounds like all that interest income is going to be going to the common schools trust fund & none to the state's general fund.

**Rep Kretschmar:** That's right.

**Rep Klemin:** What's the potential loss to the general fund?

**Rep Conrad:** (15.4) \$600,000, I'm reading from an analysis provided. The legislature decides the rules on how to stand the foundation aid stabilization fund, is that right?

**Rep Kretschmar:** No, it goes by order of the Governor

**Rep Conrad:** But it says that according to ND Century Code, the legislature determines how that happen.

**Rep Kretschmar:** (*not able to understand very well*) We pass a law that each pupil gets X amount of dollars & it's complicated ... there's a fund set up for this.

**Chairman Koppelman:** If I understand this correctly, there's 2 potential problems with the resolution as amended: 1. What if we need more then \$20 M? 2. Are we going to short the general fund some money that's been the intent of this whole system to generate? Maybe we

should allow the interest to go into the general fund & any additional tax distributions to this fund over \$20, would go into this fund.

**Rep Klemin:** I think that's a better approach, because the general fund needs money too.

**Rep Kretschmar:** That's why it needs a cap

**Rep Klemin:** I don't think it should be the interest going into this common schools trust fund into gratuity, it's been going into the general fund.

**Rep Meier:** I agree.

Discussion followed on the amendment possibilities.

**Rep Kretschmar:**

**Rep Klemin:**

**Rep Kretschmar:**

**Chairman Koppelman:** So the amendment would read "50% must be deposited in the foundation aid stabilization fund so the balance in the foundation aid stabilization fund is \$20 M. Any deposit which would bring the balance in the foundation aid stabilization fund to more than \$20 M must be deposited instead in the common schools trust fund. The interest income of the foundation aid stabilization fund must be transferred to the state general fund on July 1st of each yr. The monies in the foundation aid stabilization fund may be expended only upon order of the Governor to offset reductions in state in education aid which remain by executive action pursuant to law to a revenue shortage.

**Rep Klemin:** You don't really need to change the principle of the money, because all you have the principle.

**Chairman Koppelman:** I think we have we have the amendment before us which we haven't acted on it, so a motion to further amend it would be in order.

**Rep Kretchmar made motion to further amend HCR3048   Rep Meier seconded it**

**Chairman Koppelman:** We need to act on the further amendments.

**Voice vote: 6 Yeas   0 Neas   1 Absent & not voting**

**Chairman Koppelman:** (23.1) When the Governor made the allotment, I believe it was a 1 1/2% allotment across the board & \$5.5 M was kicked out of this fund into foundation aid to keep the whole foundation in *(can't understand)* so 1 1/2% of the foundation aid that biennium equaled \$5.5 M.

**Rep Conrad:** (23.7) If it was more then that, the Governor would probably call a special election?

**Rep Klemin:** Why have this thing in there that can't be touched unless there's a revenue shortage? The \$20 M could be used for education today.

**Chairman Koppelman:** Does anyone know why this was a Constitutional Amendment versus a legislative action? ... if not we have before us the amended amendment made by Rep Kretschmar for HCR3048. All those in favor

**6 yeas   0 neas   1 absent & not voting**

**Rep Kretschmar made the motion for a Do Pass as Amended   Rep Meier seconded it**

**Roll call on Do pass as Amended 6 Yes   0 No   1 Absent & not voting**

**Rep Kretschmar appointed as the carrier**

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3048

Page 1, replace lines 18 through 25 with:

- "2. Fifty percent must be deposited in the foundation aid stabilization fund ~~in the state treasury, the~~ until the balance in the foundation aid stabilization fund is twenty million dollars. Any deposit or interest income which would bring the balance in the foundation aid stabilization fund to more than twenty million dollars must be deposited instead in the common schools trust fund. The interest income of which the foundation aid stabilization fund which would not bring the foundation aid stabilization fund balance to more than twenty million dollars must be transferred to the state general fund on July first of each year. The principal of moneys in 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 in state education aid which were made by executive action pursuant to law due to a revenue shortage."

Renumber accordingly

**House Amendments to HCR3048 - Constitutional Revision Committee 03/02/2005**

Page 1, replace lines 18 through 25 with:

- "2. Fifty percent must be deposited in the foundation aid stabilization fund ~~in the state treasury, the~~ until the balance in the foundation aid stabilization fund is twenty million dollars. Any deposit that would bring the balance in the foundation aid stabilization fund to more than twenty million dollars must be deposited instead in the common schools trust fund. The interest income of which the foundation aid stabilization fund must be transferred to the state general fund on July first of each year. The principal of moneys in 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 in state education aid which were made by executive action pursuant to law due to a revenue shortage."

Renumber accordingly

Date: 3-1-05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 304B

House CONSTITUTIONAL REVISION Committee

☐ Check here for Conference Committee

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

Action Taken DO PASS AS AMENDED

Motion Made By KRETSCHMAR Seconded By MEIER

Representatives	Yes	No	Representatives	Yes	No
Chair Koppelman	✓		Rep. Conrad	✓	
Rep. Kretschmar, Vice Chair	✓		Rep. Sandvig		AB
Rep. Kasper	✓				
Rep. Klemin	✓				
Rep L. Meier	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment KRETSCHMAR

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

VOICE VOTE - 6 YEAS 0 NEAS 1 ABSENT

**REPORT OF STANDING COMMITTEE**

**HCR 3048: Constitutional Revision Committee (Rep. Koppelman, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3048 was placed  
on the Sixth order on the calendar.

Page 1, replace lines 18 through 25 with:

- "2. Fifty percent must be deposited in the foundation aid stabilization fund ~~in the state treasury, the~~ until the balance in the foundation aid stabilization fund is twenty million dollars. Any deposit that would bring the balance in the foundation aid stabilization fund to more than twenty million dollars must be deposited instead in the common schools trust fund. The interest income of which the foundation aid stabilization fund must be transferred to the state general fund on July first of each year. The principal of moneys in 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 in state education aid which were made by executive action pursuant to law due to a revenue shortage."

Renumber accordingly

2005 SENATE EDUCATION

HCR 3048

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3048

Senate Education Committee

☐ Conference Committee

Hearing Date 03/15/05

Tape Number	Side A	Side B	Meter #
Tape Failed 1	x		3488-4722 tape blank
Committee Clerk Signature <i>Patty Wilkins</i>			

**Minutes : Relating to the expenditures from the foundation aid stabilization fund.**

**Senator Freborg :** Call the meeting to order on **HCR 3048**

**Representative Kretschmar :** Introduced the bill, he is from District 28, this bill basically modernizes the constitution. He has had a concern over the years with the trust funds established in the Constitution, since 1994 when they adopted the amendment. With the natural resources taken out of the ground, we should be replacing this I think with money. This takes part of the oil tax,  $\frac{1}{2}$  goes to school trust fund and the other  $\frac{1}{2}$  goes to stabilization fund. There is a provision in place to buck up financial aid. This resolution is to take  $\frac{1}{2}$  and put it into a trust fund. The House put a cap on 20 million dollars and our thinking is that the 20 million should be enough for foundation aid. Under this provision of the resolution if the cap is reaching any new money, it would pour over into the trust fund. This would require the order of the Governor to take the \$ and there is no limit to go into stabilization fund. We would like to put a cap on this and the stabilization fund, the new \$'s would build up to the 20 million cap, right now it is at 13 million

and 4 million comes in every biennium. If this is placed on the ballot, the people would have to approve it. I think 20 million should take care of it.

**Senator Taylor :** We could get into a situation right now with oil prices and go over that amt.

**Rep. Kretschmar :** The revenues may not be enough and then the Governor would take the money out of the fund.

**Bev Nielson :** Is in support or neutral and says that if this fund sits, it will not grow. 20 million may be enough now but 15-20 yrs from now it may not be. The percentages should grow if inflation grows, keep this in legislature. We could easily come back and change, but if this is placed in constitution it will not be as easy.

**Doug Johnson :** We do support the engrossed version. Our discussion was that the 20 million would grow but needs the vote of the people. Please look at the %'s instead of the amt.

**No further discussion.**

**Senator Freborg closed the hearing**

**Senator Freborg opened the hearing back up to vote.**

**Senator Flakoll** made a motion to move the amendments

**Senator G. Lee** second the motion

**discussion :**

**Senator Flakoll**, this could tie into the CPI funds

**Senator Freborg** indicated, this sounds low to me.

**Senator Flakoll** said we should act on this.

**Senator Flakoll** then moved a Do Pass engrossed HCR 3048

**Senator Erbele** second this motion.

**Senator G. Lee :** Not sure about this, said he was uncomfortable with this as the funds would be growing, not sure about it.

**Senator Seymour :** Indicated that he felt the same way, asked if this was significant enough to be heading to the constitution? We seem to be getting steady growth already with the flexibility to access money at any time.

**Senator Freborg :** It would put money in the constitutional trust fund. I am not sure why this shows?

**Senator Flakoll** said he would withdraw this motion to further amend.

**Senator Freborg** said not just yet.

**Senator Taylor** asked about the interest income being transferred.

**Senator Flakoll** withdrew his motion.

**Senator Erbele** second this motion.

**Senator Flakoll** asked Anita Thomas to look at new amendment

**Anita Thomas** indicated that this would look like an appropriate amendment.

**Voice vote on reconsider motion Senator Flakoll moved and Senator Taylor second this motion all in favor.**

**Senator Flakoll** moved to make a motion for a Do Pass as further amended.

**Senator Flakoll** said pg 1 lines 20, and 23----- 3% annually

**Senator Erbele** second this motion.

**No further discussion**

**Hearing None, Clerk took roll: Vote 4 Yea 2 Nay 0 Absent**

**Senator Flakoll** will carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT  
RESOLUTION NO. 3048

Page 1, line 20, after "dollars" insert "plus two percent annually"

Page 1, line 21, after "dollars" insert "plus two percent annually"

Renumber accordingly

Date: 3/15/05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 3048**

Senate SENATE EDUCATION Committee

☐ Check here for Conference Committee

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

Action Taken Moved <sup>Adopt</sup> amendments Flakoll

Motion Made By Flakoll Seconded By Lee

Senators	Yes	No	Senators	Yes	No
CH- SENATOR FREBORG	✓		SENATOR SEYMOUR	✓	
V-CH- SENATOR G. LEE	✓		SENATOR TAYLOR	✓	
SENATOR ERBELE	✓				
SENATOR FLAKOLL	✓				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 3/15/05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 3048

Senate SENATE EDUCATION Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass Unopposed & Amended

Motion Made By Flakoll Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
CH- SENATOR FREBORG	✓		SENATOR SEYMOUR		✓
V-CH- SENATOR G. LEE		✓	SENATOR TAYLOR	✓	
SENATOR ERBELE	✓				
SENATOR FLAKOLL	✓				

Total (Yes) 4 No 2

Absent \_\_\_\_\_

Floor Assignment Flakoll

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

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT  
RESOLUTION NO. 3048

Page 1, line 20, after "dollars" insert "plus three percent annually"

Page 1, line 21, after "dollars" insert "plus three percent annually"

Page 1, line 23, overstrike "state general" insert immediately thereafter "common schools trust"

Renumber accordingly

Date: 3/15/05  
Roll Call Vote #: 3

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 3048

Senate SENATE EDUCATION Committee

☐ Check here for Conference Committee

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

Action Taken Further Amended Flakoll pg 1 line 20, 23  
300

Motion Made By Flakoll Seconded By Enb

Senators	Yes	No	Senators	Yes	No
CH- SENATOR FREBORG		✓	SENATOR SEYMOUR		✓
V-CH- SENATOR G. LEE	✓		SENATOR TAYLOR	✓	
SENATOR ERBELE	✓				
SENATOR FLAKOLL	✓				

Total (Yes) 4 No 2

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT  
RESOLUTION NO. 3048

Page 1, line 20, after "dollars" insert "increased annually by a factor of three percent"

Page 1, line 21, replace "twenty million dollars" with "that amount"

Page 1, line 23, overstrike "state general" and insert immediately thereafter "common schools trust"

Renumber accordingly

Date: 3/15/05  
Roll Call Vote #: 3

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

Senate SENATE EDUCATION Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass Flakoll Amendment further -

Motion Made By Flakoll Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
CH- SENATOR FREBORG	✓	✓	SENATOR SEYMOUR	✓	✓
V-CH- SENATOR G. LEE	✓		SENATOR TAYLOR	✓	
SENATOR ERBELE	✓				
SENATOR FLAKOLL	✓				

Total (Yes) 4 No 2

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 3/15/05  
Roll Call Vote #: 4

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

Senate SENATE EDUCATION Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass As further Amended pg 1 line 2 line 23

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Senators	Yes	No	Senators	Yes	No
CH- SENATOR FREBORG		✓	SENATOR SEYMOUR		✓
V-CH- SENATOR G. LEE	✓		SENATOR TAYLOR	✓	
SENATOR ERBELE	✓				
SENATOR FLAKOLL	✓				

Total (Yes) 4 No 2

Absent \_\_\_\_\_

Floor Assignment Flakoll

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

**REPORT OF STANDING COMMITTEE**

HCR 3048, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3048 was placed on the Sixth order on the calendar.

Page 1, line 20, after "dollars" insert "increased annually by a factor of three percent"

Page 1, line 21, replace "twenty million dollars" with "that amount"

Page 1, line 23, overstrike "state general" and insert immediately thereafter "common schools trust"

Renumber accordingly

2005 HOUSE CONSTITUTIONAL REVISION

CONFERENCE COMMITTEE

HCR 3048

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3048

Constitutional Revision

☒ Conference Committee

Hearing Date 3-30-05

Tape Number	Side A	Side B	Meter #
1	x		0.0 --- 15.5
Committee Clerk Signature <i>Diane Haan</i>			

Minutes:

**Chairman Kretschmar:** (0.0) Opened the Conference Committee on HCR3048. All members present. Since the Senate amended the House Version as it came over, perhaps Sen Flakoll can explain those amendments to the committee.

**Sen Flakoll:** As it came to us, there was a provision with a cap of \$20 M, we essentially touched on 2 portions of the bill. There's a cap of \$20 M & with testimony from groups such as ND School Board Assoc, they felt that if we're going to be putting this into the Constitution for many generations, the \$20 M might be fine for a few yrs, but maybe we need some type of escalator on that & we talked about different provisions for that. The simplest one was just to allow for a rate of inflation, so we put a 3% on top of the \$20 M. That would be \$20 M plus annual rate of 3% to allow for inflationary problems that arise from that. The 2nd portion we did was related to the language on P.1, L.23, originally the excess over & above that we had went into the general fund & we thought that it was more appropriate that it would revert to the common schools trust fund

rather than the general fund that would be a surplus. The bill wasn't without some wounds on it when it came out of our committee, it was a 4 to 2 passage for recommendation to the body & we barely passed the bill (by 3 votes). On the Senate side, we'd be very concerned with any amendments that may damage a short vote already. We thought with a 3% there'd be a steady increase, easy to get your hands around every yr would be more appropriate. The 3% would take quite awhile for it to any place where it would cause any damage.

**Chairman Kretschmar:** Are there any questions or comments?

**Rep Kasper:** (2.9) Would Sen Lee share the concerns he had about the bill & the amendments, since he voted against it.

**Rep Lee:** My reservations were with the \$20 M, it was a better bill with the escalator percentage included, but why \$20 M, it seems to be an arbitrary number for a long history of time & I'm not sure that's an appropriate thing to do.

**Sen Flakoll:** I think the concern in the committee, is this something we want to have in the Constitution, is it too specific for 1 thing & will this lead to other problems?

**Chairman Kretschmar:** (3.7) \$20 M is an arbitrary number, but currently there was testimony before the house committee that there's \$13 M in the fund now & this fund has been operative for about 10 yr. Just once was money taken out of the fund by order of the Governor, I believe \$5 M in 2001. Each yr we were informed that about \$4 M comes into the fund & under the current law that fund can go forever, so I think the consensus of the House Committee was that we should have some type of cap on the front so it wouldn't grow forever if no money were taken out of it. Could you explain how the 3% will be figured? If this would become law, in 2007 would the cap \$20 M plus 3%?

**Sen Flakoll:** (4.9) Yes, after the 1st yr, the numbers would revert to \$20,600 & the next yr \$20,600, plus an additional 3%, etc. It could have some slippage where it slides back a little bit, then jumps forward too. The intent was that it would be an annual increase of 3% on top of what was there.

**Rep Kasper:** (5.5) If you look at the purpose of the fund, which is to be in the event that the education funding has a shortfall & we used it once in 11 yrs & the fact that our budgeting process here in the legislature seems to take care of the education needs as well as we want with the surpluses we've been having. What we end up getting even with the 3% escalator is \$600,000 a yr, pretty soon you're at \$1 M, or \$2 M a yr escalator & the fund is again out of control. The purpose of the fund is to be an emergency source, one time, if we have a problem funding education. \$20 M, even though it's an arbitrary number, is a very safe number & the excess dollars, if we take them & put them into the common schools trust fund, which is the other part of the amendment that the Senate proposed, that common schools trust fund only pays out interest, it doesn't pay out principle. Our thought in committee was, if we take the excess dollars & put it in the general fund, the legislature can appropriate those general fund dollars right back to education.

**Sen Flakoll:** (6.5) I think our budget for K12 has grown about \$118 M in the last 6 yrs & currently as we have our 2 major education bills before us, we're about \$698 M. It takes about \$4.4 M to run the schools per day, so essentially this amount that we have before is a little less than 5 days of money, so it could get absorbed rather quickly.

**Rep Kasper:** (7.1) \$600 & some M, that's not all general fund dollars, that's the county dollars as well as the general fund, isn't it?

**Sen Flakoll:** That's the appropriation that would be coming from the State of ND this session. I can't give you the numbers right off the top of my head. The \$4.4 M that I referenced per day is all money. \$20 M is a lot of money, but still in the big context of things, when we look at relevance to the overall state budget, it's not that major.

**Chairman Kretschmar:** (8.3) The 3% may be a good thing, but what I'm concerned about is the amendment that keeps the interest from the stabilization fund from going into the general fund. If I recall the testimony in the house committee correctly, that's about \$600,000, it would be a cut into the general fund.

**Sen Flakoll:** Equal to the *(can't understand)* The original intent of that bill was to go to school purposes rather than into the general fund, because I think that money would be unexpected money & I think the voters & the legislature that we need to continue to grow both of those funds, foundation aid stabilization fund & the common schools trust fund. If you look at those \$600,000 that would be put back into the general fund, essentially what we're doing with that will be then ... when you look at percentage of that general fund money that typically goes towards K12 education, a good percentage of that is going to go to K12 education at one time or the other when you look at the overall percentage. We just liked how that helps grow that fund & the stability that it provides for the common schools trust fund, which produces about \$71 M per biennium now that pd out.

**Sen Lee:** (10.8) I would agree, the money's going to go to education anyway, whether it comes out of the general fund or the common schools trust fund. It isn't taking it away from education, it's just putting it in a different place for education.

**Chairman Kretschmar:** Sometimes leadership gets excited. Personally, I think the 3% is probably a good move, it still puts a cap on, but a higher cap.

**Rep Kasper:** (11.4) It's not only the higher cap, it's an on going increasing cap, like you'd have no cap.

**Chairman Kretschmar:** That's correct.

**Seen Taylor:** (11.7) *can't understand* with the escalator, if the fund was to grow to \$100 M, we'd probably be looking at an education budget that was considerably larger than it is today as it increases over time. A side comment about the concern about removing interest from the general fund to go into the common schools trust fund, it would be dedicated to education.

**Chairman Kretschmar:** That would certainly *can't understand* currently, it goes into the general fund & it's used as the legislature sees fit. Are there any motions that anyone would want to offer?

**Sen Flakoll:** I don't have a calculator in front of me, I believe it would take about 33 yrs (without the Governor taking anything out) for the fund to double to \$40 M & to get to \$60 M it would take 66 yrs, etc.

**Chairman Kretschmar:** (13.4) Clearly, there's an artifact in this that income into the fund is not all *can't understand* the state receives. The chair is open to any motion.

**Sen Flakoll Moved That the House accede to the Senate Amendments**

**Sen Taylor Seconded it.**

**Rep Kasper:** (14.1) I would hope that somebody in the committee would not accept that motion. I would agree that maybe 3% or a lesser amount is OK. I would resist the motion.

**Chairman Kretschmar:** Any other comments or discussion? seeing none we'll take roll call on the motion before us.

4 Yes      2 No      0 Absent & Not Voting      **Motion Failed**

**Rep Kasper:** (15.4) I'd like to have a little more time to talk with people on our side if you would allow that.

**Chairman Kretschmar:** (15.4) That's what we'll do, it doesn't appear that we're reaching an agreement at this point & time. We'll adjourn this meeting subject to the call of the Chair when we'll be meeting again. (15.5)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3048

Constitutional Revision

☒ Conference Committee

Hearing Date 4-1-05

Tape Number	Side A	Side B	Meter #
1	x		0.0 ---- 22.4
Committee Clerk Signature <i>Maie Haan</i>			

Minutes:

**Chairman Kretschmar:** (0.0) Opened the Conference Committee Meeting on HCR3048. All members present. I had LC prepare these documents with a 3% growth with & then a 1% & 2% interest on the growth & that money either putting into the fund or going into a separate fund. I also asked them to do it on 2% & 1% growth & that's on the 3 stapled sheets together. (see attachments ... charts) I asked them to prepare this so we'd have some idea as to what the essential cap of the fund would be over a period of 20 yrs under the 3 scenarios.

**Rep Kasper:** I don't know if they're using the previous yrs balance. On the 3rd page of your handout on the 1st yr, they should be yr end numbers, I don't think they're compounding.

**Rep Kretschmar:** (2.8) I'll check with LC about that. The reason I asked for these was to see under the 1%,2% & 3% growth, what the cap of the fund would be looking like over a period of time. My idea still is that there should be some type of cap so it isn't going forever. With the Senate amendments, there's a 3% cap & those numbers are on the 3rd page of this handout.

They discussed the charts.

**Chairman Kretschmar:** (5.6) The question this committee should decide is, what level of growth we want to have on that cap, the Senate has proposed 3% & I just wanted to see the numbers. When the bill left the House, it had the \$20 M cap & in discussion in committee we thought \$20 M would be enough to get to the next legislation. If the foundation fund needed more money, that would be a problem for that legislation session.

More discussion on the charts

**Chairman Kretschmar:** A more serious concern would be a \$600 M hit on the general fund if we don't leave it in the general fund.

**Sen Flakoll:** (8.0) As the bill was introduced by the sponsors, I think it would do the same thing.

**Chairman Kretschmar:** When I introduced the resolution, my intent was to make the stabilization fund a permanent, untouchable fund & in discussions in committee I saw the error of my ways. We still wanted to keep the fund available for necessary additions to the foundation aid program if the Governor, by his order, decided they needed it. We didn't try to make it an untouchable fund, but we left the earnings from the fund, when they weren't needed, would go as the current law says, that each July 1st, it would be put in the general fund. That's where the committee is sitting.

**Sen Flakoll:** (10.7) If we think that \$20 M figure is right, so today we look at in reference to many dollars we appropriate per biennium, 3% is fairly close.

**Rep Kasper:** (12.1) What would kick in the need for foundation aid fund to be used ... what economic circumstance would cause us to have to dip into it ... it would be if we had a budget shortfall, that's the only circumstance, is that correct? In the last 10 yrs we've had 1 biennium

where there's been a shortfall, the odds are not that great. You don't need to have a 3 or 4 times cushion & another thing is, that the number of our school age children in ND is declining, is our budget going to be growing that amt for education?

**Sen Flakoll:** (13.2) I think we have the need that will continue to grow. You can't reduce teachers if you only have 2 lost per class, you have to have more dramatic changes then that b/4 you can have some economy scale. Another reference point, is the last *can't understand* from DPI (was last yrs data, the best we can do) were about \$790 M with 60 schools to run for the entire yr. The state, federal & all the money sources, they are about \$165 M in terms of any fund balance so they're at about 20.8%, is what they've set aside as their rainy day fund ... just another reference point. Another thing we'll have to deal with, is that even though the fund balance cap increases, the reality of hitting that cap sometime if we just take a hit on it every 10-12 yrs, we back it down, so there'll be challenges to meet that cap sometimes in terms of economic realities. Oil is gang busters right now, but it was in the late 80's also, those things can change quickly.

**Chairman Kretschmar:** It's impossible to predict the future very far down the line, but it seems to me that if there's a reasonable cap on the fund, that money, if it's necessary during the biennium, to use the *can't understand*, there'd probably have to be a special session of the legislature. My idea in this fund is just to tide us over to the next biennium & it would seem to me that \$20 M would be plenty, but I'm not opposed to putting on a reasonable cap. I would think a 2% would look good.

**Sen Flakoll:** (16.3) The 2% was discussed in committee & we couldn't get enough traction to move it forward.

**Rep Kasper:** (16.7) What about the requirements to transfer the excess earnings into the common schools trust fund, as opposed to Rep Kretschmar's desire to put it back into the general fund, so we can distribute the whole amt to education every yr to help their funding?

**Sen Flakoll:** (17.0) I'm not sure that would happen, typically we swap out maybe 25% of all the general fund money that comes through. I think in general, when it was originally set up, I think people figured, when you have this money going towards these fund, we want it designated to education.

**Sen Lee:** (17.9) To remove (*can't understand*) wouldn't make it in the Senate.

**Chairman Kretschmar:** (18.4) I still think we should let the money stay in the general fund so the it doesn't take a hit.

**Rep Kasper:** (19.1) If we do nothing, if we kill the bill, then the dollars will go back to the general fund, won't they?

**Chairman Kretschmar:** They will.

**Rep Kasper:** Under current law, is there a cap on the foundation aid fund?

**Chairman Kretschmar:** No, there is not, the money just keeps going in there. The information our committee had was that currently, there's about \$13 M in the fund & it grows at about \$4 M a yr.

**Sen Flakoll:** (20.0) What concerns me is, in terms of high minded execution of this, if this were to pass & we were not even worried about what would be changed, it would be at the general election of 2006 so it would be put into effect when?

**Chairman Kretschmar:** It would start in 2007 for all practical purposes. Is there more discussion or any motions? I'd like to keep the money (the interest) in the general fund & I'd be happy with the 2% growth. The Senate's vision is to grow when you passed it, is that right?

**Sen Flakoll:** (21.5) That would be my position, because of the feelings of some of my other colleagues, due to the language with respect to the general fund.

**Rep Kasper:** (21.8) If we adopt the Senate amendments, we could kill the bill in the house, couldn't we, once it comes back to us?

**Chairman Kretschmar:** Sure.

**Rep Sandvig:** If the money went into the common schools trust fund, it would be more earmarked for education, wouldn't it?

**Chairman Kretschmar:** (22.4) We'll adjourn & think about this for awhile.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3048

Constitutional Revision

☒ Conference Committee

Hearing Date 4-4-05

Tape Number	Side A	Side B	Meter #
1	x		0.0 ---- 10.3
Committee Clerk Signature <i>Maureen Shan</i>			

Minutes:

**Chairman Kretschmar:** (0.0) Called the meeting to order. All members present. Personally, I'd be willing to go along with 3%, if the senate would be willing to put the interest back into the general fund.

**Sen Flakoll:** (0.5) If we bring it back at all, it may end up on the dead pile & at this point, we believe the way to keep it alive is if we never see it again. We come from the education committee & have trouble getting the money we would like to on a variety of issues. I look it as the dollars we're talking about in terms of interest are dollars that are generated because of money set aside for education & I don't think it's unreasonable to let that continue to grow.

**Sen Lee:** (1.6) I didn't support the bill in the 1st place & I think the \$20 M is sort of an arbitrary number & the 3% does help that some, but I don't know that this is something that should be in the Constitution, I'm not a fan of it to begin with, but it's there now.

**Rep Kasper:** (1.9) If this bill dies, what happens to the income from the foundation aid stabilization fund?

**Chairman Kretschmar:** If current law stands, the interest from the fund goes into the general fund each yr.

**Rep Kasper:** My thought would be that it would be better to kill it then to accede to the Senate amendments.

**Sen Flakoll:** (2.7) If the intent of the House is to kill the bill, then the way I would see to do that is, if the House accedes to the Senate amendments.

**Chairman Kretschmar:** I don't believe that's the intent of the House. If you see no give in your Senate position.

**Sen Flakoll:** (3.1) It's not that we don't want to give on any Conference Committee, it's just that if we give, by all measures, it's dead & I don't think that's the purpose.

**Rep Kasper:** (3.6) Maybe part of the problem with the Senate is, that they didn't like the amendments that were put on there & they liked the House version better.

**Sen Flakoll:** I think we feel pretty comfortable with the amendments, because through testimony & conversations within the committee, we felt that there needed to be an escalator that reflected the growth in the state portion of that amt & I think we've weighed that out pretty straight forward as far as, that's the growth we've been looking at, some yrs it's more, some yrs it's less. We tried to track with that, since it's the Constitution, which takes a lot of work to get in & sometimes even more work to get out or modified. I think it's fair to have that interest go to education & I think that's why the bill was originally drafted.

**Sen Taylor:** (4.7) I think our position is kind of in a corner right now.

**Rep Kasper:** (5.5) If we look at what the Senate amendments do on L 20 & 21, "Any deposit that would bring the balance in the foundation aid stabilization fund to more than that amount must be deposited instead in the common schools trust fund." So 100% of the money goes into the common schools trust fund & about 5% or 6% of that 100% gets pd out to education, so the common schools trust fund gets bigger, but you only get 5% or 6% of that gross amt that you can use to fund education on an annual basis. That makes no sense, when that common schools trust fund is about \$700 M already. The idea of paying the excess interest into the general fund, so that in the next biennium, you can use that fund all of it for education, makes a whole lot more sense to me.

**Chairman Kretschmar:** (6.3) What you're looking at in the resolution is, the money that would be coming into the fund over the cap & that goes into the common schools trust fund, but this stabilization fund is over there someplace in the corner & it's earning interest & right now the interest that it earns, each yr goes into the general fund. Under this proposal, that interest that's earned, each July 1st, instead of going into the general fund, would go into the common schools trust fund.

**Rep Kasper:** So we're having less money for education on an ongoing basis, because we're building up more money in the foundation aid stabilization fund & common schools trust fund, so we have less money to fund education.

**Sen Flakoll:** (6.9) I think if you would ask anyone in the education community, would they rather have it go to the general fund or the common schools trust fund, I think unequivocally, they would say common schools trust fund. If that logic were to hold true, I don't think we'd have the common schools trust fund, we could just spend whatever we might get, very unstable

from biennium to biennium. This time it would be very nice because the oil is going very well, but we've seen that, in recent history, go belly up. This biennium we're at about \$335 per student per yr, money that's coming out of the common schools trust fund, we'll have about \$71 M to spend this next biennium. It's a pretty stable source of income to supplement education funding.

**Rep Kasper:** (7.9) But with the changes we're making in the investment philosophy of the common schools trust fund & the smoothing effect that that's going to have now because they can manage it like portfolio managers, as opposed to having to have income instruments that really aren't doing much for growth. As that fund continues to be managed in a different way, that income for the education fund, where funding should be a nice steady growth now after we get through that smoothing effect. I think there's a few yrs here where, after that point & time you'll see steady increases in dollars coming out of that common schools trust fund for the benefit of education.

**Sen Flakoll:** (8.4) That would be thinking that the other Constitutional amendment will pass, which we don't know yet. We're a long ways from home from either of these yet. This one is, for the people, a much easier one for them to understand then the other one & I would much rather try to present this one.

**Chairman Kretschmar:** Does anyone wishes to offer a motion?

**Sen Flakoll:** I Would Move That the House Accede to the Senate Amendments

**Sen Taylor** Seconded it

**Sen Flakoll:** So if the House wants to take it back & dispose of it, this would be a method you could do that, or if you don't want to dispose of it (*can't understand*) this would be a method to do that.

Page 5

Constitutional Revision

Bill/Resolution Number HCR3048

Hearing Date 4-4-05

**Chairman Kretschmar:** If no further discussion, we'll call roll on "**The House Acceding to  
the Senate Amendments**"

**4 Yes    2 No    0 Absent & Not Voting    Motion Failed**

**Chairman Kretschmar:** (10.3) The meeting is adjourned.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3048

Constitutional Revision

☒ Conference Committee

Hearing Date 4-14-05

Tape Number	Side A	Side B	Meter #
1	x		0.0 --- 1.9
Committee Clerk Signature <i>Diane Haan</i>			

Minutes:

**Chairman Kretschmar:** (0.0) Called the Conference Committee on HCR3048 to order. We'll note in the records that all members are present. Does the Senate want to change your amendments? If not, the Chair would like someone to make a motion.

**Sen Flakoll:** I Move that the "House Accede to the Senate Amendments "

**Sen Traynor** Seconded it

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

**Chairman Kretschmar:** The motion carried.

**Sen Flakoll:** (1.3) I know we took longer then you would normally think it would, but again, it is the Constitution so I think we all agree that it's a very important document so none of us went into this quickly.

**Chairman Kretschmar:** This resolution will come over to the House & I will explain it to them & see what we want to do with it. The way the resolution is right now, the money that goes into

Page 2

Constitutional Revision

Bill/Resolution Number HCR3048

Hearing Date 4-11-05

this fund is going to be used for education for the students of ND. (1.9) The meeting is adjourned.

REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE) - 420

07398

3-30-05

Bill Number) HCR 3048 (, as (re)engrossed):

Your Conference Committee CONSTITUTIONAL REV

For the Senate:

P SEN FLAKOLL

P SEN LEE

P SEN TAYLOR

Y N  
L  
L  
L

For the House:

P REP KRETSCHMAR

P REP KASPER

P REP SANDVIG

Y N  
L  
L  
L

Failed

☒ recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
the (Senate/House) amendments on (S/J/HJ) page(s) 1234 - \_\_\_\_\_

☐ and place \_\_\_\_\_ on the Seventh order.

☐ , adopt (further) amendments as follows, and place  
\_\_\_\_\_ on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the  
calendar.

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO. \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_

(1) LC (2) LC (3) DESK (4) COMM.

"Failed"

House Accede 2 Senate Amend  
Flakoll - 2nd Taylor

REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)

Bill Number HCR 3048 (, as (re)engrossed):

Date: 4-4-05

Your Conference Committee CONSTITUTIONAL REV

For the Senate:

For the House:

		YES / NO			YES / NO
	SEN FLAKOLL	<input checked="" type="checkbox"/>		REP KRETSHMAR	<input checked="" type="checkbox"/>
	SEN LEE	<input checked="" type="checkbox"/>		REP KASPER	<input checked="" type="checkbox"/>
	SEN TAYLOR	<input checked="" type="checkbox"/>		REP SANDVIG	<input checked="" type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ -- \_\_\_\_\_

\_\_\_\_\_, and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

\_\_\_\_\_, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Sen Flakoll

SECONDED BY: Sen Taylor

VOTE COUNT 4 YES 2 NO 0 ABSENT

Revised 4/1/05

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number HCR 3048 (, as (re)engrossed):

Date: 4-11-05

Your Conference Committee CONSTITUTIONAL REV

For the Senate:

For the House:

YES / NO		YES / NO	
SEN FLAKOLL	✓	REP KRETSHMAR	✓
SEN LEE	✓	REP KASPER	✓
SEN TAYLOR	✓	REP SANDVIG	✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) (amendments on (SJ/HJ) page(s) 1234 --

X, and place 3048 on the Seventh order.

\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

\_\_\_\_, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 4-11-05

CARRIER: Rep Kretschmar

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Sen Flakoll

SECONDED BY: Taylor

VOTE COUNT: 5 YES 1 NO 0 ABSENT

Revised 4/1/05

**REPORT OF CONFERENCE COMMITTEE**

**HCR 3048, as engrossed:** Your conference committee (Sens. Flakoll, G. Lee, Taylor and Reps. Kretschmar, Kasper, Sandvig) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1234 and place HCR 3048 on the Seventh order.

Engrossed HCR 3048 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

HCR 3048

LCR 3048  
23-25  
ATTACH "B"

## ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 1999-2001 AND 2001-03 BIENNIUMS

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

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

### FUND HISTORY

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

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

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

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

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

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

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

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

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

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

## FUND HISTORY

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

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

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

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

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

HC 3048  
HC 3049

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

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

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

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

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

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

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

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

<sup>1</sup>Estimated revenues - 2003-05 - The estimated revenues for the 2003-05 biennium reflect actual revenues through September 30, 2004, and estimated revenues for the remainder of the biennium. The current estimate of revenues for the biennium is \$6,074,202 more than the estimate of \$11,288,703 made at the close of the 2003 legislative session. The increase is attributable to the following changes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# ANALYSIS OF THE RESOURCES TRUST FUND 1999-2001 AND 2001-03 BIENNIUMS

	1999-2001 Biennium	2001-03 Biennium
Beginning balance	\$6,733,283	\$14,300,000
Add estimated revenues		
Oil extraction tax collections	\$9,263,686	\$8,846,808
Repayments and reimbursements	2,365,903	1,804,439
Investment earnings/miscellaneous	936,289	368,356
Total estimated revenues	12,565,878	11,019,603
Total available	\$19,299,161	\$25,319,603
Less estimated expenditures		
State Water Commission	2,699,161	21,718,031 <sup>3</sup>
Grants and administration (2001 HB 1023)	2,300,000 <sup>1</sup>	
Capital construction carryover from the 1997-99 biennium		
Total estimated expenditures	4,999,161	21,718,031
Ending balance	\$14,300,000 <sup>2</sup>	\$3,601,572

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Decrease in oil extraction tax collections (\$2,148,324)

Bank of North Dakota transfer (1997 House Bill No. 1482 authorized a transfer of \$2 million from the Bank of North Dakota to the resources trust fund for principal and interest payments on bonds issued by the Water Commission for an outlet to Devils Lake or for a comprehensive statewide water development program. The Water Commission does not anticipate the issuance of the bonds during the current biennium, and consequently, the transfer is not anticipated to occur.)

Increase in repayments for previously funded water projects

Increase in investment income

Decrease from revenue amount previously estimated for 1997-99

139,399

183,646

(\$3,825,279)

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

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

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

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

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

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

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

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

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

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

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

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

# ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 1995-97 AND 1997-99 BIENNIALS

	1995-97 Biennium	1997-99 Biennium
Beginning balance	\$2,336,686 <sup>1</sup>	\$1,784,886
Add estimated revenues:		
Oil extraction tax collections	\$7,065,197	\$7,387,068
Repayments and reimbursements	2,770,000	2,383,000 <sup>5</sup>
Transfer from the Bank of North Dakota (1997 HB 1482)		2,000,000
Investment earnings	147,084	31,097
Total estimated revenues	\$9,982,281 <sup>2</sup>	\$11,801,165
Total available	\$12,318,967	\$13,586,051
Less estimated expenditures:		
State Water Commission		
Grants and administration (1995 SB 2025, 1997 HB 1025)	\$10,446,181	\$13,473,548
Bond principal and interest payments (1997 HB 1482)		2,000,000
Devils Lake office (1995 SB 2463)	87,900	
Total estimated expenditures	\$10,534,081 <sup>3</sup>	\$15,473,548 <sup>6</sup>
Ending balance	\$1,784,886 <sup>4</sup>	(\$1,887,497) <sup>7</sup>

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

Constructing water-related projects, including rural water systems.

Energy conservation programs.

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

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

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

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

Twenty percent to the resources trust fund.

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

Sixty percent to the state general fund.

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

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

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

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

Legislative appropriation from the resources trust fund for 1995-97  
Add Emergency Commission approvals

\$9,384,081  
2,350,000

Total 1995-97 biennium appropriation authority from the resources trust fund  
Less estimated amount obligated but unexpended as of June 30, 1997

\$11,734,081  
1,200,000

Estimated 1995-97 biennium expenditures from the resources trust fund

\$10,534,081

<sup>4</sup> Estimated June 30, 1997, balance - The estimated June 30, 1997, balance is \$2.2 million more than the (\$421,284) balance estimated at the close of the 1995 legislative session. The increase is attributable to the increased revenues listed in footnote 2.

<sup>5</sup> 1997-99 biennium repayments and reimbursements - The repayments and reimbursements to the resources trust fund, as included in the executive recommendation for the 1997-99 biennium, totaled \$3,783,000. However, 1997 House Bill No. 1170 authorizes the Water Commission to issue bonds for water projects related to the Southwest Pipeline Project. The bonds will be repaid through user fees paid by Southwest pipeline users that were anticipated in the executive recommendation to be deposited in the resources trust fund. Consequently, repayments and reimbursements to the resources trust fund will be approximately \$2,383,000 for the 1997-99 biennium, \$1.4 million less than previously estimated.

<sup>6</sup> 1997-99 biennium estimated expenditures - The executive recommendation for the 1997-99 biennium included Water Commission expenditures of \$13.47 million from the resources trust fund, the same as the amount appropriated in House Bill No. 1025. The executive recommendation for the 1997-99 biennium included \$2 million of resources trust fund appropriation authority which the Water Commission estimated would be obligated but not spent at the end of the 1995-97 biennium. However, current estimated expenditures for the 1995-97 biennium will be approximately \$800,000 more than previously estimated, resulting in obligated but unspent appropriation authority of \$1.2 million at the end of the 1995-97 biennium.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## FUND HISTORY

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

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

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

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

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

# ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 1999-2001 AND 2001-03 BIENNIUMS

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

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

## FUND HISTORY

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

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

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

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

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

# ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 1997-99 AND 1999-2001 BIENNIUMS

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

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

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

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

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

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

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

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

SCHEDULE 1C  
(cont.)

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

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

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

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

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

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

HCR 3048

TO: REPRESENTATIVE KOPPELMAN  
FROM: JOE WESTBY, NDEA EXECUTIVE DIRECTOR  
RE: TRENDS IN ND PER PUPIL COSTS/PAYMENTS  
DATE: FEBRUARY 24, 2005

The chart entitled "Trends in North Dakota Per Pupil Costs/Trends" is our compilation of the historical data related to actual per pupil cost, the foundation payment per year, the tuition apportionment payment, the teacher compensation payments, the total of all of these payments from state sources and the percentage of per pupil cost provided by the aforementioned state payments.

Listed below is a summary of the data on this chart:

	<u>94-95</u>	<u>2004-05</u>	<u>Total % Change</u>	<u>% Change/year</u>
Per Pupil Cost	\$3,850	\$7,060*	83.3%	8.33%
Foundation Payment	\$1,636	\$2,623	60.4%	6.03%
Total, State sources	\$1,834	\$3,217	75.4%	7.54%
CPI	149.4	189.9	27.1%	2.71%
Avg. Teacher Salary	\$26,327	\$36,468*	38.5%	3.85%

\*estimate

## TA PER PUPIL COSTS/PAYMENTS

Year	Actual Cost Per Pupil	Foundation Payment	Tuition Apportionment	Teacher Comp Reimbursement	Total From State Sources
1981-82	\$2,392	\$1,425	\$98		\$1,523
1982-83	\$2,477	\$1,353	\$158		\$1,511
1983-84	\$2,577	\$1,400	\$176		\$1,576
1984-85	\$2,851	\$1,350	\$202		\$1,552
1985-86	\$2,960	\$1,425	\$209		\$1,634
1986-87	\$2,949	\$1,367	\$216		\$1,583
1987-88	\$3,041	\$1,400	\$215		\$1,615
1988-89	\$3,213	\$1,385	\$206		\$1,591
1989-90	\$3,427	\$1,411	\$199		\$1,610
1990-91	\$3,425	\$1,480	\$198		\$1,678
1991-92	\$3,677	\$1,552	\$197		\$1,749
1992-93	\$3,701	\$1,542	\$198		\$1,740
1993-94	\$3,772	\$1,570	\$198		\$1,768
1994-95	\$3,850	\$1,636	\$198		\$1,834
1995-96	\$4,016	\$1,757	\$207		\$1,964
1996-97	\$4,223	\$1,862	\$209		\$2,071
1997-98	\$4,464	\$1,954	\$216		\$2,170
1998-99	\$4,747	\$2,032	\$223		\$2,255
1999-00	\$5,137	\$2,145	\$248		\$2,393
2000-01	\$5,494	\$2,230	\$250		\$2,480
2001-02	\$5,799	\$2,287	\$300	\$81.32	\$2,668
2002-03	\$6,330	\$2,347	\$300	\$243.49	\$2,890
2003-04	\$6,675	\$2,509	\$335	\$244.78	\$3,089
2004-05	\$7,060*	\$2,623	\$335	\$258.58*	\$3,217

### All data provided by DPI

- 1 A supplementary emergency appropriation of \$7 million was made in addition to the \$1,480 foundation aid payment.
- 2 A \$46.25/pupil supplementary payment was made at the ending of the biennium in addition to the \$1,636 foundation aid payment.
- 3 Includes Teacher Compensation Reimbursement (\$8,768,010 TCR / 107,823.35 students)
- 4 Includes Teacher Compensation Reimbursement (\$25,691,030 TCR / 105,511.86 students)
- 5 Includes Teacher Compensation Reimbursement (\$25,438,618 TCR / 103,923.34 students)
- 6 Teacher Compensation Reimbursement estimate (\$25,677,035 TCR / 99,300 students)

\* Estimate

**Cost From  
State Sources**

63.7%

61.0%

61.2%

54.4%

55.2%

53.7%

53.1%

49.5%

47.0%

49.0%

47.6%

47.0%

46.9%

47.6%

48.9%

49.0%

48.6%

47.5%

46.6%

45.1%

46.0%

45.7%

46.3%

45.6%



"Koppelman, Kim A."  
<kkoppelman@state.nd.us>

To: "Haan, Diane" <hasst@state.nd.us>  
cc:  
Subject: FW: HCR 3048

03/23/2005 03:40 PM

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**From:** Koppelman, Kim A.  
**Sent:** Wednesday, March 23, 2005 1:43 PM  
**To:** Kretschmar, William E.; Kasper, Jim M.; Sandvig, Sally M.  
**Subject:** HCR 3048

I have elected not to concur with the Senate Amendments (by the Senate Education Committee) to HCR 3048. I have appointed you to the Conference Committee.

One provision of the Senate Amendment simply puts an inflator on the amount specified in the resolution, and that's probably not a big deal.

The other, however, funnels the excess funds to the Common Schools Trust Fund, rather than the General Fund, as the original Resolution directs. While it's understandable, coming from the Senate Education Committee, that may be a troubling change.

We need to remember what this fund is for. It's to stabilize Foundation Aid payments to schools during the interim, if the general fund falls short of the amount appropriated by the Legislature when, for example, the Governor orders an allotment, as he did a few years ago. K-12 education did not suffer a shortfall, because of the Foundation Aid Stabilization Fund. That's a very good thing.

The purpose of the amendment was to ensure the Fund's purpose, but also make sure that excessive funds were not merely warehoused there, to accumulate with no limit, far beyond the need. If we agree that's a prudent move, the next question is where should the excess money go?

Our Committee and the House believe that the money should go back into the General Fund, because that's where Foundation Aid dollars come from. This allows that money to be used to support schools in the next budgetary cycle. Moving it into the Common Schools Trust Fund would mean that (while theoretically earmarked for education), the money could not be touched and only its growth and income could be spent to fund schools.

I believe our version actually does more to help schools, as we appropriate money, each legislative session and it a better approach.

I appreciate your service on the Conference Committee. Please let me know if you have any questions.

-Kim  
Rep. Kim Koppelman  
Chairman  
Constitutional Revision Committee

March 2005

**FOUNDATION AID STABILIZATION FUND - FUTURE EARNINGS****ALTERNATIVE 1 - FUND  
RETAINS INTEREST**

The following is a summary of the foundation aid stabilization fund based on the assumptions that the fund has a balance of \$20 million in year 1, the fund grows at a rate of 3 percent per year, and interest, 1 or 2 percent, is being deposited into the fund.

	<b>Fund Balance (Based on 3 Percent Growth and 1 Percent Interest)</b>	<b>Fund Balance (Based on 3 Percent Growth and 2 Percent Interest)</b>
Year 1	\$20,200,000	\$20,400,000
Year 2	\$20,806,000	\$21,012,000
Year 3	\$21,430,180	\$21,642,360
Year 4	\$22,073,085	\$22,291,631
Year 5	\$22,735,278	\$22,960,380
Year 6	\$23,417,336	\$23,649,191
Year 7	\$24,119,856	\$24,358,667
Year 8	\$24,843,452	\$25,089,427
Year 9	\$25,588,756	\$25,842,110
Year 10	\$26,356,418	\$26,617,373
Year 11	\$27,147,111	\$27,415,894
Year 12	\$27,961,524	\$28,238,371
Year 13	\$28,800,370	\$29,085,522
Year 14	\$29,664,381	\$29,958,088
Year 15	\$30,554,312	\$30,856,830
Year 16	\$31,470,942	\$31,782,535
Year 17	\$32,415,070	\$32,736,011
Year 18	\$33,387,522	\$33,718,092
Year 19	\$34,389,148	\$34,729,634
Year 20	\$35,420,822	\$35,771,523

**ALTERNATIVE 2 - INTEREST TO  
SEPARATE FUND**

The following is a summary of the foundation aid stabilization fund based on the assumptions that the fund has a balance of \$20 million in year 1, the fund grows at a rate of 3 percent per year, and the interest earned on the fund, 1 or 2 percent, is deposited into a separate fund such as the common schools trust fund as provided for in House Concurrent Resolution No. 3048 as amended by the Senate.

	<b>Fund Balance (Based on 3 Percent Growth)</b>	<b>1 Percent Interest (Deposited Into a Separate Fund)</b>	<b>2 Percent Interest (Deposited Into a Separate Fund)</b>
Year 1	\$20,000,000	\$200,000	\$400,000
Year 2	\$20,600,000	\$206,000	\$412,000
Year 3	\$21,218,000	\$212,180	\$424,360
Year 4	\$21,854,540	\$218,545	\$437,091
Year 5	\$22,510,176	\$225,102	\$450,204
Year 6	\$23,185,481	\$231,855	\$463,710
Year 7	\$23,881,046	\$238,810	\$477,621
Year 8	\$24,597,477	\$245,975	\$491,950
Year 9	\$25,335,402	\$253,354	\$506,708
Year 10	\$26,095,464	\$260,955	\$521,909
Year 11	\$26,878,328	\$268,783	\$537,567
Year 12	\$27,684,677	\$276,847	\$553,694
Year 13	\$28,515,218	\$285,152	\$570,304
Year 14	\$29,370,674	\$293,707	\$587,413
Year 15	\$30,251,794	\$302,518	\$605,036
Year 16	\$31,159,348	\$311,593	\$623,187
Year 17	\$32,094,129	\$320,941	\$641,883
Year 18	\$33,056,953	\$330,570	\$661,139
Year 19	\$34,048,661	\$340,487	\$680,973
Year 20	\$35,070,121	\$350,701	\$701,402

	<b>Fund Balance</b>		<b>Fund Balance</b>
	<b>1% Growth</b>	<b>1% Interest</b>	<b>if Interest</b>
			<b>is Retained</b>
Year 1	20,000,000	200,000	20,200,000
Year 2	20,200,000	202,000	20,402,000
Year 3	20,402,000	204,020	20,606,020
Year 4	20,606,020	206,060	20,812,080
Year 5	20,812,080	208,121	21,020,201
Year 6	21,020,201	210,202	21,230,403
Year 7	21,230,403	212,304	21,442,707
Year 8	21,442,707	214,427	21,657,134
Year 9	21,657,134	216,571	21,873,705
Year 10	21,873,705	218,737	22,092,443
Year 11	22,092,443	220,924	22,313,367
Year 12	22,313,367	223,134	22,536,501
Year 13	22,536,501	225,365	22,761,866
Year 14	22,761,866	227,619	22,989,484
Year 15	22,989,484	229,895	23,219,379
Year 16	23,219,379	232,194	23,451,573
Year 17	23,451,573	234,516	23,686,089
Year 18	23,686,089	236,861	23,922,950
Year 19	23,922,950	239,229	24,162,179
Year 20	24,162,179	241,622	24,403,801

	<b>Fund Balance</b>		<b>Fund Balance</b>
	<b>1% Growth</b>	<b>2% Interest</b>	<b>if Interest</b>
			<b>is Retained</b>
Year 1	20,000,000	400,000	20,400,000
Year 2	20,200,000	404,000	20,604,000
Year 3	20,402,000	408,040	20,810,040
Year 4	20,606,020	412,120	21,018,140
Year 5	20,812,080	416,242	21,228,322
Year 6	21,020,201	420,404	21,440,605
Year 7	21,230,403	424,608	21,655,011
Year 8	21,442,707	428,854	21,871,561
Year 9	21,657,134	433,143	22,090,277
Year 10	21,873,705	437,474	22,311,180
Year 11	22,092,443	441,849	22,534,291
Year 12	22,313,367	446,267	22,759,634
Year 13	22,536,501	450,730	22,987,231
Year 14	22,761,866	455,237	23,217,103
Year 15	22,989,484	459,790	23,449,274
Year 16	23,219,379	464,388	23,683,767
Year 17	23,451,573	469,031	23,920,604
Year 18	23,686,089	473,722	24,159,810
Year 19	23,922,950	478,459	24,401,409
Year 20	24,162,179	483,244	24,645,423

	<b>Fund Balance</b>		<b>Fund Balance</b>
	<b>2% Growth</b>	<b>1% Interest</b>	<b>if Interest is Retained</b>
Year 1	20,000,000	200,000	20,200,000
Year 2	20,400,000	204,000	20,604,000
Year 3	20,808,000	208,080	21,016,080
Year 4	21,224,160	212,242	21,436,402
Year 5	21,648,643	216,486	21,865,130
Year 6	22,081,616	220,816	22,302,432
Year 7	22,523,248	225,232	22,748,481
Year 8	22,973,713	229,737	23,203,450
Year 9	23,433,188	234,332	23,667,519
Year 10	23,901,851	239,019	24,140,870
Year 11	24,379,888	243,799	24,623,687
Year 12	24,867,486	248,675	25,116,161
Year 13	25,364,836	253,648	25,618,484
Year 14	25,872,133	258,721	26,130,854
Year 15	26,389,575	263,896	26,653,471
Year 16	26,917,367	269,174	27,186,540
Year 17	27,455,714	274,557	27,730,271
Year 18	28,004,828	280,048	28,284,877
Year 19	28,564,925	285,649	28,850,574
Year 20	29,136,223	291,362	29,427,586

	<b>Fund Balance</b>		<b>Fund Balance</b>
	<b>2% Growth</b>	<b>2% Interest</b>	<b>if Interest is Retained</b>
Year 1	20,000,000	400,000	20,400,000
Year 2	20,400,000	408,000	20,808,000
Year 3	20,808,000	416,160	21,224,160
Year 4	21,224,160	424,483	21,648,643
Year 5	21,648,643	432,973	22,081,616
Year 6	22,081,616	441,632	22,523,248
Year 7	22,523,248	450,465	22,973,713
Year 8	22,973,713	459,474	23,433,188
Year 9	23,433,188	468,664	23,901,851
Year 10	23,901,851	478,037	24,379,888
Year 11	24,379,888	487,598	24,867,486
Year 12	24,867,486	497,350	25,364,836
Year 13	25,364,836	507,297	25,872,133
Year 14	25,872,133	517,443	26,389,575
Year 15	26,389,575	527,792	26,917,367
Year 16	26,917,367	538,347	27,455,714
Year 17	27,455,714	549,114	28,004,828
Year 18	28,004,828	560,097	28,564,925
Year 19	28,564,925	571,298	29,136,223
Year 20	29,136,223	582,724	29,718,948

	<b>Fund Balance</b>		<b>Fund Balance</b>
	<b>3% Growth</b>	<b>1% Interest</b>	<b>if Interest is Retained</b>
Year 1	20,000,000	200,000	20,200,000
Year 2	20,600,000	206,000	20,806,000
Year 3	21,218,000	212,180	21,430,180
Year 4	21,854,540	218,545	22,073,085
Year 5	22,510,176	225,102	22,735,278
Year 6	23,185,481	231,855	23,417,336
Year 7	23,881,046	238,810	24,119,856
Year 8	24,597,477	245,975	24,843,452
Year 9	25,335,402	253,354	25,588,756
Year 10	26,095,464	260,955	26,356,418
Year 11	26,878,328	268,783	27,147,111
Year 12	27,684,677	276,847	27,961,524
Year 13	28,515,218	285,152	28,800,370
Year 14	29,370,674	293,707	29,664,381
Year 15	30,251,794	302,518	30,554,312
Year 16	31,159,348	311,593	31,470,942
Year 17	32,094,129	320,941	32,415,070
Year 18	33,056,953	330,570	33,387,522
Year 19	34,048,661	340,487	34,389,148
Year 20	35,070,121	350,701	35,420,822

	<b>Fund Balance</b>		<b>Fund Balance</b>
	<b>3% Growth</b>	<b>2% Interest</b>	<b>if Interest is Retained</b>
Year 1	20,000,000	400,000	20,400,000
Year 2	20,600,000	412,000	21,012,000
Year 3	21,218,000	424,360	21,642,360
Year 4	21,854,540	437,091	22,291,631
Year 5	22,510,176	450,204	22,960,380
Year 6	23,185,481	463,710	23,649,191
Year 7	23,881,046	477,621	24,358,667
Year 8	24,597,477	491,950	25,089,427
Year 9	25,335,402	506,708	25,842,110
Year 10	26,095,464	521,909	26,617,373
Year 11	26,878,328	537,567	27,415,894
Year 12	27,684,677	553,694	28,238,371
Year 13	28,515,218	570,304	29,085,522
Year 14	29,370,674	587,413	29,958,088
Year 15	30,251,794	605,036	30,856,830
Year 16	31,159,348	623,187	31,782,535
Year 17	32,094,129	641,883	32,736,011
Year 18	33,056,953	661,139	33,718,092
Year 19	34,048,661	680,973	34,729,634
Year 20	35,070,121	701,402	35,771,523